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federal register

Wednesday
August 17, 1983

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Communications Equipment
Federal Communications Commission

Copyright
Copyright Office, Library of Congress

Fisheries
National Oceanic and Atmospheric Administration

Government Procurement
Health and Human Services Department

Hazardous Waste
Environmental Protection Agency

Imports
Animal and Plant Health Inspection Service

Pensions
Pension Benefit Guaranty Corporation

Pesticides and Pests
Environmental Protection Agency

Radio
Federal Communications Commission

Reporting and Recordkeeping Requirements
Immigration and Naturalization Service

Seizures and Forfeitures
Customs Service

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.

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Selected Subjects

Contents

Federal Register
Vol. 48, No. 160
Wednesday, August 17, 1983

CFR PARTS AFFECTED IN THIS ISSUE

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

8 CFR
100 37201

9 CFR
92 37202

10 CFR
Proposed Rules:
Ch. II 37226

16 CFR
13 (2 documents) 37202, 37203

17 CFR
3 37203

19 CFR
Proposed Rules:
171 37227

20 CFR
Proposed Rules:
416 37228

21 CFR
193 37203
561 37203

29 CFR
Proposed Rules:
2615 37230

37 CFR
202 37204

Proposed Rules:
202 37232

40 CFR
180 (6 documents) 37210-37214
271 37215
Proposed Rules:
52 37232
60 37238

41 CFR
Proposed Rules:
3-1 37223
3-3 37223

47 CFR
2 (2 documents) 37216
15 37217
18 37217
21 37216
73 (8 documents) 37216, 37220-37224
74 37216
97 37224
Proposed Rules:
Ch. II 37235
18 37235
73 (11 documents) 37239-37269

50 CFR
674 37224

Rules and Regulations

Federal Register
Vol. 48, No. 160
Wednesday, August 17, 1983

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 100

Statement of Organization

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This amendment is being made to advise the public of the control numbers assigned by the Office of Management and Budget (OMB) to the information collection requirements of the Service.

EFFECTIVE DATE: August 17, 1983.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I St. NW., Washington, D.C. 20536, Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1980 (44 U.S.C. 3501) seeks, in part, to minimize the Federal paperwork burden. The act requires that agencies obtain OMB review and clearance of certain reporting and recording requirements and give public notice of clearance numbers. 8 CFR 100 is being amended to add a new section 100.7 to display the control numbers assigned by OMB to the information collection requirements of the Service.

Because this is a nonsubstantive amendment dealing with procedural matters, it is not subject to the provisions of the Administrative Procedures Act (5 U.S.C. 551-553 et seq.) requiring advance notice and comment. The Service has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12291; that a regulatory analysis is not required; and that an environmental impact statement under the National Environmental Policy Act of 1969 is not required since the regulation does not significantly affect the environment.

List of Subjects in 8 CFR Part 100

Organization and functions, Reporting and recordkeeping requirements.

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

PART 100—STATEMENT OF ORGANIZATION

1. Section 100.1 is revised to read as follows:

§ 100.1 Introduction.

The following sections describe the organization of the Immigration and Naturalization Service, including statements of delegations of final authority, indicate the established places at which, and methods whereby, the public may secure information, direct attention to the regulations relating to the general course and method by which its functions are channeled and determined, and to display OMB control numbers assigned to the information collection requirements of the Service. Part 103 of this chapter sets forth the procedures governing the availability of Service opinions, orders, and records.

2. A new § 100.7 is added to read as follows:

§ 100.7 OMB control numbers assigned to information collections.

This section collects and displays the control numbers assigned to information collection requirements of the Immigration and Naturalization Service by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96-511. The Service intends that this section comply with the requirements of section 3507(f) of the Paperwork Reduction Act, which requires that agencies display a current control number assigned by the Director of the Office of Management and Budget for each agency information collection requirement.

8 CFR part or section where identified and described	Current OMB control No.
103.2(b)(1)	1115-0062
103.6	1115-0085
103.6(c)	1115-0046
103.10(a)(2)	1115-0087
103.10(f)	1115-0088
204.1(a)	1115-0054
204.1(b)	1115-0049
204.1(c)	1115-0061
Part 207	1115-0057
207.2	1115-0066
207.2(d)	1115-0056
207.3(b)	1115-0098
Part 208	1115-0086
211.1(b)(3)	1115-0042
211.2	1115-0042
212.1(f)	1115-0042
212.2	1115-0106
212.3	1115-0032
212.4(b)	1115-0028
212.4(g)	1115-0040
212.6	1115-0019
212.6	1115-0047
212.7	1115-0048
212.7(c)	1115-0059
212.8(b)	1115-0081
214.1	1115-0051
214.1(c)	1115-0093
214.2(e)	1115-0023
214.2(f)	1115-0060
214.2(f)	1115-0051
214.2(g)	1115-0090
214.2(h)	1115-0038
214.2(k)	1115-0071
214.2(l)	1115-0038
214.2(m)	1115-0060
214.2(m)	1115-0051
214.3	1115-0070
214.3(g)	1115-0051
Part 223	1115-0005
Part 223a	1115-0084
223.1	1115-0037
Part 231	1115-0063
Part 231	1115-0078
Part 231	1115-0108
Part 232	1115-0036
Part 233	1115-0036
234.2(c)	1115-0048
Part 235	1115-0077
235.1(e)	1115-0065
243.4	1115-0055
243.7	1115-0043
Part 244	1115-0025
Part 245	1115-0053
Part 245	1115-0066
245.2	1115-0089
245.2(a)(2)	1115-0067
247.11	1115-0037
247.12	1115-0037
247.13	1115-0037
248.3	1115-0032
248.3(b)	1115-0036
248.4	1115-0038
Part 249	1115-0053
Part 249	1115-0066
Part 250	1115-0020
Part 251	1115-0083
Part 251	1115-0040
Part 252	1115-0040
252.1(f)	1115-0073
253.1	1115-0029
264.1	1115-0004
264.1(c)	1115-0079
264.1(f)	1115-0002
265.1	1115-0003
292.2	1115-0026
316a.21	1115-0014
319.11	1115-0009
Part 322	1115-0010
324.11	1115-0009
327.1	1115-0009
Part 328	1115-0009
328.3	1115-0022
Part 329	1115-0009
329.2	1115-0022

8 CFR part or section where identified and described	Current OMB control No.
Part 330	1115-0009
Part 330	1115-0031
Part 334a	1115-0008
334.11	1115-0009
334.17	1115-0035
335.11	1115-0009
336.16a	1115-0076
336.16a	1115-0052
338.16	1115-0030
Part 341	1115-0016
341.1(b)	1115-0009
343a.1	1115-0015
343b	1115-0016

(Sec. 103, as amended; 66 Stat. 173; (8 U.S.C. 1103))

Dated: August 10, 1983.

John W. Murray,

Associate Commissioner, Information Systems, Immigration and Naturalization Service.

[FR Doc. 83-22334 Filed 8-16-83; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 83-085]

Reservation Fees for Quarantine of Animals and Birds; Correction

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects an amendment to the regulations pertaining to reservation fees for animals and birds intended to be entered into a quarantine facility maintained by Veterinary Services. The amendment is corrected to provide that the provisions concerning the cancellation of a reservation and the return of the reservation fee apply to all animals and birds, including certain animals and birds allowed to be imported without a permit.

EFFECTIVE DATE: August 17, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. M. R. Crane, VS, APHIS, USDA, Room 846, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION: On June 22, 1983, a final rule was published in the Federal Register (48 FR 28426-28428) which amended the regulations in 9 CFR Part 92 (referred to below as the regulations) concerning the quarantine of animals and birds imported into the United States. In particular, the final rule amended the regulations pertaining to reservation fees for animals and birds intended to be entered into a quarantine facility maintained by Veterinary Services.

The final rule included a new § 92.4(a)(4)(vi) to read as follows:

(vi) Any reservation fee shall be forfeited if the importer or the importer's agent fails to present for entry the lot of animals, the lot of poultry or birds or the horse for which the reservation fee was paid; except that the importer or the importer's agent cancels the reservation by notifying the veterinarian in charge of the quarantine facility at least 72 hours prior to the beginning of the time for importation as prescribed in the permit for the animals or birds, for which reservation fee was paid, the reservation fee shall be returned to the individual who paid the reservation fee.

The quoted provisions concerning the cancellation of the reservation and the return of the reservation fee could be interpreted differently from what was intended. Animals and birds, with certain exceptions, are allowed to be imported only pursuant to a permit. The quoted provisions providing for the cancellation of the reservation fee "by notifying the veterinarian in charge of the quarantine facility at least 72 hours prior to the beginning of the time for importation as prescribed in the permit" could be interpreted so as not to apply to those animals and birds allowed to be imported without a permit. However, these provisions were intended to allow the cancellation of the reservation and the return of the reservation fee for all animals and birds, including those animals and birds allowed to be imported without a permit. The time for importation for animals and birds allowed to be imported without a permit is arranged with the veterinarian in charge of the quarantine facility. Therefore, the phrase "the time for importation as prescribed in the permit" is corrected to read "the time for importation as prescribed in the permit or arranged with the veterinarian in charge of the quarantine facility if no permit is required."

In addition, this document makes certain other editorial changes for purposes of clarity.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—[AMENDED]

Accordingly, 9 CFR Part 92 is amended by correcting § 92.4(a)(4)(vi) to read as follows:

§ 92.4 Import permits for ruminants, swine, horses from countries affected with CEM, poultry, poultry semen, animal semen, birds and for animal specimens for diagnostic purposes; and reservation fees for space at quarantine facilities maintained by Veterinary Services.

(a) * * *

(4) * * *

(vi) Any reservation fee shall be forfeited if the importer or the importer's agent fails to present for entry the lot of animals, the lot of poultry or birds or the horse for which the reservation fee was paid; except that if the importer or the importer's agent cancels the reservation by notifying the veterinarian in charge of the quarantine facility at least 72 hours prior to the beginning of the time for importation as prescribed in the permit or as arranged with the veterinarian in charge of the quarantine facility if no permit is required, the reservation fee shall be returned to the individual who paid the reservation fee.

(Sec. 7, 28 Stat. 416, sec. 2, 32 Stat. 792, as amended; secs. 4, 11, 76 Stat. 130, 132; 21 U.S.C. 102, 111, 134c, 134f; 7 CFR 2.17, 2.51 and 371.2(d))

Done at Washington, D.C., this 11th day of August, 1983.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 83-22464 Filed 8-16-83; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-3112]

Michigan Association of Osteopathic Physicians & Surgeons, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a Michigan professional association, among other things, to cease inhibiting competition by restricting or advising member physicians against the truthful advertising of fees and services, and by declaring such activities unethical. The association is required to timely repeal any provision of its Code of Ethics and policy statements which are inconsistent with the prohibitions contained in the order, and publish revised versions of these documents. However, the order does not prohibit the association from

enforcing reasonable guidelines governing advertising or solicitation which it reasonably believes to be false or deceptive. The order also requires the association to mail to all present and future members a letter notifying them of the consent order and its provisions, and send to each of its component and affiliate societies a copy of the order.

DATES: Complaint and Order issued July 26, 1983.[1]

FOR FURTHER INFORMATION CONTACT: William W. Jacobs, Director, 4R, Cleveland Regional Office, Federal Trade Commission, Suite 500-Mall Bldg., 118 St. Clair Ave., Cleveland, OH 44114. (216) 522-4207.

SUPPLEMENTARY INFORMATION: On Tuesday, May 17, 1983, there was published in the **Federal Register**, 48 FR 22164, a proposed consent agreement with analysis In the Matter of Michigan Association of Osteopathic Physicians & Surgeons, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.367 Members. Subpart—Combining or Conspiring: § 13.384 Combining or Conspiring: § 13.388 To control allocation and solicitation of customers. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-45 Maintain records; 13.533-60 Release of general, specific or contractual constrictions, requirements or restraints.

List of Subjects in 16 CFR Part 13

Doctors, Medical services, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Michael A. Baggage,

Acting Secretary.

[FR Doc. 83-22513 Filed 8-16-83; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order filed with the original document.

16 CFR Part 13

[Docket C-3113]

The Coca-Cola Co.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a major soft drink manufacturer to timely divest Doric Foods Corporation to a Commission-approved buyer. The company is barred from acquiring any concern engaged in the manufacture of drinks, punches and ades, without prior Commission approval for a period of ten years.

DATES: Complaint and Order issued Aug. 3, 1983.[1]

FOR FURTHER INFORMATION CONTACT: FTC/CS-6, Paul R. Zamolo, Washington, D.C. 20580. (202) 724-1256.

SUPPLEMENTARY INFORMATION: On Wednesday, May 4, 1983, there was published in the **Federal Register**, 48 FR 20093, a proposed consent agreement with analysis In the Matter of The Coca-Cola Company, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; 13.5-20 Federal Trade Commission Act. Subpart—Corrective Actions and/or Requirements; § 13.533 Corrective actions and/or requirements.

List of Subjects in 16 CFR Part 13

Soft drinks, Trade practices.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Michael A. Baggage,

Acting Secretary.

[FR Doc. 83-22514 Filed 8-16-83; 8:45 am]

BILLING CODE 6750-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

Qualification for "No-Action" Position Regarding Introducing Brokers

Correction

In FR Doc. 83-21003, beginning on page 35305 in the issue of Wednesday, August 3, 1983, make the following corrections.

In the alphabetical listing of firms and individuals beginning on page 35306:

"Bonnett, John Associates," *should read*: "Bonnett, John Associates, Inc."

"Hicks, Slattery & Co., Inc." *should read*: "Hicks, Slatery & Co., Inc."

"Professional Commodity Investor & Hegde" *should read*: "Professional Commodity Investors & Hedge"

"Sween, Gregory H. *should read*:" "Sweem, Gregory H.".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Parts 193 and 561

[FAP 3H5387/R588; FAP 2H5336/R589; PH-FRL 2415-8]

Tolerances for Pesticides in Animal Feeds and Food Administered by the Environmental Protection Agency; Hexakis (2-Methyl-2-Phenylpropyl)Distannoxane

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: These rules establish food and feed additive regulations to permit the combined residues of the insecticide hexakis (2-methyl-2-phenylpropyl)distannoxane and its metabolites in or on certain food and feed commodities. These regulations to establish maximum permissible levels for the combined residues of the insecticide in or on the commodities were requested, pursuant to petitions, by Shell Chemical Company.

EFFECTIVE DATE: Effective on August 17, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. Office location and telephone number: Rm. 202, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA issued notices published in the **Federal Register** cited below which announced that Shell Chemical Company, Suite 200, 1025 Connecticut Ave., Washington, D.C. 20036 had submitted food/feed additive petitions (FAP) proposing to amend 21 CFR Parts 193 and 561 as follows:

1. *FAP 3H5387.* Published April 13, 1983 (48 FR 15948). Proposed amending 21 CFR 193.236 by increasing the established tolerance for the combined residues of the insecticide hexakis (2-methyl-2-phenylpropyl)distannoxane and its organotin metabolites calculated as hexakis (2-methyl-2-phenylpropyl)distannoxane in or on dried prunes from 8.0 to 20.0. parts per million (ppm).

2. *FAP 2H5336.* Published March 3, 1982 (47 FR 9067). Proposed amending 21 CFR 561.255 by increasing the established tolerances for the combined residues of the insecticide hexakis (2-methyl-2-phenylpropyl)distannoxane and its organotin metabolites calculated as hexakis (2-methyl-2-phenylpropyl)distannoxane in or on dried apple pomace from 20.0 to 75.0 ppm and dried citrus pulp from 7.0 to 30.0 ppm. The petition was subsequently amended (48 FR 16962, April 20, 1983) by increasing the proposed tolerance for dried citrus pulp from 30.0 to 35.0 ppm.

There were no comments received in response to the notices of filing.

The data submitted in the petitions and other relevant material have been evaluated and discussed in a related document [PP 2F2631, 2F2747/R587] establishing tolerances for the combined residues of the above insecticide for various raw agricultural commodities appearing elsewhere in this issue of the **Federal Register.**

The metabolism of hexakis is adequately understood for the use and an adequate analytical method, gas-liquid chromatography using a tin selective flame photometric detector, is available for enforcement purposes. There are currently no actions pending against the continued registration of the insecticide.

The pesticide is considered useful for the purpose for which the regulations are sought. It is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136(a) *et seq.*). Therefore, the regulations are established set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register,** file written objections with the hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted these rules from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new food or feed additive levels or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

(Sec. 409(c)(1), 72 Stat. 1785 (21 U.S.C. 348(c)(1))

List of Subjects in 21 CFR Parts 193 and 561

Food additives, Animal feeds, Pesticides and pests.

Dated: August 4, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 193—[AMENDED]

Therefore 21 CFR, Chapter I, is amended as follows:

1. In Part 193, § 193.236 is amended by increasing the established tolerance for dried prunes to read as follows:

§ 193. 236 Hexakis (2-methyl-2-phenylpropyl)distannoxane.

* * * * *

Foods	Parts per million
Prunes, dried	20.0

* * * * *

PART 561—[AMENDED]

2. In Part 561, § 561.255 is amended by increasing the established tolerances for dried apple pomace and dried citrus pulp to read as follows:

§ 561.255 Hexakis (2-methyl-2-phenylpropyl)distannoxane.

* * * * *

Feeds	Parts per million
Apple pomace, dried	75.0
Citrus pulp, dried	35.0

* * * * *

[FR Doc. 83–22170 Filed 8–15–83; 8:45 am]

BILLING CODE 6560–50–M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket RM 82–1]

Acquisition and Deposit of Unpublished Television Transmission Programs

AGENCY: Copyright Office, Library of Congress.

ACTION: Final regulation.

SUMMARY: This notice is issued to inform the public that the Copyright Office of the Library of Congress is adopting new regulations implementing section 407(e) and the second sentence of section 408(b) of the Copyright Act. Section 407(e) authorizes the Library of Congress to obtain copies of fixed, unpublished transmission programs, either by making off-the-air copies or by demanding copies from the owner of the right of transmission in the United States in the form of a permanent transfer, a loan for copying, or a sale. Section 408(b) permits the off-the-air copies to be used for copyright registration purposes.

The effect of the regulation is to provide a mechanism for making off-the-air copies and for demanding copies of unpublished transmission programs. In addition, requirements are established under which copies so acquired may be used in the registration process.

EFFECTIVE DATE: August 17, 1983.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, Department D.S., Library of Congress, Washington, D.C. 20540, Telephone: (202) 287–8380.

SUPPLEMENTARY INFORMATION: Section 407(e) of the Copyright Act (title 17, United States Code) gives the Library of Congress authority to obtain copies of unpublished transmission programs which have been fixed and transmitted to the public in the United States. That authority may be exercised in two different ways: by making fixations of programs directly from transmissions to the public (off-the-air copying) and by demanding that copies be supplied by the owner of United States transmission rights.

Section 408(b) of the Copyright Act provides that copies acquired by the Library of Congress, under section 407(e) "otherwise than by deposit" may be used to satisfy the deposit requirement of the registration process.

On February 4, 1982, we published in the **Federal Register** (47 FR 5259) a notice of proposed rulemaking inviting written public comment and announcing a public hearing on our proposal to implement sections 407(e) and 408(b). In that notice we proposed the addition of one new section to the regulations of the Copyright Office, § 202.22, which set out procedures for both means of acquiring copies, stated rules for the disposition and use of such copies after their acquisition, and provided methods of using such copies as registration deposits. In addition, it permitted the Library of Congress to institutionalize the acquisition of such copies by agreement which might modify the provisions included.

Six written comments were received in response to the notice of proposed rulemaking, and representatives of two organizations who submitted written comments testified at the hearing held on March 24, 1982. After careful consideration, we have decided to make one major change in the proposed regulations, and to clarify several matters of concern expressed in the written comments and testimony.

1. *Presumption of Unpublished Status*: Two of the comments objected to the language of § 202.22(c)(4) which would have allowed the Library to presume that any television program transmitted to the public in the United States by a network or a noncommercial educational broadcast station (as defined in 47 U.S.C. 397) has been fixed but not published.

The Motion Picture Association of America (MPAA) contended that the presumption is inaccurate for most of the works produced by its members since most motion pictures appearing on television are published and as a matter of practice have been so registered with the Copyright Office. The MPAA also described 407(e) procedures as "redundant" with regard to its members who are signatories to the Motion Picture Agreement with the Library since, in signing the Agreement, MPAA members agree to deposit published motion pictures under either 17 U.S.C. 407 or 408 and, in fact, regularly register and deposit copies in the Copyright Office. The MPAA asserted that its members automatically register their filmed entertainment as published works based on delivery of a print to a network for television exhibition, that they register films no later than the time of distribution for syndicated television exhibition, and that they regularly deposit theatrical motion pictures in their best edition. In sum, the MPAA asserts that the provisions of the Motion Picture Agreement, along with other deposit practices regularly followed by the industry, are sufficient to allow the Library to acquire the motion pictures of MPAA members; the Association therefore asks for a change in the presumption or an exception for its members.

A comment from the Columbia Broadcasting System stated that the presumption was inaccurate with regard to the television programs of CBS, asserting that networks have long regarded their programs as published and that the Copyright Office has accepted such assertions in applications for copyright registration.

For the reasons discussed below, the Copyright Office has decided to amend the presumption of nonpublication, and has made it applicable only to programming transmitted by noncommercial broadcast stations. Commercial network programming will be treated the same as independent station programming—that is, the specific notification procedure of § 202.22(c)(8) applies.

The presumption of nonpublication set forth in § 202.22(c)(4) must be viewed in the context of the Library's acquisition goals, which this regulation is intended to serve pursuant to 17 U.S.C. 407(e). The Library specifically lacks a significant collection of noncommercial educational broadcast materials, the type of programs normally broadcast by member stations of the Public Broadcasting System, and is interested in using off-air taping to fill this particular gap. The Library does not envision taping basic/pay cable and satellite transmissions at this time, and the regulation accordingly makes no provision for this. At a later time, we may amend the regulations to cover cable transmissions. The Library expects to tape programs transmitted by commercial broadcast stations, either network or independent, only in special situations and on an individual basis.

In addition, the Office acknowledges that a high percentage of the works produced by the members of the MPAA, which the Library needs—especially theatrically-released films—is deposited under the terms of the Motion Picture Agreement. A random check of current television series programs and films made specifically for television showed that the deposit practices for these types of works are less satisfactory than those for theatrical films since deposits are made more sporadically and in a less timely fashion. Nonetheless, a significant percentage of these works is also registered under the present system. Theatrical films, made-for-TV films, and television series are generally registered as published. The Library recognizes the cooperation of the MPAA's members and the networks, especially, in acquisitions made through the present deposit system.

Programs transmitted initially by noncommercial broadcast stations are, the Office believes, more likely to be unpublished than published; hence the presumption is directed to programs transmitted by these stations. PBS and its member stations apparently hold the same view since very few of their works are deposited under the mandatory deposit provision of 17 U.S.C. 407, or registered as published under section 408.

As provided in § 202.22(c)(3), the Library will not knowingly tape unfixed or published works off the air. Acquisitions staff in the Library are conversant with the publication practices of commercial networks and of the members of the MPAA, and this knowledge and expertise will be utilized to avoid casual off-air taping of published works acquired routinely through the deposit and registration system. In addition, the regulation establishes other safeguards. Section 202.22(c)(6) provides that unless the Library can cite contrary evidence, a program will be erased or used for registration at the owner's option upon simple declaration of prior nonfixation. Section 202.22(c)(7) provides that upon declaration by the copyright owner that a work was published at the time of transmission, the tape will be used to satisfy the mandatory deposit provision of 17 U.S.C. 407(a). Both provisions turn any mistakes in taping programs off-the-air to the advantage of the copyright owner.

The Office believes that the amendment eliminating commercial network programs from the presumption of nonpublication means that the procedure for rebuttal of the presumption will be seldom invoked. In light of the change, we do not accept the contention of the MPAA that the rebuttal provision is burdensome and unworkable. The rebuttal consists merely of an informal writing containing the minimum information necessary to explain the circumstances of publication (or nonfixation) of the work, and we believe it imposes no undue burden. If the presumption of nonpublication is overcome and the work is shown to have been published with notice of copyright in the United States, the Library is entitled to a deposit copy under 17 U.S.C. 407(a), and this requirement will be satisfied at no cost to the copyright owner for the making of the copy. The rebuttal provision regarding nonpublication serves to clarify the basis on which the Library is entitled to obtain a copy for the collections, and the rebuttal provision regarding fixation serves to facilitate registration if the claimant so wishes.

Finally, the presumption of nonpublication has been established, in addition, as a matter of administrative convenience for the Library in implementing 17 U.S.C. 407(e). The Copyright Office has no intention to modify, and we are confident that the regulation does not modify, the statutory definition of publication in any way. The regulation has no effect on a copyright owner's rights under sections 108, 109, or 412 of the statute. The definition of publication in 17 U.S.C. 101 is controlling. The regulation establishes the presumption of non-publication for these purposes only and as an administrative device of convenience only. It thus facilitates an election by the copyright owner, under which the Library can acquire a copy of a transmitted program, as published with notice or in unpublished form. (The Library is entitled to acquire a copy of a transmission program in either case.) The Library will ordinarily accept at its face value the transmitter's declaration as to whether the work is published or unpublished.

2. *Use of copies acquired through taping or written demand for registration.* PBS requested an expansion of § 202.22(f), which provides that a copy taped off-the-air or demanded in writing by the Library may be used to satisfy the deposit requirement for copyright registration. PBS wishes to use such a copy to satisfy the deposit requirement for a *published* work in cases where the program is later published with no significant change in copyrightable content.

The statute mandates that a deposit copy of a published work shall be the "best edition" of that work. In many cases the quality of a copy made by taping off-the-air will be inferior to the quality of a best edition copy of the work when published. The Library of Congress wishes to adhere as consistently as possible to the statutory requirement of the best edition, to obtain the best quality copies possible for its collections. Adopting the change requested by PBS would also create additional administrative burdens in holding and handling materials, correspondence, and the like.

For these reasons, the Office has decided not to adopt the change suggested by PBS. However, the Library is willing to consider accepting an unpublished copy acquired under § 202.22 as a deposit for the work after publication, unchanged in copyrightable content, on a case-by-case basis, under the special relief provisions set forth in § 202.22(d)(6).

3. *Specific notification of off-air taping to commercial networks and independent commercial broadcast stations.* Four comments spoke to various aspects of the specific notification procedure of § 202.22(c)(8). As originally proposed, this clause provided that a notice of intent to tape off-the-air would be given only to independent commercial broadcast stations. In accordance with the decision to remove programming transmitted by commercial networks from the presumption of nonpublication, the Office has amended § 202.22(c)(8) to include the commercial networks. The notice will be sent to a central office at each commercial network (ABC, CBS, and NBC) and this will constitute notification to the network, network-owned stations, and affiliates. Notice will be given prior to broadcast time if possible, but no later than fourteen days after the taping off the air by the Library.

The Public Broadcasting System requested that notification also be given to noncommercial broadcast stations, to facilitate using taped copies for registration purposes under § 202.22(f)(1) and asserted that administrative inconvenience to the Library would be offset by directing the notifications to PBS rather than to individual member stations. PBS offered in return to assist the Library in its off-air taping procedures by providing advance notification of transmission of PBS-distributed programs.

CBS similarly asked that network-owned commercial broadcast stations, around fifteen in number, be notified. The Motion Picture Association of America asked that the underlying owner of copyright in the transmission program, as the real party in interest, also be notified. Major league baseball agreed with the MPAA's request, citing the desirability of taking advantage of the possibility of using Library-taped copies for registration.

The Library is willing to consider special agreements with PBS, and others, as provided in § 202.22(g). Under such agreements the Library may be willing to assume the administrative burden of special notification to PBS, as the representative of member stations, with the understanding that PBS will facilitate the Library's off-air taping process by providing the Library with notice of PBS-distributed programs in advance of transmission or with a special satellite feed. We continue to believe that, pending the conclusion of any such special agreements, the Library cannot undertake the administrative burden of specific notification to PBS. The Library intends to tape a substantial number of PBS programs, and the regulation itself constitutes sufficient notification to PBS stations.

It would also be impractical and administratively burdensome to notify the owners of copyright in the transmission programs. Frequently, the Library has no direct knowledge of the owner of copyright in the programs and the identity could be ascertained, if at all, only at substantial cost. Unpublished works need not contain a copyright notice and, even if a copyright notice were present, an address normally would not appear with the name of the copyright owner. The statute sets forth a simple scheme that will enable the Library to develop a national collection of television programming at modest cost to the Library and no cost to copyright owners, in the case of off-air taping. The Office believes that notifications sent to the commercial networks (as agents for network-owned and affiliated broadcast stations) or to owners of U.S. transmission rights (i.e., broadcast organizations) are the most practical method of carrying out the statutory scheme. Transmitting organizations can in turn inform the owners of copyright.

Section 202.22(c)(9) allows a notification to encompass up to thirteen episodes of one title if such episodes are generally scheduled to be broadcast at the same time period on a regular basis; or to cover all episodes comprising one title if they are scheduled to be

broadcast within a period of not more than two months. The MPAA suggested in passing remarks that the legislative history precludes such a notification. The prohibition against "blanket" *demands* discussed on page 152 of the 1976 House Report 94–1476 [1], However, refers solely to the demand procedure which has been implemented in § 202.22(d). That comment has no relevance to the special notification of off-air taping established by § 202.22(c)(8).

One comment asked whether network-owned stations, or stations owned by chain broadcasters, are included in the definition of "independent commercial broadcast station." The question has lost its significance in view of the change regarding the presumption of nonpublication. However, we clarify that, by "independent commercial broadcast station," we mean a station which is neither network-owned nor network-affiliated.

As set out in 17 U.S.C. 111(f), a "network station" is a television broadcast station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programming supplied by such networks for a substantial part of that station's typical broadcast day. The Office has amended § 202.22(b) to include the term "network station" as defined in 17 U.S.C. 111(f). Currently, only the American Broadcasting System, the Columbia Broadcasting System, and the National Broadcasting System constitute networks under this definition.

4. *Written demands for deposit.* Although the MPAA acknowledged that the statute allows written demands under section 407(e) to be made against the owner of the right of transmission in the U.S., they commented that the presumption that a tramsmitting organization is the owner of the U.S. transmission right may not be true and that, in any case, the demand should also be sent to the owner of copyright in the underlying transmission program as the real party in interest.

The statute states unequivocally that any written demand under section 407(e) is to be made on the owner of the right of transmission in the United States. The Library is not required to take on the additional burden of seeking out the owner of copyright in the underlying transmission program as well. As noted above, determining the identity of that owner could be difficult, if not impossible. It is reasonable to assume that the broadcaster is the owner of the U.S. transmission right. Otherwise, the tramsmission is presumable unauthorized, which rarely occures in the United States. If the demand is not directed to the proper entity, the broadcaster can notify the Office of that fact.

Major League Baseball explained that in the case of baseball broadcasts the primary market of the transmitting organization is frequently limited in geographic area within the United States and asked that the phrase "owner of the right of transmission in the United States" be defined expressly to include the owners of local transmission rights. We see no need to define the statutory phrase in the regulation. The "owner of the right of transmission in the United States" clearly refers to the scope of the particular license a braodcasting station holds. Nationwide network transmissions and broadcasts of sporting events on a local basis are both included in that phrase.

Major League Baseball also commented that, although Congress clearly intended written demands to be made on broadcasters rather than the owner of the underlying copyright, such as baseball clubs, they suggested that written demands should be made on the baseball clubs prior to retransmission because baseball clubs may retain copies of the programs (when fixed) only for a period of two weeks.

The Library intends to make written demands only upon the owner of the right of tramsmission in the U.S. and not on the owner of copyright in the underlying transmission program. Ordinarily, the Library will not make written demands on the baseball clubs themselves. In any event if no copy of the transmission program exists at the time the demand for deposit is made, the Library has missed its opportunity to obtain the copy. The Library on future occasions would probably elect to tape the sports program off the air, rather than risk erasure of the copy before a demand can issue.

The owner of the right of transmission in the U.S., when served with a written demand under § 202.22(d), has the option of giving a copy to the Library, lending a copy for reproduction by the Library, or selling a copy at a price not to exceed the cost of reproducing and supplying the copy. Subsection (d)(4) limits the price to the cost to the Library of reproducing and supplying the copy. PBS commented that, since the costs in question are those of the copyright owner supplying the copy the copyright owner should determine the costs.

It is likely that costs set by the Library would be lower than those set by the owner of the U.S. transmission right. However, since the choice of one of the three options rests with the owner of the right of transmission, if costs for the third option were left to that same entity, they could be set artificially low, or at least give rise to dispute.

PBS asked also that the Library give an assurance, commensurate with the one asked of a depositor when loaning a copy for reproduction by the Library under § 202.22(d)(5), that a copy loaned for reproduction will be kept in good condition for the duration of the loan. As noted above, the choice of one of the three options offered under subsection (d) rests with the owner of the right of transmission. Concerns about the treatment of the loaned copy should be taken into account when electing one of the three options. However, where the owner chooses the option of loaning a copy to the Library for reproduction, the Library will establish the duration of the loan and make suitable arrangements, at its discretion, for care of the copy.

With respect to the Regulatory Flexibility Act, the Copyright Office takes the position this Act does not apply to Copyright Office rulemaking. The Copyright Office is a department of the Library of Congress and is part of the legislative branch. Neither the Library of Congress nor the Copyright Office is an "agency" within the meaning of the Administrative Procedure Act of June 11, 1946, as amended (title 5, Chapter 5 of the U.S. Code, Subchapter II and Chapter 7). The Regulatory Flexibility Act consequently does not apply to the Copyright Office since that Act affects only those entities of the Federal Government that are agencies as defined in the Administrative Procedure Act.[2]

Alternatively, if it is later determined by a court of competent jurisdiction that the Copyright Office is an "agency" subject to the Regulatory Flexibility Act, the Register of Copyrights has determined and hereby certifies that this regulation will have no significant impact on small businesses.

[1] H.R. Rep. No. 94–1476, 94th Cong., 2d Sess. (1976).

[2] The Copyright Office was not subject to the Administrative Procedure Act before 1978, and it is now subject to it only in areas specified by section 701(d) of the Copyright Act (i.e., "all actions taken by the Register of Copyrights under this title [17]," except with respect to the making of copies of copyright deposits). [17 U.S.C. 706(b)]. The Copyright Act does not make the Office an "agency" as defined in the Administrative Procedure Act. For example, personnel actions taken by the Office are not subject to APA–FOIA requirements.

List of Subjects in 37 CFR Part 202

Claims to copyright, Copyright, Copyright Office, Registration requirements.

Final Regulation

PART 202—[AMENDED]

(1) In consideration of the foregoing, Part 202 of 37 CFR Chapter II is amended by adding a new § 202.22 to read as follows:

§ 202.22 Acquisition and deposit of unpublished television transmission programs.

(a) *General.* This section prescribes rules pertaining to the acquisition of copies of unpublished television transmission programs by the Library of Congress under section 407(e) of Title 17 of the United States Code, as amended by Pub. L. 94–553. It also prescribes rules pertaining to the use of such copies in the registration of claims to copywright, under section 408(b)(2).

(b) *Definitions.* For purposes of this section:

(1) The terms "copies," "fixed," "publication," and "transmission program" and their variant forms, have the meanings given to them in section 101 of Title 17. The term "network station" has the meaning given it in section 111(f) of Title 17.

(2) "Title 17" means Title of the United States Code, as amended by Pub. L. 94–553.

(c) *Off-the-air copying.* (1) Library of Congress employees acting under the general authority of the Librarian of Congress may make a fixation of an unpublished television transmission program directly from a transmission to the public in the United States, in accordance with section 407(e)(1) and (4) of Title 17 of the United States Code. The choice of programs selected for fixation shall be based on the Library of Congress acquisition policies in effect at the time of fixation. Specific notice of an intent to copy a transmission program off-the-air will ordinarily not be given. In general, the Library of Congress will seek to copy off-the-air a substantial portion of the programming transmitted by noncommercial educational broadcast stations as defined in section 397 of Title 47 of the United States Code, and will copy off-the-air selected programming transmitted by commercial broadcast stations, both network and independent.

(2) Upon written request addressed to the Chief, Motion Picture, Broadcasting and Recorded Sound Division by a broadcast station or other owner of the right of transmission, the Library of Congress will inform the requestor whether a particular transmission program has been copied off-the-air by the Library.

(3) The Library of Congress will not knowingly copy off-the-air any unfixed or published television transmission program under the copying authority of section 407(e) of Title 17 of the United States Code.

(4) The Library of Congress is entitled under this paragraph (c) to presume that a television program transmitted to the public in the United States by a noncommercial educational broadcast station as defined in section 397 of Title 47 of the United States Code has been fixed but not published.

(5) The presumption established by paragraph (c)(4) of this section may be overcome by written declaration and submission of appropriate documentary evidence to the Chief, Motion Picture, Broadcasting and Recorded Sound Division, either before or after off-the-air copying of the particular transmission program by the Library of Congress. Such written submission shall contain:

(i) The identification, by title and time of broadcast, of the transmission program in question;

(ii) A brief statement declaring either that the program was not fixed or that it was published at the time of transmission;

(iii) If it is declared that the program was published at the time of transmission, a brief statement of the facts of publication, including the date and place thereof, the method of publication, the name of the owner of the right of first publication, and whether the work was published in the United States with notice of copyright; and

(iv) The actual handwritten signature of an officer or other duly authorized agent of the organization which transmitted the program in question.

(6) A declaration that the program was unfixed at the time of transmission shall be accepted by the Library of Congress, unless the Library can cite evidence to the contrary, and the off-the-air copy will either be

(i) Erased; or

(ii) Retained, if requested by the owner of copyright or of any exclusive right, to satisfy the deposit provision of section 408 of Title 17 of the United States Code.

(7) If is is declared that the program was published at the time of transmission, the Library of Congress is entitled under this section to retain the copy to satisfy the deposit requirement of section 407(a) of Title 17 of the United States Code, unless the Library is notified in writing by the owner of copyright or of the exclusive right of publication that the work has never been published in the United States with notice of copyright.

(8) The Library of Congress in making fixations of unpublished transmission programs transmitted by commercial broadcast stations shall not do so without notifying the transmitting organization or its agent that such activity is taking place. In the case of network stations, the notification will be sent to the particular network. In the case of any other commercial broadcasting station, the notification will be sent to the particular broadcast station that has transmitted, or will transmit, the program. Such notice shall, if possible, be given by the Library of Congress prior to the time of broadcast. In every case, the Library of Congress shall transmit such notice no later than fourteen days after such fixation has occurred. Such notice shall contain:

(i) The identification, by title and time of broadcast, of the transmission program in question;

(ii) A brief statement asserting the Library of Congress' belief that the transmission program has been, or will be by the date of transmission, fixed and is unpublished, together with language converting the notice to a demand for deposit under section 407 (a) and (b) of Title 17 of the United States Code, if the transmission program has been published in the United States with notice of copyright.

(9) The notice required by paragraph (c)(8) of this section shall not cover more than one transmission program except that the notice may cover up to thirteen episodes of one title if such episodes are generally scheduled to be broadcast at the same time period on a regular basis, or may cover all the episodes comprising the title if they are scheduled to be broadcast within a period of not more than two months.

(d) *Demands for deposit of a television transmission program.* (1) The Register of Copyrights may make a written demand upon the owner of the right of transmission in the United States to deposit a copy of a specific transmission program for the benefit of the Library of Congress under the authority of section 407(e)(2) of Title 17 of the United States Code.

(2) The Register of Copyrights is entitled to presume, unless clear evidence to the contrary is proffered, that the transmitting organization is the owner of the United States transmission right.

(3) Notices of demand shall be in writing and shall contain:

(i) The identification, by title and time of broadcast, of the work in question;

(ii) An explanation of the optional forms of compliance, including transfer of ownership of a copy to the Library, lending a copy to the Library for reproduction, or selling a copy to the Library at a price not to exceed the cost of reproducing and supplying the copy;

(iii) A ninety-day deadline by which time either compliance or a request for an extension of a request to adjust the scope of the demand or the method for fulfilling it shall have been received by the Register of Copyrights;

(iv) A brief description of the controls which are placed on the copies' use;

(v) A statement concerning the Register's perception of the publication status of the program, together with language converting this demand to a demand for a deposit, under 17 U.S.C. 407 (a) and (c), if the recipient takes the position that the work is published; and

(vi) A statement that a "compliance copy" must be made and retained if the notice is received prior to transmission.

(4) With respect to paragraph (d)(3)(ii) of this section, the sale of a copy in compliance with a demand of this nature shall be at a price not to exceed the cost to the Library of reproducing and supplying the copy. The notice of demand should therefore inform the recipient of that cost and set that cost, plus reasonable shipping charges, as the maximum price for such a sale.

(5) Copies transferred, lent, or sold under paragraph (d) of this section shall be of sound physical condition as described in Appendix A to this section.

(6) *Special Relief.* In the case of any demand made under paragraph (d) of this section the Register of Copyrights may, after consultation with other appropriate officials of the Library of Congress and upon such conditions as the Register may determine after such consultation,

(i) Extend the time period provided in subparagraph (d)(3)(iii);

(ii) Make adjustments in the scope of the demand; or

(iii) Make adjustments in the method of fulfilling the demand. Any decision as to whether to allow such extension or adjustments shall be made by the Register of Copyrights after consultation with other appropriate officials of the Library of Congress and shall be made as reasonably warranted by the circumstances. Requests for special relief under paragraph (d) of this section shall be made in writing to the Chief, Acquisitions and Processing Division of the Copyright Office, shall be signed by or on behalf of the owner of the right of transmission in the United States and shall set forth the specific reasons why the request shall be granted.

(e) *Disposition and use of copies.* (1) All copies acquired under this section shall be maintained by the Motion Picture, Broadcasting and Recorded Sound Division of the Library of Congress. The Library may make one archival copy of a program which it has fixed under the provisions of section 407(e)(1) of Title 17 of the United States Code and paragraph (c) of this section.

(2) All copies acquired or made under this section, except copies of transmission programs consisting of a regularly scheduled newscast or on-the-spot coverage of news events, shall be subject to the restrictions concerning copying and access found in Library of Congress Regulation 818–17, *Policies Governing the Use and Availability of Motion Pictures and Other Audiovisual Works in the Collections of the Library of Congress*, or its successors. Copies of transmission programs consisting of regularly scheduled newscasts or on-the-spot coverage of news events are subject to the provisions of the "American Television and Radio Archives Act" (section 170 of Title 2 of the United States Code) and such regulations as the Librarian of Congress shall prescribe.

(f) *Registration of claims to copyright.* (1) Copies fixed by the Library of Congress under the provisions of paragraph (c) of this section may be used as the deposit for copyright registration provided that:

(i) The application and fee, in a form acceptable for registration, is received by the Copyright Office not later than ninety days after transmission of the program, and

(ii) Correspondence received by the Copyright Office in the envelope containing the application and fee states that a fixation of the instant work was made by the Library of Congress and requests that the copy so fixed be used to satisfy the registration deposit provisions.

(2) Copies transferred, lent, or sold to the Library of Congress under the provisions of paragraph (d) of this section may be used as the deposit for copyright registration purposes only when the application and fee, in a form acceptable for registration, accompany, in the same container, the copy lent, transferred, or sold, and there is an explanation that the copy is intended to satisfy both the demand issued under section 407(e)(2) of Title 17 of the United States Code and the registration deposit provisions.

(g) *Agreements modifying the terms of this section.* (1) The Library of Congress may, at its sole discretion, enter into an agreement whereby the provision of copies of unpublished television transmission programs on terms different from those contained in this section is authorized.

(2) Any such agreement may be terminated without notice by the Library of Congress.

(17 U.S.C. 407, 408, 702)

Dated: August 4, 1983.

David Ladd,

Register of Copyrights.

Approved by:

Daniel J. Boorstin,

The Librarian of Congress.

(2) Part 202 of 37 CFR Chapter II is amended by adding Appendix A to read as follows:

Appendix A—Technical Guidelines Regarding Sound Physical Condition

To be considered a copy "of sound physical condition" within the meaning of 37 CFR 202.22(d)(5), a copy shall conform to all the technical guidelines set out in this Appendix.

A. *Physical Condition.* All portions of the copy that reproduce the transmission program must be:

1. *Clean:* Free from dirt, marks, spots, fungus, or other smudges, blotches, blemishes, or distortions;

2. *Undamaged:* Free from burns, blisters, tears, cuts, scratches, breaks, erasure, or other physical damage. The copies must also be free from:

(i) Any damage that interferes with performance from the tape or other reproduction, including physical damage resulting from earlier mechnanical difficulties such as cassette jamming, breaks, tangles, or tape overflow; and

(ii) Any erasures, damage causing visual or audible defects or distortions or any material remaining from incomplete erasure of previously recorded works.

3. *Unspliced:* Free from splices in any part of the copy reproducing the transmission program, regardless of whether the splice involves the addition or deletion of material or is intended to repair a break or cut.

4. *Undeteriorated:* Free from any visual or aural deterioration resulting from aging or exposure to climatic, atmospheric, or other chemical or physical conditions, including heat, cold, humidity, electromagnetic fields, or radiation. The copy shall also be free from excessive brittleness or stretching, from any visible flaking of oxide from the tape base or other medium, and from other visible signs of physical deterioration or excessive wear.

B. *Physical Appurtenances of Deposit Copy.*

1. *Physical Housing of Video Tape Copy.* (a) In the case of video tape

reproduced for reel-to-reel performance, the deposit copy shall consist of reels of uniform size and length. The length of the reels will depend on both the size of the tape and its running time (the last reel may be shorter). (b) In the case of video tape reproduced for cassette, cartridge, or similar performance, the tape drive mechanism shall be fully operable and free from any mechanical defects.

2. *"Leader" or Equivalent.* The copy, whether housed in reels, cassettes, or cartridges, shall have a leader segment both preceding the beginning and following the end of the recording.

C. *Visual and Aural Quality of Copy:*

1. *Visual Quality.* The copy should be equivalent to an evaluated first generation copy from an edited master tape and must reproduce a flawless and consistent electronic signal that meets industry standards for television screening.

2. *Aural Quality.* The sound channels or other portions must reproduce a flawless and consistent electronic signal without any audible defects.

[FR Doc. 83-22517 Filed 8-16-83; 8:45 am]
BILLING CODE 1410-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 2E2731/R594; PH-FRL 2416-1]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Diflubenzuron

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide diflubenzuron in or on the raw agricultural commodity mushrooms. This regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was requested by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on August 17, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Donald R. Stubbs, Emergency Response and Minor Use Section, Registration Support and Emergency Response Branch, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC, 20460. Office location and telephone number: Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking, published in the Federal Register of April 27, 1983 (48 FR 19039), which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 2E2731 to EPA on behalf of the IR-4 Technical Committee and the United States Department of Agriculture.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, amend 40 CFR 180.377 by establishing a tolerance for residues of the insecticide diflubenzuron (*N*-[[(4-chlorophenyl)amino]carbonyl]-2,6-difluorobenzamide) in or on the raw agricultural commodity mushrooms at 0.05 part per million (ppm). The petition was later amended to propose a tolerance for 0.2 ppm. Although no requests for referral to an advisory committee were received, one letter was received in response to the notice of proposed rule. The commenter discussed the use of mushroom-growing medium as a soil amendment to agricultural soil after it is removed from indoor mushroom beds and the possibility that this practice might result in contamination of local streams. The Agency has considered the environmental effects of use of diflubenzuron in crop production and determined that the pesticide is not expected to build up with continued use. Diflubenzuron has been used to control forest pests for several years with no reports of effects on nontarget organisms in streams, ponds, or other bodies of water. The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. Therefore, it is concluded that the tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: August 4, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.377 is amended by adding and alphabetically inserting the raw agricultural commodity mushrooms to read as follows:

§ 180.377 Diflubenzuron; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Mushrooms	0.2
* * * * *	

[FR Doc. 83-22341 Filed 8-16-83; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP 4E1474/R593; PH-FRL 2416-2]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Dodine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the fungicide dodine in or on the raw agricultural commodity spinach. This regulation to establish a maximum permissible level for residues of the fungicide in or on the commodity was requested by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on August 17, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm.

3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Donald R. Stubbs, Emergency Response and Minor Use Section, Registration Support and Emergency Response Branch, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking, published in the **Federal Register** of April 27, 1983 (48 FR 19040), which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 4E1474 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Arkansas, Tennessee, and Texas.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, amend 40 CFR 180.172 by establishing a tolerance for residues of the fungicide dodine (*n*-dodecylguanidine acetate) in or on the raw agricultural commodity spinach at 2 parts per million (ppm). The petition was later amended to propose a tolerance of 12 ppm.

There were no comments and/or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. The fungicide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: August 4, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.172 is revised to read as follows:

§ 180.172 Dodine; tolerances for residues.

Tolerances are established for residues of the fungicide dodine (*n*-dodecylguanidine acetate) in or on the following raw agricultural commodities.

Commodities	Parts per million
Apples	5.0
Cherries, sour	5.0
Cherries, sweet	5.0
Meat	0
Milk	0
Peaches	5.0
Pears	5.0
Pecans	0.3
Spinach	12.0
Strawberries	5.0
Walnuts	0.3

[FR Doc. 83-22342 Filed 8-16-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 2F2631, 2F2747/R587; PH-FRL 2414-4]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Hexakis (2-Methyl-2-Phenylpropyl) Distannoxane

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the insecticide hexakis (2-methyl-2-phenylpropyl)distannoxane and its organotin metabolites in or on certain raw agricultural commodities. This regulation to establish maximum permissible levels for residues of the insecticide was requested, pursuant to pesticide petitions, by Shell Chemical Company.

EFFECTIVE DATE: Effective on August 17, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued notices published in the **Federal Register** of March 3, 1982 (47 FR 9067; pesticide petition (PP) 2F2631) and October 6, 1982 (47 FR 44153; PP 2F2747) which announced that Shell Chemical Company, Suite 200, 1025 Connecticut Ave., NW., Washington, D.C. 20036, had submitted the above pesticide petitions proposing to amend 40 CFR 180.362 by increasing the established tolerances for the combined residues of the insecticide hexakis (2-methyl-2-phenylpropyl)distannoxane and its organotin metabolites calculated as hexakis (2-methyl-2-phenylpropyl)distannoxane in or on the raw agricultural commodities apples, citrus fruits, and pears from 4.0 parts per million (ppm) to 15.0 ppm (PP 2F2631); sweet and sour cherries from 4.0 to 6.0 ppm; and plums and fresh prunes from 2.0 to 4.0 ppm (PP 2F2747). PP 2F2631 was subsequently amended (48 FR 16962, April 20, 1983) by increasing the proposed tolerance for citrus fruits from 15.0 to 20.0 ppm.

There were no comments received in response to the notices of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data considered in support of the tolerances include a 2-year dog feeding study with a no-observed-effect level (NOEL) of 5 milligrams (mg)/kilogram (kg); a 2-year rat feeding/oncogenicity study which was negative for oncogenic effects up to 600 ppm (highest dose tested (HDT)) and had a systemic NOEL of 5 mg/kg; an 18-month mouse oncogenicity study which was negative for oncogenic effects up to 600 ppm (HDT); a multigeneration rat reproduction study with a NOEL of 100 ppm; a rat and rabbit teratology study with NOEL's of 30 mg/kg and 1.0 mg/kg, respectively; and mammalian mutagenicity assays which were negative for mutagenic effects. Based on the 2-year rat feeding/oncogenicity study with a NOEL of 5.0 mg/kg of body weight (bw)/day (100 ppm) and using a safety factor of 100, the acceptable daily intake (ADI) for humans is 0.05 mg/kg of

bw/day. The theoretical maximum residue contribution (TMRC) in the human diet from these tolerances and previously established tolerances is 2.1402 mg/day and represents 71.34 percent of the ADI of the chemical.

The metabolism of hexakis (2-methyl-2-phenylpropyl)distannoxane is adequately understood for the use and an adequate analytical method, gas-liquid chromatography using a tin selective flame photometric detector, is available or enforcement purposes. The established tolerances for residues in meat, milk, poultry, and eggs are adequate to cover any secondary residues resulting from the use. No actions are currently pending against the continued registration of the chemical.

A related document [FAP 3H5387/R588—2H5336/R589], establishing tolerances for the food commodity dried prunes [FAP 3H5387/R588] and the feed commodities dried apple pomace and dried citrus pulp [FAP 2H5336/R589] appears elsewhere in this issue of the **Federal Register**.

The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances would protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: August 4, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.362 is amended by increasing the established tolerances for the following commodities to read as follows:

§ 180.362 Hexakis (2-methyl-2-phenylpropyl)distannoxane; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Apples	15.0
* * * * *	
Cherries, sour	6.0
Cherries, sweet	6.0
Citrus fruits	20.0
* * * * *	
Pears	15.0
* * * * *	
Plums	4.0
* * * * *	
Prunes	4.0

* * * * *

[FR Doc. 83-22042 Filed 8-16-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 1E2565/R568; PH-FRL 2414-3]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; N-(Mercaptomethyl)Phthalimide S-(O,O-Dimethyl Phosphorodithioate)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the insecticide *N*-(mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate) and its oxygen analog in or on the commodity tomatoes. This regulation to establish a maximum permissible level for residues of the insecticide was requested, pursuant to a petition, by the Stauffer Chemical Company.

EFFECTIVE DATE: Effective on August 17, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: George LaRocca, Product Manager (PM) 15, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 204, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2400).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rule, published in the **Federal Register** of May 18, 1983 (48 FR 22337), which announced that the Stauffer Chemical Company, 1200 South 47th Street, Richmond, CA 94804, submitted pesticide petition 1E2565 to the EPA. The petition proposed that 40 CFR 180.261 be amended by establishing a tolerance for the combined residues of the insecticide *N*-(mercaptomethyl) phthalimide *S*-(*O,O*-dimethyl phosphorodithioate) and its oxygen analog in or on the commodity tomatoes imported from Mexico at 2.0 parts per million (ppm).

There were no comments or requests for referral to an advisory committee received in response to the notice of proposed rulemaking.

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a)(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: August 4, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.261 is amended by adding, and alphabetically inserting, the commodity tomatoes to read as follows:

§ 180.261 N-(Mercaptomethyl) phthalimide S-(O,O-dimethyl phosphorodithioate); tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Tomatoes	2.0
* * * * *	

[FR Doc. 83-22943 Filed 8-16-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 3F2831/R583; PH-FRL 2414-5]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Norflurazon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the herbicide norflurazon and its metabolite in or on the raw agricultural commodity grapes. This regulation to establish a maximum permissible level for the combined residues of the herbicide in or on the commodity was requested, pursuant to a petition, by Sandoz, Inc.

EFFECTIVE DATE: Effective on August 17, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 237, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of March 30, 1983 (48 FR 13255), which announced that Sandoz, Inc., 480 Camino del Rio South, San Diego, CA 92108, had submitted pesticide petition 3F2831 to EPA proposing that 40 CFR 180.356(a) be amended by establishing a tolerance for the combined residues of the herbicide norflurazon [4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone] and its desmethyl metabolite [4-chloro-5-amino-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone] in or on the raw agricultural commodity grapes at 0.1 part per million (ppm).

There were no comments received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The data considered include plant and animal metabolism studies; a rat acute oral LD_{50} study using technical chemical with an LD_{50} of 9,000 ±1,271 milligrams (mg)/kilogram (kg); a 90-day rat feeding study with a no-observed effect level (NOEL) of 500 ppm (25 mg/kg); a 90-day dog feeding study with a NOEL of 500 ppm (12.5 mg/kg); a rat teratology study negative at 400 mg/kg/day (highest dose tested); a 3-generation rat reproduction study with a NOEL of 375 ppm (18.75 mg/kg); a 1-generation mouse reproduction study with a NOEL of 340 ppm (51 mg/kg); a 6-month dog feeding study with a NOEL of 150 ppm (3.75 mg/kg); a 2-year rat chronic feeding/oncogenicity study with a NOEL of 375 ppm (18.75 mg/kg) and no observed oncogenic effects at any level tested (1,025 ppm (51.25 mg/kg) was the highest dose tested); a 2-year mouse chronic feeding/oncogenicity study with a NOEL of 340 ppm (51 mg/kg) and no observed oncogenic potential up to 1,360 ppm (204 mg/kg). [This study showed a statistically significant increase in liver neoplasms in the male dose group (1,360 ppm) which was discussed in detail in a notice of proposed rulemaking published in the **Federal Register** of March 3, 1982 (47 FR 9025). The Agency has determined that residues from the tolerance would not result in a significant risk to humans]; an Ames test (negative); and a reverse mutagenesis test (negative). Data considered desirable, but lacking, include a second specie teratology study and a rat metabolism study defining tissue retention and the percentage and identity of the major metabolites.

Tolerances previously established under 40 CFR 180.356(a) are adequate to cover resulting residues in meat, milk, and poultry.

Based on a NOEL of 150 ppm (3.75 mg/kg) in the 6-month dog study and a safety factor of 1000, the acceptable daily intake (ADI) is 0.0038 mg/kg/day. For a 60-kg person, the maximum permissible intake (MPI) is 0.225 mg/day. This tolerance and previously established tolerances utilize 38.90 percent of the ADI.

There are no regulatory actions pending against continued registration of this chemical. The metabolism of norflurazon in plants is adequately understood and an analytical method, gas chromatography using an electron capture detector, is available for enforcement purposes.

The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance would protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(a) (e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: August 4, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.356(a) is amended by adding, and alphabetically inserting, the raw agricultural commodity grapes to to read as follows:

§ 180.356 Norflurazon; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Grapes	0.1
* * * * *	

[FR Doc. 83-22041 Filed 8-16-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 3F2846/R601; PH-FRL 2415-7]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Hexazinone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide hexazinone and its metabolites in or on the raw agricultural commodities pineapple and pineapple fodder and forage. This regulation to establish maximum permissible levels for residues of the pesticide in or on the commodities was requested in a petition by E. I. du Pont de Nemours and Company.

EFFECTIVE DATE: Effective on August 17, 1983.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of April 13, 1983 (48 FR 15951), which announced that E. I. du Pont de Nemours and Company, Wilmington, DE 19898, had submitted pesticide petition 3F2846 to EPA proposing that 40 CFR 180.396 be amended by establishing tolerances for the combined residues of the herbicide hexazinone (3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4(1*H*,3*H*)-dione) and its metabolites (calculated as hexazinone) in or on the raw agricultural commodities pineapple (whole fruit) at 0.5 part per million (ppm) and pineapple forage at 5.0 ppm.

There were no comments received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The data considered include plant and animal metabolism studies; 90-day dog and rat feeding studies with a no-observed-effect level (NOEL) of 1,000 ppm for each study (equivalent to 25 milligram (mg)/kilogram (kg) and 50 mg/kg body weight (bw) respectively); a rat teratology study with no teratogenic effects observed at 5,000 ppm (250 mg/kg) (highest level tested); a rabbit teratology study with a NOEL of 125 mg/kg; a 2-year rat feeding/oncogencity study with no oncogenic effects observed at any level tested and a NOEL of 200 ppm (equivalent to 10 mg/kg bw); a 2-year mouse feeding/oncogenicity study with no oncogenic effects observed at any level tested (highest dose was 10,000 ppm) and a NOEL of 200 ppm (equivalent to 30 mg/kg bw); a 3-generation rat reproduction study with a NOEL of 2,500 ppm (equivalent to 125 mg/kg bw); and a negative Ames mutagenicity test.

Tolerances have previously been established for residues of hexazinone ranging from 0.1 ppm in meat, milk, and eggs to 10.0 ppm in range and pasture grasses. The established meat and milk tolerances will be adequate to cover the secondary residues resulting from this use.

In the absence of a 1-year dog chronic feeding study, the Agency is setting a provisional acceptable daily intake (PADI) based on the 90-day dog feeding study (NOEL of 25 mg/kg/day) and a 2000 fold safety factor. The PADI is 0.0125 mg/kg of bw/day with a maximum permissible intake (MPI) of 0.75 mg/kg/day for a 60-kg person.

Previously established and approved, but unpublished, tolerances for hexazinone contribute 0.0789 mg/day to the TMRC and utilize 10.51 percent of the ADI. The establishment of the tolerances for pineapple and pineapple fodder and forage will increase the TMRC by 0.022 mg/day and will result in a total ADI utilization of 10.81 percent.

There are no regulatory actions pending against the continued registration of the pesticide. The metabolism of the pesticide is adequately understood, and an adequate analytical method nitrogen selective gas chromatography, is available for enforcement purposes.

The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances will protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(d)(2) 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: August 4, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.396 is amended by adding, and alphabetically inserting, the following raw agricultural commodities to read as follows:

§ 180.396 Hexazinone; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Pineapple (whole fruit)	0.5
Pineapple, fodder	5.0
Pineapple, forage	5.0
* * * * *	

[FR Doc. 83-22172 Filed 8-16-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271

[SW-3-FRL 2417-3]

Virginia; Phase II, Components A and B Interim Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Final approval.

SUMMARY: The Commonwealth of Virginia has applied for interim Authorization Phase II, Components A and B. EPA has reviewed Virginia's application for Phase II Interim Authorization, Components A and B, and has determined that Virginia's hazardous waste program is substantially equivalent to the Federal program covered by Components A and B. The Commonwealth of Virginia is hereby granted Interim Authorization for Phase II, Components A and B, to operate the Commonwealth's hazardous waste program covered by these Components in lieu of the Federal program.

EFFECTIVE DATE: August 17, 1983.

FOR FURTHER INFORMATION CONTACT: Anthony J. Donatoni, Chief, State Programs Section (3AW31), U.S. E.P.A., Region III, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, Telephone: (215) 597-7937.

SUPPLEMENTARY INFORMATION:

Background

In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA) as amended, to protect human health and the environment from the improper management of hazardous waste. Included in these regulations, which became effective November 19, 1980, were provisions for a transitional stage in which States would be granted interim program authorization. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program has taken effect. Phase I of the Federal program, published in the May 19, 1980 **Federal Register** (45 FR 33063), includes regulations pertaining to the identification and listing of hazardous wastes; standards applicable to generators and transporters of hazardous waste, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits. The Commonwealth of Virginia received Interim Authorization for Phase I on November 3, 1981.

In the January 26, 1981 **Federal Register** (26 FR 7965), the Environmental Protection Agency announced the availability of portions of the second phase of Interim Authorization. Phase II of the Federal program includes permitting procedures and standards for hazardous waste management facilities. EPA made the second phase of Interim Authorization available in components, in order to authorize State programs as expeditiously as possible and because some of the standards for hazardous waste treatment, storage, and disposal facilities (40 CFR Part 264) have been promulgated at different times. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802), contains standards for permitting storage and treatment in containers, tanks, surface impoundments and waste piles. Component B, published in the **Federal Register** January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators. Component C, published in the **Federal Register** July 26, 1982 (47 FR 32274), contains standards for permitting surface impoundments, waste piles, land treatment facilities and landfills. These Component C standards for permitting surface impoundments and waste piles superseded the Component A standards for permitting storage and treatment in surface impoundments and waste piles published on January 12, 1981. The Commonwealth of Virginia applied for Phase II, Components A and B, Interim Authorization which would enable them to permit storage and treatment in containers and tanks and to permit hazardous waste incinerators in lieu of the Federal program.

On May 16, 1983, EPA published a notice in the **Federal Register** (48 FR 21977) inviting the public to comment on the Virginia application for Interim Authorization Phase II, Components A and B, at a public hearing on June 16, 1983. This notice also invited the public to submit written comments on the Virginia application to Region III by June 24, 1983. Notice was also given in three major daily newspapers in Virginia and was mailed to persons on both the State and EPA mailing lists.

Discussion

The Commonwealth of Virginia submitted an application for Phase II Interim Authorization Components A and B on April 29, 1983. The application addressed all of the Federal requirements in 40 CFR Part 271 Subpart B necessary for Phase II Interim Authorization Components A and B and was deemed a complete application on May 6, 1983.

Minor issues requiring clarification by the Commonwealth were identified in the review of the complete application. Virginia has adequately addressed these minor issues. The State program is substantially equivalent to the Federal program.

Responsiveness Summary

Region III held a public hearing on the Virginia application for Phase II Interim Authorization in Richmond, Virginia. Ten (10) members of the public attended, in addition to Region III and Commonwealth agency representatives. No presentations were made by the public but a letter, dated July 16, 1983, from the Virginia Office of the Environmental Defense Fund (EDF) was read into the record. The EDF stated that, in their opinion, the program described in Virginia's application is substantially equivalent to the Federal program and that they do not object to the granting of Phase II and support Virginia's application. Two additional written comments were received during the public comment period. All comments were reviewed and considered in reaching the decision on Virginia's application.

Response

One commentor felt that hazardous wastes should continue to be regulated under the Federal regulations but did not give any reason for that statement. Pursuant to section 3006(c) of RCRA, the Administrator of the EPA shall grant interim authorization to a State to carry out a hazardous waste program in lieu of the Federal program if the State's program is substantially equivalent to the Federal program. Since Virginia's program is substantially equivalent to the Federal program, the State has the authority to carry out the program in lieu

of the Federal program. Another commentor requested that further clarifications be added to various sections of Virginia's regulations. Since those sections were substantially equivalent to the Federal regulations, the State need not clarify its regulations in order to obtain interim authorization. EPA cannot require any State to adopt regulations more extensive than EPA's, but States may do so on their own. A copy of these comments was forwarded to Virginia for their consideration.

I conclude that the Virginia application for Interim Authorization to operate the RCRA Phase II, Components A and B program meets all of the statutory and regulatory requirements and, as such, I approve this authorization.

Authority

This notice is issued under the authority of Section 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C 6912(a), 6926 and 6974(b).

Compliance With Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provision of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact upon a substantial number of small entities. The authorization effectively suspends the applicability of certain Federal regulations in favor of the Commonwealth program, thereby eliminating duplicative requirements for handlers of hazardous wastes in Virginia. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

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.

Dated: July 26, 1983.

Thomas P. Eichler,

Regional Administrator.

[FR Doc. 83-22485 Filed 8-16-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 21, and 74

[Gen. Docket Nos. 80-112 & 80-116; RM-3540; File Nos. 8938-ED-MR-82 & BPEX-820802KH; FCC 83-243]

Amendment of the Commission's Rules With Regard to the Instructional Television Fixed Service, the Multipoint Distribution Service, and the Private Operational Fixed Microwave Service; and Applications for an Experimental Station and Establishment of Multi-Channel Systems

Correction

In FR Doc. 83-19905, beginning on page 33873, in the issue of Tuesday, July 26, 1983, make the following corrections:

On page 33883, the chart in the second and third columns should be moved to replace the chart in the second and third columns on page 33891; and the chart on page 33891 should be moved in the place of the chart on page 33883.

BILLING CODE 1505-01-M

47 CFR Parts 2 and 73

[BC Docket No. 82-536]

Amendment of the Commission's Rules Concerning Use of Subsidiary Communications Authorizations; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This erratum corrects typographical and numerical errors that were inadvertently printed in the final rules for subcarrier operations by FM broadcast stations. The corrections are necessary to prevent misunderstanding of the rule and to avoid unintended restrictions on the technical operation of FM broadcast stations.

FOR FURTHER INFORMATION CONTACT: John Reiser, Mass Media Bureau, (202) 632-9660.

Erratum

In the matter of amendment of Parts 2 and 73 of the Commission's rules concerning use of subsidiary communications authorizations; BC Docket No. 82-536.

Released: August 10, 1983.

The *Report and Order* in the above entitled matter, adopted on April 7, 1983, and released May 18, 1983, 48 FR 28445, published July 22, 1983, contained several inadvertent typographical omissions and errors. Two paragraphs of revised § 73.293 contained superfluous words, and one definition in § 73.310 was missing. The numerical error in revised §§ 73.319 and 73.322 would unnecessarily restrict the injection levels of subcarriers used for subsidiary communications transmitted by FM broadcast station. These errors are corrected as indicated in the attached Appendix.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

1. In revised § 73.293, the words "under the" in the first sentence of paragraph (b) should be deleted and the words "under the provisions of" in the first sentence of paragraph (c) should be deleted.

2. In amended § 73.310, the definition of "stereophonic sound" should be added in alphabetical sequence to read as follows:

§ 73.310 FM broadcast technical definitions.

* * * * *

Stereophonic sound. The audio information carried by plurality of channels arranged to afford the listener a sense of the spatial distribution of sound sources. Stereophonic sound broadcasting includes, but is not limited to, biphonic (two channel), triphonic (three channel) and quadrophonic (four channel) program services.

* * * * *

3. In revised § 73.319, subparagraph (d)(2) should read as follows:

§ 73.319 FM multiplex subcarrier technical standards.

* * * * *

(d) * * *

* * * * *

(2) During stereophonic sound program transmissions, modulation of the carrier by the arithmetic sum of all subcarriers below 75 kHz may not exceed 10% and the modulation of the carrier by the arithmetic sum of all subcarriers above 75 kHz may not exceed 10%. The total injection of all subcarriers may not exceed 20%, referenced to 75 kHz deviation.

* * * * *

4. In § 73.322, paragraph (j) the value "10%" at the end of the last sentence should read "20%."

[FR Doc. 83-22390 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 15

[Gen. Docket No. 79-244; RM-3328; RM-2876]

Amendment of the Commission's Rule To Provide for the Operation of a TV Interface Device; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; Correction.

SUMMARY: Errata to the text of the Report and Order authorizing TV interface devices are issued to correct inadvertent errors. Included also are errata to the final rules and to the recommended measurement procedure, both appendices to the Report and Order.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Authorization and Standards Division, Office of Science and Technology, 2025 M Street, NW., Washington, D.C. 20554 (202) 653-8247.

Erratum

In the matter of amendment of Part 15 of the Commission's rules to provide for the operation of a TV interface device; Gen. Docket 79-244, RM-3328, RM-2876.

Released: July 6, 1983.

The Commission's Report and Order, FCC 83-57, adopted February 9, 1983, published on March 29, 1983 at 48 FR 13029 is corrected for clarification purposes as follows:

—The last sentence of paragraph 18 of the text of the Report and Order is revised as follows:

"For example, since subscription TV decoders receive an over-the-air signal, the decoder must include an isolation switch."

—The text of the first paragraph of § 15.606(b) of the adopted rules, Appendix C, is corrected to read as follows:

(b) A transfer switch is not required for a TV Interface Device that, when connected, results in the user no longer having any need to receive standard over-the-air broadcast signals via a separate antenna. A transfer switch is also not required for devices that are intended to be used as accessories to an approved TV Interface Device.

In the former situation, the text of the label required by § 15.622 shall be replaced with the following statement:"

In the latter situation, the text of the label required by § 15.622 shall be replaced with the following statement:"

—§ 4.0 of the measurement procedure, MP-3, Appendix B, is revised by inserting between the third and fourth sentence a new sentence with the following text:

"However, a TV Interface Device that provides for input from a specific accessory, such as the video camera input on a video cassette recorder, need not be tested with the VITS signal provided it is tested with the accessory."

—§ 4.2.2 of MP-3, Appendix B is revised by adding a new note 4:

"**Note 4.**—For isolation switch measurements only, a bandwidth narrower than 100 kHz may be used, at the test engineers option, provided he ensures a calibrated reading at the narrower bandwidth and he includes this information in the measurement report."

—§ 4.2.3 of MP-3, Appendix B, is revised by replacing the penultimate sentence with the following:

"The isolation of the transfer switch is to be reported in microvolts (uV) or in dB above luV (dB (uV)), measured over the frequencies of the output signal, in most cases TV channels 3 and 4."

—§ 5.3.1 of MP-3 is revised by adding the following sentence to the penultimate paragraph.

"For isolation switch measurements, the video carrier of the TV Interface device is the only signal that needs to be measured."

—§ 6.3 of MP-3 is revised by replacing the first sentence of the last paragraph with the following:

"The horizontal distance between the measuring set antenna and the EUT shall be measured from the closest point of the EUT, as determined by the boundary defined by an imaginary straight line periphery describing a simple geometric shape enclosing the EUT."

—§ 7.2 is revised by deleting the word "impedance" between the words "relative" and "values" in the last sentence of the NOTE in this section and by adding the word "impedance" after the word "source" in the same sentence.

—§ 8.1 is revised by replacing the word "length" with the word "height" in the third sentence.

This action is pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and the authority delegated to the Managing Director by § 0.231 of the Commission's Rules and Regulations, 47 CFR 0.231.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-22402 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 18

[FCC 83-361]

Petitions for Waiver of the Commission's Rules; North American Philips Lighting Corp., et al.

AGENCY: Federal Communications Commission.

ACTION: Rule related notice; order granting limited waiver.

SUMMARY: This Order grants a waiver of the 3 year re-certification (re-testing) requirement for radio frequency (RF) lighting devices to 3 manufacturers. Two manufacturers are authorized to market 10,000 units each, one manufacturer—100,000 units. Use of RF energy in these devices to generate light reduces energy consumption from the power line. This action is taken in response to petitions for waiver submitted by North American Philips Lighting Corporation, International Energy Conservation Systems, and Soli-Tronics/Brigham Young University. A waiver is necessary because each RF lighting device in use cannot practically be tested every three years to determine continued compliance with the technical standards.

DATES: This Order becomes effective August 5, 1983.

FOR FURTHER INFORMATION CONTACT: Herman Garlan, Federal Communications Commission, Office of Science and Technology, Washington, D.C. 20554. Telephone 202/653-8247.

List of Subjects in 47 CFR Part 18

Domestic microwave ovens, Medical diathermy devices, Radio interference, Scientific equipment, Industrial RF heating equipment.

Order Granting Limited Waiver

In the matter of petitions for waiver of Section 18.142 of the FCC Rules By North American Philips Lighting Corp., International Energy Conservation Systems, and Brigham Young University/Soli-Tronics.

Adopted: July 28, 1983.

Released: August 5, 1983.

By the Commission.

1. In the past Year, the Commission received three petitions for waiver of the detailed certification and re-certification requirement of Section 18.142 for certain radio frequency (RF) lighting devices. The petitions were submitted by: North American Philips Lighting Corporation (NAPLC) on July 15, 1982, International Energy Conservation Systems (IECS) on June 7, 1982, and Soli-Tronics in cooperation with Brigham Young University on January 24, 1983. The

NAPLC and IECS petitions were put on public notice on July 30, 1982 and August 5, 1982, respectively. The American Radio Relay League, Inc. (ARRL) and General Electric Company (GE) filed comments on the NAPLC and IECS petitions for waiver. Since the Soli-Tronics request is essentially indentical [1] to that of IECS, it was believed that comments submitted on the IECS petition would also apply to the Soli-Tronics request and that a separate public notice for Soli-Tronics was not necessary.

2. All three petitions are concerned with new RF lighting devices using electronic ballasts for fluorescent type bulbs. NAPLC requests a waiver for its SL–18 lamp which is similar in size and shape to a household incandescent bulb. The SL–18 bulb consists of both the fluorescent tube and an electronic ballast built into the glass envelope of the lamp. On the other hand, IECS and Soli-Tronics produce only electronic ballasts for installation in fluorescent fixtures. For convenience we will refer to both the SL–18 lamp and each electronic ballast made by IECS and Soli-Tronics as an RF lighting device.

3. The standard ballast used for fluorescent lights operates at 60 Hz—the standard power line frequency. However a fluorescent light bulb with an electronic ballast is stated to be 20 to 40 percent more energy efficient than the standard fluorescent fixture. In comparison to the household incandescent bulb, RF lighting devices are claimed to be even more energy efficient. NAPLC states that its bulb, which can be inserted into a standard incandescent socket, uses only one-fourth of the energy of a standard incandescent bulb. Since the NAPLC bulb can fit incandescent sockets and is approximately the size of an incandescent bulb, it will have residential as well as commercial and industrial uses. The RF lighting devices developed by IECS and Soli-Tronics were developed with the commercial/industrial market in mind, but can be expected eventually to reach the residential market.

4. According to the petitions, the RF circuitry in the electronic ballast operates continuously at high frequency between 20 and 40 kHz.[2] The first step in the operation of the electronic ballast is to convert alternating current (AC) from the power line into direct current (DC) by using a rectifier circuit.[3] The DC voltage is then applied to an inverter which converts the DC energy to RF energy at a frequency between 20 and 40 kHz. This RF energy is applied to the fluorescent tube(s) by the same basic technique as the used in conventional fluorescent fixtures. The RF energy excites the gaseous compound within the tube causing the fluorescent coating material to glow and emit light.

5. Since RF energy is applied to excite gases and materials, these new FR lighting devices are considered to be miscellaneous industrial, scientific and medical (ISM) equipment subject to Part 18 Subpart H of the FCC Rules.[4] By reference, miscellaneous equipment is subject to the requirements in Subpart E (medical diathermy equipment) of Part 18. Since the RF lighting devices operate on frequencies that are not assigned for ISM purposes, Section 18.142 is the particular regulation in Subpart E that applies. This regulation requires that each piece of equipment (RF lighting device in this instance) must be certificated (tested) and re-certificated at intervals of three years. It is evident that this requirement is completely unsuitable for RF lighting devices. Accordingly, the Commission is seeking alternative regulatory requirements. (See paragraphs 7–9 below.)

6. Section 18.142, and Part 18 in general, were intended to apply to large, high power industrial, scientific and medical equipment produced in small quantities. This regulation was designed to ensure that such equipment continued to comply with the technical requirements. However, the detailed certification and re-certification requirement in Section 18.142 poses an extremely severe administrative problem to the marketing of a mass produced item such as an RF light bulb. Each bulb would have to be certificated and the user or purchaser would need to re-certificate each bulb every three years. Re-certification of an RF light bulb would provide hardly any additional protection against interference over that provided by a prototype certification prior to marketing.

7. In a separate proceeding, FCC Docket 20718, we proposed to extensively revise and update the rules in Part 18.[5] Among other contemplated changes, the proposal included deletion of the re-certification requirement, addition of a simplified certification procedure as a prerequisite for marketing, the imposition of more stringent radiated emission limits and the addition of a conducted emission limit. A tighter emission limit is particularly appropriate for mass produced commercial and consumer products such as RF lighting devices.[6] However, although consumer ISM equipment was discussed in Docket 20718, the Commission at that time did not have any information on RF lighting devices. Accordingly, no specific provisions for RF lighting devices were proposed.

8. In a companion *Notice of Inquiry* we are seeking to acquire information so that we may knowledgeably proceed with minimal regulations for RF lighting devices to minimize the potential for harmful interference.[7] However, while that inquiry is pending, the Commission recognizes that technological advancements such as energy saving RF light bulbs and electronic ballasts should not be delayed access to the market as long as adequate control is maintained over the interference potential of this new technology.

9. In July of 1980, the Commission granted a limited waiver of the detailed certification and re-certification requirement in Section 18.142 to GE for 10,000 Electronic Halarc light bulbs.[8] In January of 1981, we removed the limit on the number of GE Halarc light bulbs which could be produced and marketed under the waiver.[9]

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[1] IECS requests a waiver for its "Ballastronic" electronic ballast. Soli-Tronics requests a waiver for the following models of electronic ballasts: Model Nos. 4024, 4120, 4124 and 8120.

[2] Although most RF lighting sources operate between 20 and 40 kHz, the Commission is aware of an RF excited fluorescent lamp designed by the Litek Company which operates on the frequency of 13.56 MHz.

[3] The Soli-Tronics Model 4024 electronic ballast does not contain a rectifier to convert from AC to DC voltage. It is designed to be used in a DC distribution system where the AC to DC conversion is done at one point in the lighting system and DC voltage is then distributed to each electronic ballast and associated fluoresecent fixture.

[4] Miscellaneous (ISM) equipment is defined in § 18.3 (d), as equipment in which radio frequency energy is applied to materials to produce physical, biological, or chemical effects such as heating, ionization of gases, . . . Which do not involve communications or the use of radio receiving equipment.

[5] Docket 20718: In the matter of overall revision of Part 18 governing Industrial, Scientific and Medical (ISM) equipment. *Notice of Inquiry* adopted March 9, 1978 and released March 15, 1978 (41 FR 11626). *Notice of Proposed Rule Making* adopted September 19, 1978 and released September 29, 1978 (43 FR 46326). *Second Notice of Proposed Rule Making* adopted January 1, 1979 and released January 29, 1979 (44 FR 9771).

[6] The current standards in Part 18 were intended to protect communication services from ISM equipment usually operated in industrial areas significant distances away from communication services.

[7] *Notice of Inquiry*, In the matter of FCC Regulations concerning RF Lighting Devices, FCC General Docket No. 83–806 adopted July 28, 1983, released August 5, 1983.

[8] *Order Granting Limited Waiver* adopted July 17, 1980 and released July 23, 1980 (FCC 80–418).

[9] *Order Expanding Limited Waiver* adopted January 29, 1981 and released February 4, 1981 (FCC 81–25).

10. In an attempt to determine the interference potential of RF lighting sources, tests were performed by the Commission on the NAPLC SL–18 RF light bulb both at the FCC laboratory and at the homes of several members of the Commission's staff.[10] Measurements taken at the laboratory indicate that emissions from this bulb are very broadband extending from 10 kHz up to approximately 80 MHz. The laboratory results show that AM Broadcast was the only broadcast service which may experience any significant interference from the SL–18 bulb. In controlled laboratory conditions, radiated interference to AM radios was noted up to distances of two meters from the bulb. With the bulb plugged into the same outlet as the radio, interference was noticed at greater distances indicating that power line conducted emissions from RF lighting sources may be of greater concern than radiated emissions.

11. Results gathered from subjective interference tests performed by using the SL–18 RF light bulbs in the homes of several Commission staff members varied significantly. Objectionable interference to AM reception in some homes was confined to situations when the AM radio was plugged into the same AC receptacle, or operating very close (within a few feet) to the bulb. However, a few individuals reported more widespread interference to AM reception in their homes. NAPLC submitted test results indicating that its light bulb did not pose a significant potential for interference to AM broadcast reception.[11] In a portion of NAPLC's tests run in several actual homes, interference was noted only in cases when the bulb was extremely close (within a foot or so) to an AM radio or when plugged into the same electrical outlet as the AM radio. Other parts of the NAPLC test report show that emission levels from the SL–18 bulb are below levels emitted by conventional fluorescent fixtures. Further, NAPLC alleges that no interference complaints have been received for a similar RF bulb marketed in Europe.

12. The limited tests performed up to this point only show that in some situations interference can occur to AM broadcast reception due to emissions generated by an RF lighting device. However, the number of times such situations will occur and the severity of any resulting interference is dependent upon many factors such as location and environment of product use, proliferation of the product, emission characteristics, the prevailing conditions at the particular location of use (i.e. susceptible receivers).

13. With respect to the location and environment of use, the RF lighting devices developed by IECS and Soli-Tronics will be operated for the most part in commercial office buildings and industrial plants. Compared to consumer equipment used in residential areas, these commercial/industrial RF lighting devices will usually be further away from susceptible receivers, and therefore less likely to cause interference problems. As noted previously, the Soli-Tronics RF lighting devices can be operated in two different types of system configurations, and each configuration may present a different interference potential. In one configuration, standard AC voltage is distributed to each lighting fixture which contains an electronic ballast which generates RF energy and applies this energy to the fluorescent tube. In the other configuration one main rectifiers is used for the entire system. The DC voltage is distributed to each lighting fixture which contains a simplified electronic ballast—an electronic ballast without the individual rectifier. It is claimed that the single large rectifier is more efficient than the multiplicity of small rectifiers, thus further improving the energy efficiency of the system. Each configuration could result in different levels of RF energy on the distributed wiring directly affecting the interference potential of the system.[12]

14. On the other hand, due to its capability of replacing a regular incandescent bulb, the NAPLC RF lighting device will eventually have application in residential as well as commercial/industrial environments. Because of the greater possibility of close proximity operation to AM radios, residential operation of the light bulb may lead to more interference complaints. However, since the NAPLC bulb is more expensive than the standard household incandescent bulb, NAPLC contends that, at least initially, most of these bulbs will be used in commercial and industrial locations.

15. With regard to emission characteristics, the NAPLC, IECS, and Soli-Tronics RF lighting devices all operate on the same basic principle and so are expected to have similar emission characteristics. It is important to note that the emissions characteristics from these devices is broadband and as a result has a different interfering effect than most other ISM equipment, which exhibit narrowband emissions. Accordingly, the existing emission limitations in Part 18 are not directly applicable to RF lighting devices and cannot be relied upon by manufacturers as a valid guideline to design to hold emissions from their products to tolerable levels. Our evaluation of the NAPLC bulb appears to substantiate this contention. The lab results show that the NAPLC RF lighting source did meet currently established standards for other equipment such as personal computers, etc.; however, significant interference was still caused to AM radio reception in the same household.

16. In view of the large number of variables affecting the interference potential of RF lighting devices, a determination of the actual interference potential presented by these products is most practical through experience gained in actual use. However, the commenters, both ARRL and GE, are concerned about widespread interference problems which may develop and urge the Commission not to grant a waiver for these new RF lighting devices until an adequate showing is made concerning their interference potential. The limited testing performed in several homes with the NAPLC RF lighting source does not provide the Commission with a large enough statistical base to draw accurate conclusions about the interference potential. Based on our experience with the limited waiver granted to GE, we believe that a real world interference survey based on the use of 10,000 RF lighting devices from each petitioner manufacturing electronic ballasts and 100,000 RF light bulbs by NAPLC would provide a valid assessment of interference potential for each type of RF lighting device.[13, 14] At the same time, by limiting the proliferation of these new

[10] The tests are described in a Memorandum from Philip M. Inglis to the Chief, Authorization and Standards Division dated February 25, 1983, file No. 31010/EQU/4–0.

[11] Test report regarding the SL–18 Lamp filed by NAPLC on April 8, 1983.

[12] The Commission is aware of another RF lighting system which is composed of one main unit that performs all the voltage conversions (AC to DC to RF) and then distributes the RF voltage to all the fluorescent fixtures in the system.

[13] Footnote 5, supra. GE actually made improvements to reduce the interference potential of its bulb with the aid of the actual market survey conducted with a limited number of bulbs. See the reports submitted by GE as a requirement under its waiver. These reports are available for inspection in the RF Devices Branch file No. 4–3–7.

[14] The selection of the number of units to be initially authorized is based on several factors. The first is the need to have a sufficiently large test sample to adequately determine the interference potential of RF lighting sources in a variety of locations and environments. The second is our concern to limit widespread interference. Considering these two factors and our concern not to hamper a manufacturers marketing plan, we have selected 10,000 units for electronic ballasts and 100,000 units of the SL–18 bulb. The larger number for the NAPLC is based on the detailed test program plan submitted by the firm as a supplemental information to their petition.

RF lighting sources, we maintain an adequate control over interference potential, thereby reducing the concern expressed by the commenters. Moreover, by granting the waiver, and relieving the petitioners of burdensome administrative requirements, we permit this energy saving technology to develop and be introduced into the marketplace without delay.

17. We are also imposing the radiated and conducted limits in for computing devices Subpart J of Part 15 of the Rules on RF lighting sources marketed under the terms of this waiver. While we recognize that these limits may not be completely satisfactory, as stated in paragraph 15 above, we believe some minimal technical limits are necessary to place a cap on the interference potential of these devices. RF lighting devices intended for use in industry and commercial environments will be subject to the technical limits for a Class A computing device. RF lighting marketed for use in residential areas will have to meet the limits for a Class B computing device. It may be possible that the subject RF lighting devices will have to add additional EMI suppression in order to comply with these limits. We believe that this is not an unreasonable burden for manufacturers of these bulbs. Alternatively, however, the manufacturer must satisfy the Commission that its bulb or ballast is not a major interference source.

18. Accordingly, we are limiting this waiver of the equipment authorization requirements in § 18.142 for a total number of 10,000 (100,000 for NAPLC) RF lighting devices for each petitioner to be used in field testing and market evaluation. Each petitioner is required to submit periodic reports concerning all interference problems resulting from operation by its RF lighting device. The results of the experience derived from actual use of these RF lighting sources will also be useful to the Commission by providing real world data to supplement information generated through the associated *Notice of Inquiry*. In addition, the Chief Scientist is delegated authority to waive the requirements of § 18.142 for other manufacturers of RF lighting devices subject to the same conditions herein. Further, the Chief Scientist is delegated authority to increase the number of RF lighting devices covered by this waiver if significant interference problems do not result.

19. The Commission hereby grants a limited waiver to NAPLC, IECS and Soli-Tronics subject to the conditions below:

(a) This waiver authorizes the manufacture and marketing of 10,000 electronic ballasts each by International Energy Conservation Systems and Brigham Young University/Soli-Tronics and 100,000 RF lighting bulbs (SL–18) by North American Philips Lighting Corp. to be used in field testing and evaluations.

(b) A report of measurements of both the conducted and radiated emissions from the RF lighting device along with ten samples of the lighting device shall be submitted to the FCC Laboratory for examination.

(c) Grantee shall make a study of the cumulative effect of a large number of devices installed in one plant and all connected to a single wiring system on the amount of radio frequency interference created and how this correlates with the radio frequency interference caused by a single device. A report of this study shall be submitted within six months.

(d) Reports of all radio frequency interference (RFI) experiences resulting from the operation of RF lighting devices under this waiver shall be submitted to the Commission at intervals of three months.

(e) The RF lighting device (or system) shall be certificated by the Commission pursuant to Subpart J of Part 2 to show compliance with technical requirements in Subpart J of Part 15 for Class A equipment if the RF lighting device (or system) will be used in a commercial/industrial environment or for Class B equipment if the device will be used in a residential environment.

(f) The following information shall be printed on the package containing the RF lighting device so that it will be clearly visible to the purchaser.

This device is being sold pursuant to a waiver of FCC rules as part of an experiment to determine whether it causes harmful interference to AM radios in or around the user's dwelling. Any interference should be reported to (fill in company name, contact person, and address).

(g) If a significant interference problem is caused by the devices authorized under this waiver, the Chief Scientist is authorized to instruct the manufacturer of the device in question to discontinue marketing the device until corrective measures are taken. Marketing may be resumed only on instructions from the Chief Scientist.

20. Pursuant to Section 1.3 of the Commission's Rules, since good cause has been shown, the NAPLC, IECS and Soli-Tronics petitions for waiver the re-certification requirements of Section 18.142 ARE GRANTED subject to the conditions set out in paragraph 19 above. This waiver shall terminate 30 days after the effective date of any rules adopted by the Commission concerning operation of RF lighting devices.

21. It is further ordered that the Chief Scientist is authorized to increase the number of RF lighting devices covered by this waiver and to grant, subject to the same conditions, similar waiver requests which are filed by other parties and adequately justified. The petitioner must file the following minimum information.

(a) A detailed description of the RF lighting device.

(b) A statement why the present rules are unsatisfactory and why it is in the public interest to grant the waiver.

(c) A statement that the RF lighting device will comply with the conditions set out in paragraph 19 above.

22. Pursuant to § 1.427(b) of Part 1 of the Commission's Rules, since it relieves a regulatory restriction, this order shall become effective on August 5, 1983.

23. Further information about the waiver may be obtained from Herman Garlan at (202) 653–8247.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-22403 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 82–811; RM–4207; RM–4233]

FM Broadcast Stations In Anchorage, Alaska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Class C FM Channels 251 and 255 to Anchorage, Alaska, in response to petitions filed by KENI Associates and by Borealis Broadcasting, Inc. The assignments could provide a tenth and eleventh broadcast service to Anchorage.

EFFECTIVE DATE: October 11, 1983.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Anchorage, Alaska) MM Docket No. 82–811, RM–4207, RM–4233.

Adopted: July 18, 1983.

Released: August 10, 1983.

By the Chief, Policy and Rules Division.

1. In response to petitions filed by

KENI Associates and Borealis Broadcasting, Inc. ("petitioners"), the Commission adopted a *Notice of Proposed Rule Making*, 47 FR 56672, published December 20, 1982, proposing to assign Class C Channels 251 and 255 to Anchorage, Alaska.[1] Supporting comments were filed by both petitioners, restating their intentions to apply for a Class C channel at Anchorage, if assigned. Comments in opposition to the proposal were filed by Pacific Rim Broadcasters, Inc.,[2] to which the petitioners responded. Pacific Rim also submitted reply comments.

2. In its comments opposing the proposal, Pacific Rim claims that it now competes for advertising and revenues with numerous FM stations in Anchorage. It argues that the Commission's proposal to allocate two more Class C channels to Anchorage is arbitrary and not based on the actual need for FM service. In this regard, it states that the Anchorage market is already saturated with a large complement of stations, which provides a variety of programming to a relatively small isolated community. We are also told by Pacific Rim that the proposal along with the recent addition of Channel 247 increases the number of allocations by 25%. Pacific Rim contends that while Borealis Broadcasting claims that the Anchorage area has experienced quick growth, it could at best support no more than one additional station. It also notes that KENI Associates made no justification for its request. It merely expressed a desire for an allocation. Pacific Rim argues that the Commission should not adopt a policy which allows the allocation of channels, merely because they are available. We are told that the *Notice* gives the appearance of promoting such a policy. Pacific Rim points out that it recognizes the impact of the Commission's policy with respect to population, guidelines, and appropriate classes of channels in Docket 80-130.[3] However, it feels that the Commission is still bound by the mandate of section 307(b) of the Communications Act in decisions regarding channel distribution. Pacific Rim refers to BC Docket 81-911 in which the Commission allocated FM Channels 201-260 for broadcast use in Alaska, noting that commercial broadcasters filing comments in this proceeding did not attempt to argue that there was a need for new commercial FM service in Alaska. As a final matter, Pacific Rim suggests that all interested parties should apply instead for the recent Class C channel assigned to Anchorage (Channel 247).

3. In response KENI Associates contends that Pacific Rim's arguments wholly misconstrue the Commission's new channel assignment policies. It notes that the Commission has entirely abandoned the population criteria. Also, since there were no conflicting proposals submitted in this proceeding, § 307(b) is irrelevant. KENI Associates adds, that although Pacific Rim has attempted to bolster its argument by referring to BC Docket 81-911, it should be noted that that decision was made under the aegis of the revised policy statement (*Report and Order* adopted June 23, 1982). KENI urges the Commission to adopt its proposal.

4. In reply comments, Borealis Broadcasting states that if Pacific Rim's arguments concerning economic impact are to be considered at all, it should be at the application stage, assuming it could make the extraordinary economic showing required under Commission policies. The reply of Pacific Rim raised no new issues not already discussed in its initial comments.

5. After consideration of the proposal and comments filed in this proceeding, the Commission is persuaded that the public interest would be served by adopting the proposal. Our decision reaffirms our policy of providing service where there is a demand for new service. See *Revision of FM Policies and Procedures, supra*. We agree with the petitioners that the opposition of Pacific Rim to the assignment of Channels 251 and 255 to Anchorage on economic grounds is premature and more properly raised for consideration at the application stage of the proceeding. We have so held in previous cases. See *Grand Junction, Colorado*, 26 R.R. 2d 513 (1973). Furthermore, we no longer have standards for determining that there is no need for an additional station where an interest in providing another service is present. Nor is preclusion even a consideration in this type of proceeding. Thus, with regard to the opposition's reference to the Commission's obligation under § 307(b), that issue does not arise unless there is an interest expressed in a conflicting proposal. Under those circumstances, the number of existing services would become a factor. *Revision of FM Policies and Procedures, supra*. Nevertheless, we note that there should be no problem in finding available FM channels for affected communities in Alaska.

6. Channels 251 and 255 can be assigned to Anchorage in compliance with the minimum distance separation requirements. These assignments are subject to the conditions that they cause no harmful interference to the F.C.C. monitoring station at Anchorage, Alaska.

7. Accordingly, it is ordered, That effective October 11, 1983, the FM Table of Assignments, §73.202(b) of the Commission's Rules, is amended with respect to the following community:

City	Channel No.
Anchorage, Alaska	247, 251, 255, 263, 267, 271,*276A, 281, 287, 293, and 298.

8. Authority for the action taken herein is found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules.

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-22419 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

[1] Channel 247 was recently assigned as a ninth channel (BC Docket No. 82-709).

[2] Pacific Rim Broadcasters, Inc., is the licensee of FM Station KBCN, Anchorage, Alaska.

[3] See *Revision of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (*Second Report and Order*, June 1982).

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47 CFR Part 73

[MM Docket No. 83-98; RM-4269]

FM Broadcast Station in Desert Center, California; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 272A to Desert Center, California, as its first FM channel, in response to a petition filed by Bill Harling.

EFFECTIVE DATE: October 11, 1983.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Desert Center, California) MM Docket No. 83–98, RM–4269.

Adopted: July 21, 1983.

Released: August 9, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission is the Notice of Proposed Rule Making, 48 FR 8505, published March 1, 1983, proposing the assigment of Channel 272A to Desert Center, California. The Notice was issued in response to a petition filed by Bill Harling ("petitioner"). Comments were filed by the petitioner, restating his interest in the channel.

2. Mexican concurrence has been obtained in the assigment of Channel 272A to Desert Center, California. The channel can be assigned in compliance with the minimum distance separation requirements.

3. In view of the fact that Desert Center could receive its first broadcast station and pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective October 11, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended, with respect to the following city:

City	Channel No.
Desert Center, California	272A

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–22426 Filed 8–16–83; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83–95; RM–4259]

FM Broadcast Stations in Pueblo, Colorado; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns a sixth FM channel to Pueblo, Colorado, in response to a petition filed by Scribner Broadcasting, Inc.

EFFECTIVE DATE: October 11, 1983.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Pueblo, Colorado) MM Docket No. 83–95, RM–4259.

Adopted: July 21, 1983.

Released: August 9, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 48 FR 8505, published March 1, 1983, proposing the assignment of Class C Channel 300 to Pueblo, Colorado, as its sixth FM assignment. The *Notice* was issued in response to a petition filed by Scribner Broadcasting, Inc. ("petitioner"). Supporting comments were filed by the petitioner, reaffirming its interest in the Class C channel. Petitioner also informed us that there is a successor to its interest in the proceeding named Martec Broadcasting Corporation.

2. The Commission has determined that the public interest would be served by the assignment of Channel 300 to Pueblo, Colorado. The transmitter site is restricted to 10.8 miles south of the city in order to avoid short spacing to Station KCOL–FM (Channel 300), Fort Collins, Colorado.[1]

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective October 11, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, IS AMENDED, with respect to the community listed below:

City	Channel No.
Pueblo, Colorado	245, 255, 260, 264, 296A, and 300.

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–22424 Filed 8–16–83; 8:45 am]

BILLING CODE 6712–01–M

[1] The *Notice* incorrectly stated a site 10.8 miles *north* of the city.

47 CFR Part 73

[MM Docket No. 83–96; RM–4234]

FM Broadcast Stations in Hilo, Hawaii; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a fourth FM channel to Hilo, Hawaii, in response to a petition filed by Big Island Broadcasting Co., Ltd.

EFFECTIVE DATE: October 11, 1983.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Hilo, Hawaii) MM Docket 83–96, RM–4234.

Adopted: July 21, 1983.

Released: August 9, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 48 FR 8504, published March 1, 1983, proposing the assignment of Class C Channel 262 to Hilo, Hawaii, as its fourth FM assignment. The Notice was issued in response to a petition filed by Big Island Broadcasting Co., Ltd. Supporting comments were filed by the

petitioner reaffirming that it will apply for the channel, if assigned.

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

3. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective October 11, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended with respect to the following community:

City	Channel No.
Hilo, Hawaii	234, 246, 250, 262

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

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

(Secs. 4, 303 48 Stat., as amended, 1066, 1083 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-22425 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-94; RM-4276]

FM Broadcast Stations in Hyannis, Massachusetts; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a second FM channel to Hyannis, Massachusetts, in response to a petition filed by Dan Puopolo.

EFFECTIVE DATE: October 11, 1983.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Hyannis, Massachusetts), MM Docket No. 83–94, RM–4276.

Adopted: July 21, 1983.

Released: August 9, 1983.

By the Chief, Policy and Rules Division.

1. In response to a petition filed by Dana Puopolo ("petitioner"), the Commission adopted a Notice of Proposed Rule Making, 48 FR 8506, published March 1, 1983, proposing the assignment of Channel 276A to Hyannis, Massachusetts. Supporting comments were filed by the petitioner restating his intention to apply for the channel, if assigned.

2. We are satisfied that the public interest would be served by the proposed assignment which would provide Hyannis with its second FM service. The channel can be assigned in compliance with the minimum distance separation requirements.

3. In view of the above and pursuant to the authority contained in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective October 11, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules is amended with regard to the following community:

City	Channel No.
Hyannis, Massachusetts	276A, 291

4. It is further ordered, That this proceeding IS TERMINATED.

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-22423 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-74; RM-4260]

FM Broadcast Station in Maljamar, New Mexico; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns FM Channel 286 to Maljamar, New Mexico, in response to a petition filed by Warren Broadcasting, Inc. The assignment could provide for a first commercial station at Maljamar.

EFFECTIVE DATE: October 11, 1983.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Maljamar, New Mexico) MM Docket 83–74, RM–4260.

Adopted: July 21, 1983.

Released: August 9, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the Notice of Proposed Rule Making, 48 FR 7750, published February 24, 1983, proposing the assignment of FM Channel 286 to Maljamar, New Mexico. The *Notice* was issued in response to a petition filed by Warren Broadcasting, Inc. ("petitioner"). Supporting comments were filed by the petitioner restating its intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Mexican concurrence has been obtained in the proposed assignment of Channel 286 to Maljamar, New Mexico, since that community is located within 320 kilometers (199 miles) of the U.S.-Mexican border.

3. After consideration of the proposal, we have determined that Maljamar could benefit from the requested assignment, since it could provide a first FM service to that community.

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective October 11, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, is amended, with respect to the following community:

City	Channel No.
Maljamar, New Mexico	*254, 286

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-22420 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-80; RM-4270]

FM Broadcast Stations in Denver City, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: This action assigns a first FM channel to Denver City, Texas, in response to a petition filed by Martha Anne Couzens.

EFFECTIVE DATE: October 11, 1983.

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM, Broadcast Stations (Denver City, Texas) MM Docket No. 83–80, RM–4270.

Adopted: July 21, 1983.

Released: August 9, 1983.

By the Chief, Policy and Rules Division.

1. In response to a petition filed by Martha Anne Couzens ("petitioner"), the Commission adopted a *Notice of Proposed Rule Making*, 48 FR 7760, published February 24, 1983, proposing the assignment of Channel 296A to Denver City, Texas. Supporting comments were filed by the petitioner reaffirming that she will apply for the channel, if assigned. No oppositions to the proposal were received.

2. We believe that the public interest would be served by the assignment of Channel 296A to Denver City, as it would provide a first FM broadcast service to that community. A site restriction of 3.5 miles north of Denver City is required to avoid short spacing to (unused) channel 296A at Jal, New Mexico.

3. In view of the above and pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective October 11, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules is amended with regard to the following community:

City	Channel No.
Denver City, Texas	296A

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

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Mass Media Bureau.

[FR Doc. 83-22422 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 97

[PR Docket No. 82–624]

Definition and Measurement of Transmitting Power in the Amateur Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; Correction.

SUMMARY: The FCC adopted a Report and Order substituting an output power measurement standard for the previous input power standard in the Amateur Radio Service. This erratum corrects a rule for beacon operation in the Amateur Radio Service in order to reflect this change.

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Private Radio Bureau, Washington, D.C. 20554, (202) 632–4964.

In the matter of definition and measurement of transmitting power in the amateur radio service. PR Docket No. 82–624.

Released: August 10, 1983.

On July 22, 1983, the Commission released a *Report and Order*, 48 FR 34746 (August 1, 1983) in the above captioned proceeding. In the *Report and Order*, the Commission amended Parts 2 and 97 of its Rules in order to substitute an output power measurement standard for the old input power standard. Inadvertently, the rule in the Amateur Radio Service for beacon operation was not revised to reflect this change.

PART 97—[AMENDED]

Accordingly, 47 CFR Part 97 is amended as follows:

§ 97.67 [Amended]

1. Paragraph (e) of § 97.67 of the Rules is revised to read:

* * * * *

§ 97.67 Maximum authorized transmitting power.

* * * * *

(e) Within the limitations of paragraph (a) of this section, the peak envelope power output of an amateur radio station in beacon operation shall not exceed 100 watts.

* * * * *

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-22308 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 674

[Docket No. 30812–162]

High Seas Salmon Fishery Off Alaska

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

ACTION: Rule-related notice; opening.

SUMMARY: NOAA issues this notice of opening of the Southeast Alaska commercial salmon fishery in four small areas of the fishery conservation zone at 12:01 a.m., August 15, 1983, Pacific Daylight time. The opening is intended to provide needed conservation of chinook salmon stocks that contribute to the Alaska, Oregon, and Washington salmon fisheries by providing areas where fisherman can harvest coho salmon without incidentally catching chinook salmon.

DATES: This notice is effective at 12:01 a.m., Pacific Daylight time (PDT), August 15, 1983, and will remain in effect until 11:59 p.m., PDT, September 20, 1983. This notice was filed for public inspection with the Office of the Federal Register on August 12, 1983, at 4:43 p.m. Public comments on this notice are invited until September 14, 1983.

ADDRESSES: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: William L. Robinson (Regional Management Biologist, NMFS), 907–586–7229.

SUPPLEMENTARY INFORMATION: Salmon fishing in the 3–200 mile fishery conservation zone (FCZ) off Alaska is managed under the Fishery Management Plan for the High Seas Salmon Fishery Off the Coast of Alaska East of 175° East Longitude (FMP), developed and amended by the North Pacific Fishery Management Council (Council) and implemented by NOAA through regulations appearing at 50 CFR Part 674 (46 FR 33041), June 26, 1981 and at (46 FR 57299, November 23, 1981). Section 674.23 describes procedures to adjust seasons and areas by field order.

The Council recommended to the Director, Alaska Region, National Marine Fisheries Service (Regional Director) that the 1983 harvest guideline for the Southeast Alaska Chinook salmon commercial fishery be 255,500 fish. The Council further recommended that the fishery be managed, to the extent possible, with the objective of delaying achievement of the chinook salmon harvest guideline until after the majority of the coho salmon catch had occurred. Such a delay would reduce the risk of a lengthy chinook salmon closure while fisherman continued to harvest coho salmon. The intent of not having a lengthy chinook salmon closure while prosecuting the coho salmon fishery was to prevent the incidental catch and related mortality of chinook salmon while fishing for coho salmon.

The Regional Director concurred with these objectives, and in conjunction with the Alaska Department of Fish and Game (ADF&G), imposed a 22-day closure to all commercial trolling for salmon in Southeast Alaska and Yakutat, from June 8 through June 30, 1983. This closure is the longest midseason closure ever imposed on the troll salmon fishery. Following reopening of the fishery on July 1, 1983, record high catches resulted in achievement of the 255,500 chinook salmon harvest guideline by July 20, 1983. At that time the Regional Director closed the FCZ off Southeast Alaska and Yakutat to all trolling for salmon. The fishery remained open in State waters August 4, 1983, when ADF&G announced that it would close for 10 days and reopen to fishing for all species of salmon except chinook salmon on August 15, 1983. Because approximately 75–85 percent of the chinook salmon harvest occurs in State waters, a substantial potential will exist for fishermen to catch incidentally and release chinook salmon when the fishery reopens in State waters on August 15, 1983.

To reduce the incidental catch and related mortality of chinook salmon in State waters, the Regional Director and ADF&G have cooperatively developed a series of concurrent closures in State waters and openings in the FCZ that are expected to keep fishermen out of areas in State waters known to yield high chinook salmon catches and provide additional fishing opportunities for coho salmon in portions of the FCZ where very little incidental catch of chinook salmon is expected.

The Regional Director has determined that reopening the four areas within the FCZ described below, as part of a cooperative effort with ADF&G, is beneficial and necessary for the conservation and management of chinook salmon. The catch per unit of effort (CPUE) and relative abundance of chinook salmon harvested in those areas being closed in State waters is significantly greater than is those areas of the FCZ that are being opened to fishing for coho salmon. Thus, the Regional Director has determined that this action will contribute to rebuilding currently depressed chinook salmon stocks by providing fishing areas where fishermen displaced from areas of potentially high catches of chinook salmon, can fish for coho salmon with little potential for incidental catches of chinook.

In making this determination the Regional Director has considered (1) the effect of overall fishing effort within the affected parts of the management unit in both the FCZ and territorial waters; (2) the CPUE and relative abundance of stocks harvested within these areas; (3) the condition of chinook salmon stocks harvested within the management area, throughout their ranges.

The Regional Director, therefore, opens the following areas of the FCZ to commercial trolling for all species of salmon except chinook salmon:

1. Those waters of the FCZ south of the latitude of Cape Spencer (58–12.8° N.), north of the latitude of and Yakobi Rock (58–05.1°N.), and east of a line located three miles west of and parallel to a line extending from Cape Spencer to Yakobi Rock.

2. Those waters of the FCZ in Sitka Sound east of a line extending from Cape Edgecumbe (56–69.8° N. latitude) to Point Woodhouse (56–60.0° N. latitude 135–32.3° W. latitude.).

3. Those waters of the FCZ in Lower Chatham Strait and Frederick Sound both north and east of a line extending from in Cape Ommaney (56–09.8° N. latitude 134–40.0° W. latitude) to Nation Point (55–55.8° N. latitude 134–20.0° W. latitude).

4. Those waters of the FCZ within Alaska Regulatory Districts 4 and 5 both north and east of a line extending from Helm Pont (55–49.6° N. latitude) to Cape Ulitka (55–33.6° N. latitude 133–43.6° W. latitude).

This opening will not become effective prior to filing of this notice for public inspection with the Office of the Federal Register and publicizing the opening for 48 hours through ADF&G procedures, under 50 CFR 674.23(b)(2). Under 50 CFR 674.23(b)(3), public comment on this notice of opening may be submitted to the Regional Director at the address stated above for 30 days following the effective date. During the 30-day comment period, the data upon which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m.) at the NMFS Alaska Regional Office, Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska. If comments are received, the necessity of this opening will be reconsidered and a subsequent notice will be published in the **Federal Register**, either confirming this notice's continued effect, modifying it, or rescinding it, unless it has already expired.

Other Matters

The Regional Director has determined that the chinook salmon resource in Southeast Alaska will be subject to harm too unless this order takes effect promptly. The Agency therefore finds for good cause that advance notice and public comment on this order is contrary to the public interest and that there should be no delay in its effective date

This action is taken under the authority of regulations specified at 50 CFR 674.23, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 674

Administrative practice and procedure, Fish, Fisheries, Fishing, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: August 12, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 83-22522 Filed 8-12-83; 4:43 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 160
Wednesday, August 17, 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 ENERGY

Office of Conservation and Renewable Energy

10 CFR Ch. II

[Docket No. CAS-RM-79-112A]

Affordable Manufactured Housing Through Energy Conservation

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Extension of public comment period.

SUMMARY: The Department of Energy announced, on May 9, 1983 (48 FR 20866), the availability of draft interim voluntary guidelines for home manufacturers and retailers entitled, "Affordable Manufactured Housing Through Energy Conservation: A Guide to Designing and Constructing Energy Efficient Manufactured Homes". The Notice of Inquiry was intended to solicit public comment on the draft guidelines. The draft guidelines provide a simplified calculation technique for analyzing whether the design of a manufactured home meets an energy consumption goal which might be desired by a manufacturer, retailer, financial institution, or a consumer. The calculation technique uses a slide rule which enables home manufacturers and retailers to calculate the relative amount of energy that can be saved by incorporating energy conservation options that affect space conditioning. At the time of publication of the Notice several documents were made available for public review. However, no copies of the actual slide rule were available, at that time, for public distribution.

Because of the public interest in the slide rule, the Department has decided to provide a copy of a prototypical slide rule, upon request, for review and extend the public comment period to enable interested persons to comment upon the design and operation of the slide rule. Those persons who have already requested copies of the draft guidelines will automatically receive a prototypical slide rule for review.

DATES: Written comments must now be received no later than September 16, 1983 to receive consideration by the Department

The slide rule which is the subject of this Notice is a sample. As part of this program, DOE expects to develop and issue slide rules for each of 56 different climatic locations in the United States so that the slide rule will be responsive to specific climate conditions. Current plans are to make the guidelines available through a network which includes the Government Printing Office.

ADDRESSES: Send written comments (5 copies) to: Hearings and Dockets Branch, Office of Conservation and Renewable Energy, Department of Energy, Docket Number CAS-RM-79-112A, 1000 Independence Avenue, S.W., Room 6B-025, Washington, D.C. 20585, (202) 252-9319

FOR FURTHER INFORMATION CONTACT:

Architectural & Engineering Systems Branch, Department of Energy, Room GF-253, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9837

Richard F. Kessler, Office of General Counsel, Department of Energy, Room 6B-158, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-9519

SUPPLEMENTARY INFORMATION:

I. Availability of Prototypical Slide Rule
II. Comment Procedures

I. Availability of Prototypical Slide Rule

Copies of the prototypical slide rule will be available on August 16, 1983 for inspection at the DOE Freedom of Information Office, Forrestal Building, Room 1E-090, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday except Federal holidays and at each of the DOE Regional Support Offices, which are located at the following addresses:

U.S. Department of Energy, Boston Support Office, 150 Causeway Street, Room 700, Boston, Massachusetts 02114

U.S. Department of Energy, New York Support Office, 26 Federal Plaza, Room 3200, New York, New York 10278

U.S. Department of Energy, Philadelphia Support Office, 1421 Cherry Street, Philadelphia, Pennsylvania 19102

U.S. Department of Energy, Atlanta Support Office, 1655 Peachtree, N.E., 8th Floor, Atlanta, Georgia 30309

U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois 60439

U.S. Department of Energy, Dallas Support Office, P.O. Box 35228, 2626 W. Mockingbird Lane, Dallas, Texas 75235

U.S. Department of Energy, Kansas City Support Office, 324 East Eleventh Street, Kansas City, Missouri 64106

U.S. Department of Energy, Denver Area Office, P.O. Box 26247—Belmar Branch, 1075 South Yukon Street, Lakewood, Colorado 80226

U.S. Department of Energy, San Francisco Operations Office, 1333 Broadway, Oakland, California 94612

Copies of the prototypical slide rule may be obtained by making a written request to: Hearings and Dockets Branch, Office of Conservation and Renewable Energy, Department of Energy, 1000 Independence Avenue, S.W., Room 5F-078, Washington, D.C. 20585.

II. Comment Procedures

All interested persons are invited to submit written comments to DOE. The correspondence should be mailed to the same address as above. Comments should be identified on the document and envelopes submitted to DOE with the designation "Affordable Manufactured Housing through Energy Conservation". Five (5) copies should be submitted. All written comments and related information should be received by DOE no later than September 16, 1983 in order to receive consideration in the final interim guidelines.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination, pursuant to DOE's regulations on confidentiality (10 CFR Part 1004).

(Energy Conservation Standards for New Buildings Act of 1976, as amended, 42 U.S.C. Section 6831 *et seq.*; the Department of Energy Organization Act, 42 U.S.C. Section 7101 *et seq.*)

Issued in Washington, D.C., August 11, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 83-22541 Filed 8-16-83; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 171

Proposed Customs Regulations Amendment Relating to Petitions for Relief From Certain Seizures

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations relating to evidence required with petitions for relief from certain seizures. The amendment would: (1) Expand the regulations to cover certain situations where the petitioner was not in possession of the seized property at the time of the seizure; (2) require certain additional evidence in petitions for relief from such seizures; and (3) give examples of the types of evidence that will be considered in determining the relief that the petitioner is to be afforded.

These changes are necessary in order to make the pertinent regulation more complete, and in order that petitoners cannot obscure any involvement in or knowledge of the acts or omissions which may have resulted in a violation of law.

DATES: Comments must be received on or before October 17, 1963.

ADDRESS: Written comments (preferably in triplicate) should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Harriett Blank, Miscellaneous Penalties Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5746).

SUPPLEMENTARY INFORMATION:

Background

Section 596, Tariff Act of 1930, as amended (19 U.S.C. 1595a), among other seizure provisions enforced by Customs provides for the seizure and forfeiture of vessels, vehicles, aircraft and other conveyances used in the entry of any article into the United States contrary to law. Section 162.22(a), Customs Regulations (19 CFR 162.22(a)), similarly provides for the seizure of conveyances. Section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), provides that the Secretary of the Treasury may remit or mitigate, upon such terms and conditions as he deems reasonable and just, any fine, penalty, or forfeiture, if he finds that such fine, penalty, or forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to defraud the revenue or to violate the law, or finds the existence of such mitigating circumstances as to justify remission or mitigation. Subpart B of Part 171, Customs Regulations (19 CFR Part 171), pertains to petitions for remission or mitigation of fines, penalties, and forfeitures. Section 171.13, Customs Regulations (19 CFR 171.13), provides that additional evidence is required with petitions for relief when: (1) The party who was responsible for or caused the act which resulted in the seizure is a party other than the petitioner; or (2) the petitioner holds a chattel mortgage or a conditional sales contract on the seized property.

Officials within the Treasury Department and Customs Service believe that § 171.13 should be expanded to: (1) Cover certain other situations (long-term lease agreements, voluntary bailments and straw purchase transactions) where the petitioner was not in possession of the seized property at the time of the seizure; (2) require certain other additional evidence in petitions for relief; and (3) give examples of the types of evidence that will be considered in determining the relief that the petitioner is to be afforded.

These changes are necessary in order to make the regulation more complete, and in order that petitioners cannot obscure any involvement in or knowledge of the acts or omissions which may have resulted in a violation of law.

Customs has considered the Department of Justice regulations (28 CFR Part 9) for the remission or mitigation of civil forfeitures and proposes to use some portions of those provisions in its regulations.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Authority

These amendments are proposed under the authority of R.S. 251, as amended, section 618, 46 Stat. 757, as amended, section 624, 46 Stat. 759 (19 U.S.C. 66, 1618, 1624).

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility anaylsis (5 U.S.C. 603, 604) are not applicable to this proposal because the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities, or to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

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

Executive Order 12291

Because this proposal will not result in a regulation which will be a "major rule" as defined in section 1(b) of E.O. 12291, a regulatory impact analysis as prescribed by section 3 of the E.O. is not required.

Drafting Information

The principal author of this document was Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 171

Customs duties and inspection, Imports, Administrative practice and procedure, Law enforcement, Penalties, Seizures and forfeitures.

Proposed Amendment

PART 171—FINES, PENALTIES, AND FORFEITURES

It is proposed to revised § 171.13, Customs Regulations (19 CFR 171.13), to read as follows:

§ 171.13 Additional evidence required with certain petitions.

(a) *Seized property in possession of another responsible for act.* If the seized property was in the possession of another who was responsible for or caused the act which resulted in the seizure, the petitioner shall present the following evidence, as applicable:

(1) Evidence as to the manner in which the property came into the possession of such other person;

(2) Evidence that before parting with the property the petitioner did not know, or have reasonable cause to believe, that the property would be used to violate customs laws or other laws of the United States;

(3) Evidence that the petitioner did not know, or have reasonable cause to believe, that the violator had a criminal record or general reputation for commercial crime; and

(4) Evidence that, with respect to a seized transporting conveyance, the petitioner took reasonable steps to prevent the conveyance from being used in violation of the customs laws or other laws of the United States.

(b) *Petitioner holding chattel mortgage or conditional sales contract.* A petitioner holding a chattel mortgage or conditional sales contract covering the seized property shall submit with his petition evidence showing that:

(1) He has an interest in such property, as owner or otherwise, which he acquired in good faith;

(2) He had at no time any knowledge or reason to believe that the property was being or would be used in violation of the customs laws or other laws of the United States; and

(3) He had at no time any knowledge or reason to believe that the owner of the beneficial interest in the property had a criminal record or general reputation for commercial crime.

(c) *Long-term lease agreements.* A lessor who leases property on a long-term basis with the right to sublease shall submit with his petition evidence in accordance with paragraph (b) of this section.

(d) *Voluntary bailments.* A petitioner who allows another to use his property without cost and who is not in the business of lending money secured by property or of renting property for profit, shall submit with his petition evidence in accordance with paragraph (b) of this section. Property belonging to one family member which is seized from another is property subject to a voluntary bailment within the meaning of this subsection.

(e) *Straw purchase transactions.* If a person purchases in his own name property for another who has a criminal record or general reputation for commercial crime, and if a lienholder knows or has reason to believe that the purchaser of record is not the real purchaser, the lienholder shall submit with his petition evidence in accordance with paragraph (b) of this section as to both the purchaser of record and the real purchaser.

(f) *Evidence to be considered in determining extent of mitigation with respect to transporting conveyances.* Listed below are some examples of the types of evidence that will be considered in determining whether the petitioner is entitled to relief from the forfeiture of a seized transporting conveyance. This list is not all-inclusive; Customs officers may consider other similar types of evidence in making their determination.

(1) Whether the petitioner asked the person taking possession of the property whether he had a criminal record;

(2) Whether the petitioner asked for and was provided with business or financial references;

(3) Whether the petitioner asked for and was provided with personal references;

(4) Whether the petitioner contacted the references to confirm the reliability and good reputation of such person;

(5) Whether an agreement was reached between the petitioner and the person taking possession that the property would be used only in accordance with law; and

(6) Whether the petitioner contacted Federal, State or local law enforcement authorities as to the criminal record or reputation of the person taking possession. Information from a Federal law enforcement agency may require a waiver of the Privacy Act from the person who is the subject of the request.

(g) *Denial of relief.* The failure to furnish adequate evidence as required by this section may be a basis for denial of relief. Relief may also be denied to a petitioner who has met the applicable criteria, but with respect to whom remission would be inimical to the interests of justice.

William von Raab,

Commissioner of Customs.

Approved: August 1, 1983.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 83-22489 Filed 8-16-83; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Eligibility

AGENCY: Social Security Administration, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: We plan to amend our regulation, § 416.210, that implements section 1611(e)(2) of the Social Security Act which requires that Supplemental Security Income (SSI) applicants and beneficiaries apply for other benefits for which they may be eligible. The existing regulations provide that individuals are not eligible for SSI benefits if they do not apply for other benefits when notified to do so by the Social Security Administration (SSA). These benefits include payments received as annuities, pensions, retirement benefits, and disability benefits. We propose to amend the regulations by adding earned income tax credits (EITC's) that are payable to individuals under the provisions of section 43 and 3507 of the Internal Revenue Code, as a payment individuals must apply for in order to be eligible for SSI benefits. These payments become countable as earned income for SSI purposes effective January 1, 1980, with the enactment of Pub. L. 96-222 (section 101(a)(2)(B)).

DATE: Written comments must be received by October 17, 1983.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3-B-4 Operations Bldg., 6401 Security Boulevard, Baltimore Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Rita Hauth, Legal Assistant, 3-B-4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-7460.

SUPPLEMENTARY INFORMATION: We plan to revise our rules on eligibility for SSI benefits that require that individuals apply for other benefits when SSA notifies them to do so. Section 1611(e)(2)

of the Social Security Act states that individuals must apply for other benefits of a certain type (when SSA notifies them to do so) as a requirement for eligibility for SSI benefits. Section 416.210 of the existing regulations implements this section and describes the other benefits as including pensions, retirement and disability benefits, veterans' compensation and pensions, and other like payments. These regulations propose to add EITC's as another benefit for which individuals will have to apply upon notification by SSA. EITC's are payable under the Internal Revenue Code (section 43 and 3507) to individuals who meet certain qualifications of family composition and low earnings. Thus, for purposes of obtaining or continuing to receive SSI benefits, individuals will be required to apply to employers for advance payment of EITC's or if the income is available because of past employment, or if the individuals are self-employed, to apply with their personal income tax returns. Regulations implementing Pub. L. 96-222, section 101(a)(2)(B), which provides that EITC's are earned income for SSI purposes as of 1980, were published May 24, 1983 48 FR 23177.

Section 1611(e)(2) of the Social Security Act requires individuals to take all appropriate steps to apply for and obtain payments of the type enumerated in section 1612(a)(2)(B). The existing regulation § 416.210 reflects this requirement and lists examples of the types of payments SSI claimants must apply for and obtain. We believe that EITC's should be added as another example of the type of income that is listed in § 416.210(b) and for which applications must be filed as a requirement for SSI eligibility. EITC's are of the same type as those already cited in the statute and the regulations. They also require applications or similar action. They entail conditions for eligibility. They, and at least some of the others, are available on a periodic or one-time basis. Finally, they are a source of income that will reduce the amount of, or obviate the need for, an SSI benefit. Including EITC's as one type of payment that an individual must request or apply for is consistent with the recognized purpose of the SSI program—that is, to use SSI as a program of last resort for needy aged, blind, and disabled individuals. This theme runs throughout the legislative background of the program. The Congress envisioned that needy aged, blind, and disabled individuals would have to exhaust other means of support available to them before qualifying for SSI benefits. EITC's which are available upon request to low income individuals provide one means of support. These payments are available to individuals who qualify for them and if received would serve to obviate the need for SSI benefits or at least reduce the amount payable under the SSI program.

Requiring SSI claimants who qualify for EITC's to apply for them is to their financial advantage. Receipt of the payments increases their overall current income. Under the SSI program an EITC is treated as earned income. Since less than half of an individual's earned income is counted in determining an SSI benefit payment, individuals will have more overall income available to meet their current subsistance needs.

We propose to revise § 416.210 by adding EITC's as an example of the type of payment for which qualified individuals must apply if they wish to be eligible for or continue to receive SSI benefits.

Regulatory Procedures

Executive Order 12291—These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation, because only about 3 percent of SSI beneficiaries have earned income and and only a fraction of these may qualify for EITC's. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act—These regulations impose no additional reporting or recordkeeping requirements for SSI beneficiaries that require OMB clearance. SSA has clearance for form SSA-8150 (OMB No. 0960-0128) on which beneficiaries are to report income. However, SSA is submitting to OMB for clearance a form which will constitute the notice to an SSI claimant to apply for EITC's and provide for an employer to verify that the individual has applied for advance payment of EITC's when the individual is unable to furnish evidence of eligibility for such payments. The form will be used as soon as clearance is obtained.

Regulatory Flexibility Act—We certify that these regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities because they primarily affect individuals with some impact on a few employers. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program).

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Social Security Administration, Supplemental Security Income (SSI).

Dated: January 18, 1983.

John A. Svahn,

Commissioner of Social Security.

Approved: July 29, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

PART 416—[AMENDED]

Part 416 Title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Subpart B reads as follows:

Authority: Secs. 1102, 1602, 1611, 1614, and 1631, Social Security Act as amended, Secs. 211 and 212 of Pub. L. 93-66, 49 Stat. 647 as amended, 86 Stat. 1465, 86 Stat. 1466, 86 Stat. 1471, and 86 Stat. 1475, 42 U.S.C. 1302, 1381a, 1382, 1382c, and 1383.

2. In § 416.210, paragraph (b) is revised to read as follows:

§ 416.210 You do not apply for other benefits.

* * * * *

(b) *What "other benefits" includes.* "Other benefits" includes any payments for which you can apply that are available to you on an ongoing or one-time basis of a type that includes annuities, pensions, retirement benefits, or disability benefits. For example, "other benefits" includes veterans' compensation and pensions, worker's compensation payments, Social Security insurance benefits, unemploment insurance benefits and earned income tax credits (EITC's) payable under sections 43 and 3507 of the Internal Revenue Code. You will be required to apply to your employer for advance payment of EITC's. If a past period of employment is involved, or if your earned income is derived from self-employment, you will be required to apply with your personal income tax return.

* * * * *

[FR Doc. 83-27478 Filed 8-16-83; 8:45 am]

BILLING CODE 4190-11-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2615

Reporting and Notification Requirements for Reportable Events

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation regulation governing the events that require notice to the Corproation by pension plans covered under Title IV of the Employee Retirement Income Security Act. The amendment waives the reporting and notification requirements, set forth in section 4043 of the Act, for all multiemployer pension plans. For single-employer plans, the amendment waives the statutory 30-day notice for one reprtable event and narrows the reporting requirements for two other statutorily prescribed events. The amendment also waives the requirement in section 4065 of the Act that a list of reportable events be included in an Annual Report prescribed by and filed with the Corporation by all plans covered by Title IV. The effect of the amendment will be a significant overall reduction in the reporting requirements for all pension plans covered by Title IV of the Act.

EFFECTIVE DATE: Comments must be received on or before October 17, 1983.

ADDRESSES: Comments should be addressed to the Office of the General Counsel, Pension Benefit Guaranty Corporation (Code 240), Suite 7200, 2020 K Street, N.W., Washington, D.C. 20006. Written comments will be available for public inspection in Suite 7100, at the above address, between the hours of 9:00 A.M. and 4:00 P.M.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB control number 1212–0013.

FOR FURTHER INFORMATION CONTACT: Melanie Franco Nussdorf, Special Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation (Code 240), 2020 K Street, N.W., Washington, D.C. 20006, 202–254–6476. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: Section 4043 of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1343 (1976) (hereinafter referred to as "ERISA") sets forth several types of events with respect to which plan administrators are obligated to notify the Pension Benefit Guaranty Corporation (the "PBGC") within 30 days after the occurrence of the event. The statutory requirement applies to all pension plans covered by Title IV of ERISA. Section 4043 also authorizes the PBGC to waive notification of any such event, and to require that notification be made in the Annual Report filed by each covered plan pursuant to section 4065 of ERISA.

On August 20, 1980, the PBGC published a final rule (recodified as 29 CFR Part 2615, June 29, 1981) governing both single-employer and multiemployer plans, which enumerates those events for which notice is required by the statute. The regulation, as issued in 1980, established three additional reportable events, other than those specifically required by the statute, for which notice is required. The regulation also waived the statutorily required notice for three other events: termination or partial termination of a plan (§ 2615.15), plan merger or consolidation or asset transfer (§ 2615.19), and alternative compliance with reporting and disclosure requirements of Title I of the Act (§ 2615.20). In addition, the regulation also modified the reporting requirements for certain of the statutory reportable events.

Changes to the 30-Day Notice Requirements

On September 26, 1980, the Multiemployer Pension Plan Amendments Act of 1980 (the "Multiemployer Act"), Pub. L. No. 96–364, 94 Stat. 1208, was enacted. The Multiemployer Act set forth a new comprehensive insurance program for multiemployer plans, and, *inter alia*, established a number of separate reporting and notification requirements for such plans. The PBGC has determined that multiemployer plan participants and the insurance program are adequately protected by the notice requirements of the Multiemployer Act. This proposed amendment would accordingly delete all reporting requirements under Section 4043 of ERISA for multiemployer plans.

The PBGC has also reviewed the entire reporting scheme for single employer plans and has determined that there are three additional events for which reporting should be waived or modified.

The first of these three events, set forth in section 4043(b)(2) of ERISA, is a reportable event that occurs upon the adoption of a plan amendment under which the benefit payable with respect to any participant may be decreased. Section 2615.13 of the regulation sets forth this reporting requirement and defines in detail what constitutes a decrease in a benefit payable. As part of the original regulation, the PBGC waived this statutory 30-day reporting requirement except for plans which meet each of the following conditions: the plan has 100 or more participants as of the end of the previous plan year; the admendment decreases the accrued normal retirement benefit for any participant or decreases more than 50% of the future accrued benefits of more than 50% of the participants; and the amendment is not adopted in order to comply with federal law.

The PBGC has now determined that the adoption of a plan amendment decreasing benefits does not, in and of itself, present a risk to the insurance program which would render early reporting to the PBGC critical. By definition, amendments decreasing benefits payable will not increase the PBGC's financial exposure. While such amendments may be symptomatic of plan or plan sponsor financial difficulties, the PBGC believes that it is adequatley protected by other reportable events, such as the occurrence of bankruptcy or insolvency of the plan sponsor, or the inability of the plan to pay benefits when due. Therefore, the PBGC proposes to waive entirely the reporting requirement for amendments decreasing benefits payable.

The second reportable event PBGC proposes to modify by this amendment relates to reductions in the number of active participants in a plan. Section 4043(b)(3) of ERISA provides that a reportable event occurs when the number of active participants in a plan is less than 80 percent of the number of active participants at the beginning of the plan year or is less than 75 percent of the number of active participants at the beginning of the previous plan year. The statutory reporting requirement is incorporated in § 2615.14 of the regulation; that section waives the 30-day reporting requirement if the plan has fewer than 100 participants at the beginning of the current or the previous plan year, or if the percentage requirements are met with respect to the number of participants in *all* single-employer plans maintained by the employer maintaining the plan.

The PBGC has now determined that reporting of active participant reductions is critical only when the plan's unfunded vested liabilities are large, exposing the insurance system to large potential losses. Accordingly, this proposed amendment applies the 80 percent/75 percent test described above

only to plans with a present value of unfunded vested benefits equal to or in excess of $250,000, as stated on the most recently filed IRS/DOL/PBGC Forms 5500, 5500–C, 5500–K, or 5500–R, as appropriate.

The third event for which the reporting requirements are proposed to be modified relates to a plan's failure to meet the minimum funding standards. Section 4043(b)(5) of ERISA provides that a reportable event occurs when a plan fails to meet the minimum funding standards under section 412 of the Interal Revenue Code or under section 302 of ERISA. This statutory reporting requirement is incorporated in § 2615.16

The PBGC has received a substantial number of notices involving failure to meet minimum funding standards where the amount of unfunded vested liabilities in the plan is relatively insignificant. Even if the funding failure might demonstrate that the plan sponsor is in financial difficulty, the financial exposure for the insurance system in many cases is relatively small because the underfunding in the plan is small. The PBGC has now determined that it need only require notice for failure to meet minimum funding standards when the present value of a plan's unfunded vested benefits would, as a result of the failure to meet minimum funding standards, or as a result of the granting of a minimum funding waiver, equal or exceed $250,000, computed using the most recently filed IRS/DOL/PBGC Forms 5500, 5500–C, 5500–K, or 5500–R, as appropriate. The proposed rule would effect this change.

Annual Report

Section 4043 of ERISA, prior to the enactment of the Multiemployer Act, provided that the PBGC is authoized to waive the 30-day notice requirement for any reportable event and to require notification to be made by including the event in the Annual Report made by the plan pursuant to section 4065 of ERISA. The Multiemployer Act amended section 4065 to authourize the PBGC to waive the requirement that the occurrence of reportable events be reported in the Annual Report. The PBGC has determined that reporting of events in the Annual Report is duplicative, is not necessary to the proper monitoring by the PBGC of single-employer plan terminations or multiemployer plan insolvencies, and places needless additional paperwork burden on plans. Accordingly, the PBGC proposes to waive all reporting of section 4043 events in the Annual Report for both multiemployer and single-employer plans. That waiver would be granted by this amendment, if the proposed rule is adopted.

Finding Under E.O. 12291 and the Regulatory Flexibility Act

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981 (46 FR 13193), because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries or significant adverse effects on employment, investment, productivity, innovation, or competition.

Under Section 605(b) of the Regulatory Flexibility Act, PBGC certifies that this regulation will not have a significant economic effect on a substantial number of small entities. PBGC insures benefits in over 90,000 single-employer defined benefit pension plans. Of these, only about 300 plans will need to file reports with the PBGC, and we expect that the reports will take a minimal amount of time to prepare. In addition, because this regulation would decrease reporting burdens on all plan administrators, PBGC expects that the impact of the regulation will be minimal. Accordingly, compliance with sections 603 and 604 of the Regulatory Flexibility Act is waived.

List of Subjects in 29 CFR Part 2615

Employee benefit plans, Pension insurance, Pensions, Reporting requirements.

PART 2615—[AMENDED]

In consideration of the foregoing, Part 2615 of Subchapter C of Chapter XXVI, Title 29, Code of Federal Regulations is proposed to read as follows:

1. The authority citation for Part 2615 is proposed to be revised as follows:

Authority: Secs. 4002(b)(3), 4043, 4065, Pub. L. No. 93–406, 88 Stat. 1004, 1024–25, 1032, as amended by secs. 106, 403(*l*), Pub. L. 96–364, 94 Stat. 1208, 1266, 1302 (29 U.S.C. §§ 1302(b)(3), 1343, 1365).

2. In § 2615.1, paragraph (b) is proposed to be revised as follows;

§ 2615.1 Purpose and scope.

* * * * *

(b) This part applies to all plans, other than multiempler plans, covered by section 4021 of the Act for which a Notice of Intent to Terminate under section 4041 of the Act has not been filed with the PBGC. The reporting requirements of this regulation have been approved by the Office of Management and Budget under control number 1212–0013.

3. Section 2615.2 is amended by revising the definition of "Plan" to read as follows:

§ 2615.2 Definitions.

* * * * *

"Plan" means a single-employer plan as defined in section 4001(b)(2) of the Act.

* * * * *

§ 2615.4 [Reserved]

4. Section 2615.4 is proposed to be removed and reserved.

5. Section 2615.13 is proposed to be amended by removing paragraphs (c) and (d) and revising paragraphs (a) and (b) to read as follows:

§ 2615.13 Amendment decreasing benefits payable.

(a) *Reportable event.* A reportable event occurs when an amendment to a plan is adopted under which the retirement benefit payable from employer contributions with respect to any participant may be decreased.

(b) *Waiver.* The 30-day notice requirement contained in § 2615.3(a) is waived for the event described in this section.

6. In 2615.14 paragraph (a) is proposed to be revised as follows:

§ 2615.14 Active participant reduction.

(a) *Reportable event.* A reportable event occurs when the number of active participants under a plan is less than 80 percent of the number of active participants at the beginning of the plan year, or is less than 75 percent of the number of active plan participants at the beginning of the previous plan year, and the present value of unfunded vested benefits under the plan (as reported on the most recently filed IRS/DOL/PBGC Forms 5500–5550–C, 5500–K or 5500–R, as appropriate) equals or exceeds $250,000.

* * * * *

7. In § 2615.16, paragraph (b) is proposed to be revised as follows:

§ 2615.16 Failure to meet minimum funding standards.

* * * * *

(b) *Waiver.* The 30-day notice requirement contained in § 2615.3(a) is waived for the event described in this section, *unless* the present value of unfunded vested benefits under the plan computed using the most recently filed IRS/DOL/PBGC Forms 5500–5550–C, 5500–K or 5500–R, as appropriate) would, as a result of the failure to meet minimum funding standards, or as a result of the granting of a minimum

funding waiver, equal or exceed $250,000.

Raymond J. Donovan,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued pursuant to a resolution of the Board of Directors approving this regulation and authorizing its Chairman to issue same.

Henry Rose,

Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 83-22397 Filed 8-16-83; 8:45 am]

BILLING CODE 7708-01-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. RM 83-4]

Extension of Comment Period on Deposit of Computer Programs and Other Works Containing Trade Secrets

AGENCY: The Library of Congress, Copyright Office.

ACTION: Extension of comment period.

SUMMARY: The Copyright Office of the Library of Congress is reviewing its regulations with respect to the deposit, under sections 407 and 408 of title 17 of the U.S. Code, of computer programs and other works which contain material referred to as "trade secrets." The existing regulations of the Copyright Office governing the deposit of works in satisfaction of mandatory deposit under section 407, or in connection with registration of claims to copyright under section 408, appear at 37 CFR 202.19–21. Owners of copyright in works containing trade secrets, especially owners of copyright in computer programs, have expressed concern about the public availability of materials deposited in the Copyright Office, and have asked that the Office consider the possibility of special deposit provisions. On May 23, 1983, the Copyright Office published a notice of inquiry in 48 FR 22951 (1983), requesting public comment, views and information by July 18, 1983, and reply comments by August 15, 1983, which would assist the Copyright Office in evaluating its present practices and in considering possible changes in its regulations.

There has been great interest shown in this topic. The Copyright Office has received and continues to receive initial comments beyond the stated deadline of July 18, 1983. To assure that interested persons are given a full opportunity to submit views and to allow adequate time for reply comments, the Copyright Office hereby announces an extension to September 12, 1983 of the period for initial comments, and an extension to October 11, 1983 for reply comments.

DATES: Initial comments should be received on or before September 12, 1983. Reply comments should be received on or before October 11, 1983.

ADDRESSES: Written comments should be submitted as follows:

If sent by mail: Office of the General Counsel, Department D.S., Library of Congress, Washington, D.C. 20540

If hand-delivered: Office of the General Counsel, Madison Building, Room 407, First and Independence Avenue, SE., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Department D.S., Library of Congress, Washington, D.C. 20540, Telephone: (202) 287–8380.

(17 U.S.C. 407, 408, 702)

Dated: August 4, 1983.

David Ladd,

Register of Copyrights.

Approved.

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 83-22515 Filed 8-16-83; 8:45 am]

BILLING CODE 1410-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2416-6]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: EPA is propsing to approve two revisions to the Wisconsin State Implementation Plan (SIP). If approved, the first revision modifies the sulfur dioxide air emissions limits applicable in Brokaw, Marathon County, Wisconsin and the second revision partially exempts methylene chloride and methyl chloroform (a.k.a. 1,1,1 trichloroethane) from the volatile organic compound control requirements contained in the current SIP. EPA's action is based upon a SIP revision request submitted by the State of Wisconsin. The intent of today's rulemaking is to present a discussion of the material submitted by the State to support the revisions, and to provide an opportunity for public comment on the revisions and EPA's proposed action.

DATE: Comments on this revision and on the proposed EPA action must be received by September 16, 1983.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review. (It is recommended that you telephone Sharon Reinders at (312) 886–6034 before visiting the Region V office).

Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster Street, Madison, Wisconsin 53707

Comments on this proposed rule should be addressed to: (Please submit an original and five copies if possible) Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Sharon Reinders, Air and Radiation Branch (5AR–26), (312) 886–6034.

SUPPLEMENTARY INFORMATION: In today's rulemaking action, EPA is proposing to approve two revisions to the Wisconsin SIP. The revision request was submitted to EPA by the State on February 17, 1983.

Proposed Revision for Sulfur Dioxide Control

The first revision pertains to the sulfur dioxide (SO_2) portion of the SIP approved by EPA on April 9, 1981. The revision modifies the SO_2 reasonably available control technology (RACT) air emissions limit applicable in Brokaw, Marathon County, Wisconsin and is currently contained in Section NR 154.12(4) of Wisconsin Administrative Code (WAC). A public hearing on the revision was held in Wausau on July 1, 1982. If approved, the revision will modify the SIP to limit the maximum sulfur content in fuel oil burned in boilers from 3.0 percent by weight to 1.0 percent where a stack of 160 feet or more in height is used, while continuing the .22 percent by weight sulfur limit where a stack height of less than 1600 feet is used. This revision would further limit the process emissions from a Copeland recovery system, pulp papermill cooking acid plant, and pulp digester blow stack, all vented to a common stack of 160 feet or more, to 228 pounds per hour. If these process emissions are not combined to a common stack, the individual process emission limitations contained in the current SIP must be met.

EPA has reviewed the State's Technical Support Document which was submitted to EPA with the SIP revision request. The State's support document

includes the results of an EPA reference air quality modeling analysis. The results indicate that the proposed combined process emission limitation of 228 pounds per hour with boilers burning 1.0 percent sulfur fuel oil, at good engineering practice stack height, will result in attainment of the SO_2 ambient air quality standards.

In addition, a stack test for the combined process emissions was conducted in December 1982, at the source subject to this revision. The test showed compliance with the 28 pounds per hour emission. The Stack's combined emissions are treated prior to release by a SO_2 scrubbing system to accomplish compliance with the new limitation. Although this source is not subject to the continuous emission monitoring requirements of 40 CFR Part 51, EPA believes it is prudent for the State to include continuous emission monitoring for this source and other sources with scrubber systems. EPA is, however, proposing to approve this revision without continuous emission monitoring and recommending that in the future, Wisconsin require installation of continuous emission monitors when sources utilize control equipment for compliance with emission limits.

Proposed Revision for Organic Compounds

The second revision amends Section NR 154.13(13)(a)(WAC) to reference subsection (3)(f) to correct a previous typographical error, and creates NR 154.13(13)(e) which pertains to a partial exemption of methyl chloroform methylene chloride. Newly created § 154.13(13)(e) exempts the use of methylene chloride and methyl chloroform from the requirements of Section NR 154.13 except for subsection NR 154.13(1)(a) and (b), general air pollution provisions. NR 154.13(13)(e) also includes the requirement that any source with total combined emissions of methylene chloride and methyl chloroform in excess of 0.5 ton in a calendar year shall register the solvent use with the Wisconsin Department of Natural Resources. This latter requirement is to identify sources of these emissions if the compounds are found to be health hazards.

THis revision in consistent with EPA policy on negligibly photochemcially reactive organic compounds. EPA's policy was announced in the Federal Register as "Clarification of Agency Policy Concerning Ozone SIP Revisions and Solvent Reactivities," 45 FR 48941 (July 22, 1980); 45 FR 32424 (May 16, 1980) and 44 FR 32042 (June 4, 1979) and "Recommended Policy on the Control of Volatile Organic Compounds," 42 FR 35314 (July 8, 1977). Thus, EPA is proposing to approve the State's request to revise its SIP for control of these compounds as presented above.

Interested persons are invited to submit comments on each of these actions. EPA will consider all comments received by September 16, 1983.

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.

List of Subject in 40 CFR Part 52

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

(Sec. 110, 172 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601(a))

Dated: June 15, 1983.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 83-22481 Filed 8-16-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

41 CFR Parts 3-1 and 3-3

General and Procurement by Negotiation

AGENCY: Department of Health and Human Services.

ACTION: Proposed rule.

SUMMARY: The Office of the Secretary, Department of Health and Human Services, is proposing to amend 41 CFR 3-1.453, Establishment of cost rates, to identify officials delegated authority to approve indirect cost rates and special rates for commercial organizations.

Part 3-3, Procurement by negotiation, is proposed to be amended by adding a new Subpart 3-3.7, Negotiated overhead rates, which sets forth policies and procedures concerning the approval of indirect cost rates and special rates for use in the pricing and administration of contracts.

DATE: Comments must be received by September 16, 1983.

ADDRESS: Any person or organization wishing to submit data, views or comments pertaining to the proposed amendment may do so by filing them at the address listed in **"FOR FURTHER INFORMATION CONTACT".**

FOR FURTHER INFORMATION CONTACT: Frederick J. Brennan, Division of Procurement Policy, OPAP-OPAL-OS, Room 539-H, Hubert H. Humphrey Building, Department of Health and Human Services, Washington, D.C. 20201 (202-245-6154).

List of Subjects in 41 CFR Part 3-1 and 3-3

Government procurement.

It is therefore proposed to amend 41 CFR Chapter 3, Parts 3-1 and 3-3 in the manner set forth below.

Dated: August 10, 1983.

Henry G. Kirschenmann, Jr.,

Deputy Assistant Secretary for Procurement, Assistance and Logistics.

1. Under Subpart 3-1.4, Procurement Responsibility and Authority, of Part 3-1, General, Section 3-1.453, Establishment of cost rates, is proposed to be to formally identify officials delegated authority to approve indirect cost rates and special rates for all types of organizations. Currently, this section only identifies those officials having the authority to approve those rates for nonprofit organizations. Sections 3-1.453-1 and 3-1.453-2 are proposed to be added. In addition, the Table of Contents for Part 3-1.4 is proposed to be amended as follow by adding entries for 3-1.453-1 and 3-1.453-2 and by revising the entry for 3-1.453 as follows:

* * * * *

Subpart 3-1.4—Procurement Responsibility and Authority

Sec.

3-1.453 Approval of indirect cost rates and special rates.

3-1.453-1 General.

3-1.453-2 Responsibilities.

* * * * *

§ 3-1.453 Approval of indirect cost rates and special rates.

§ 3-1.453-1 General.

(a) § 1-3.706 sets forth procedures to be used to determine the Federal agency responsible for the approval in indirect cost rates and special rates if this responsibility has not otherwise been asssigned.

(b) The Office of Management and Budget (OMB) has established procedures for assigning, to one Federal agency, the responsibility for the approval if indirect cost rates and special rates with State, local and federally recognized Indian Tribal governments; colleges and universities;

and other nonprofit organizations, except hospitals.

§ 3-1.453-2 Responsibilities.

(a) The Director, Division of Cost Allocation of the Regional Administrative Support Center, within each HHS regional office has been delegated authority to approve indirect cost rates and special rates,with State, local and federally recognized Indian Tribal governments; colleges and universities; hospitals and other nonprofit organization within his/her region (see § 3-3.706(a)).

(b) Heads of procuring activities have been delegated authority to approve indirect cost rates and special rates with commercial organizations for use in contracts awarded by their activities. This authority may be redelegated (see § 3-3.706(b)).

(5 U.S.C. 301; 40 U.S.C. 486(c))

2. Under Part 3-3, Procurement by Negotiation, Subpart 3-3.7, Negotiated overhead rates, is added to establish procedures concerning the approval of indirect cost rates and special rates. In addition, the table of contents for Part 3-3 is amended to add the following entries for Subpart 3-3.7.

Subpart 3-3.7—Negotiated Overhead Rates

Sec.
3-3.700 Scope of subpart.
3-3.701 Definitions.
3-3.706 Coordination.
3-3.707-50 Responsibilities.
3-3.707-51 Additional responsibilities of the contracting officer and cognizant official.
3-3.707-52 Distribution of overhead rate agreements.
3-3.707-53 Disputes.

Subpart 3-3.7—Negotiated Overhead Rates

§ 3-3.700 Scope of subpart.

This subpart sets forth policies and procedures concerning the approval of indirect cost rates and special rates for use in the pricing and administration of contracts.

§ 3-3.701 Definitions.

(a) through (e) [Reserved.]

(f) "Special rates" includes but is not limited to: research patient care rates; fringe benefit rates; State and local government cost allocation plans; and cost of money factors used to determine facilities capital cost of money.

(g) "Cognizant agency" means the Federal agency responsible for negotiation and approval of indirect cost rates and special rates for use by all Federal agencies.

(h) "Cognizant official" means the individual within HHS delegated authority to negotiate and/or approve indirect cost rates and special rates on behalf of the Department.

§ 3-3.706 Coordination.

(a) The Director, Division of Cost Allocation, (DCA) is the cognizant official for the organizations discussed at § 3-1.453-2(a) when HHS is the cognizant agency or when cognizance has not been assigned but approval of an indirect cost rate or special rate is necessary for the award or administration of an HHS contract.

(b)(1) An individual(s) within each OPDIV, STAFFDIV and regional office shall be delegated authority to serve as the cognizant official for organizations discussed at § 3-1.453-2(b).

(2) The individual delegated authority in accordance with paragraph (b)(1), of this section, in the procurement office having the largest dollar value of active Federal awards with a particular commercial organization, shall serve as the cognizant official with that organization. This procedure shall be followed unless different arrangements are made by the Principal Officials Responsible for Procurement in the concerned offices. However, under no circumstances will there be more than one cognizant official for a particular organization.

(3) Cognizance assignments will usually not be changed unless there is a major long term shift in the dollar value of HHS awards to an organization.

§ 3-3.707-50 Responsibilities.

(a) Cognizant officials shall: (1) In the case of commercial concerns review Department of Defense Director of Contract Administration Services (DOD 4105.59 (H) and Directory of Federal Contract Audit Offices (DCAAP 5100.6) manuals, and other pertinent data, if necessary, to determine whether rates have been approved by other agencies;

(2) Accept indirect cost rates and special rates approved by other cognizant officials and cognizant agencies, subject to Departmental policies;

(3) Consider concerns expressed by other cognizant officials and cognizant agencies in the approval of indirect cost rates and special rates;

(4) Approve indirect cost rates and special rates based on an analysis of proposals submitted by an organization;

(5) Monitor submission of indirect cost rate and special rate proposals to assure receipt in accord with award provisions when HHS is the cognizant agency;

(6) When necessary, represent the Department or his/her office in the approval of indirect cost rates and special rates when responsibility for the approval of such rates is with another Fedreal agency or HHS offices; and

(7) Promptly distribute copies of rate agreements developed in their offices (see § 1-3.705(f) and § 3-3.707-52).

(b) Contracting officers shall (1) utilize indirect cost rates and special rates approved by cognizant officials in the pricing and administration of contracts (but see § 1-3.706 and 3-3.707-51); (2) advise the cognizant official of any problems or concerns with an organization so that these matters can be considered during the approval process, and (3) request the cognizant official to approve rates if they have not been approved or are not current.

(c) Contracting officers may not award a contract requiring an indirect cost rate or special rate unless the cognizant official has approved the rate. Except that, if time does not permit such approval, the contracting officer, after coordination with the cognizant official, may establish a billing rate provided the billing rate is established on the basis of a rate proposal submitted by the prospective contractor, or similar reliable data, e/g., previous audits or adjustments to prior year's rate to reflect new or changed conditions. The contracting officer shall submit a copy of the rate proposal and basis for the billing rate to the cognizant official within ten (10) days after contract award.

§ 3-3.707-51 Additional responsibilities of the contracting officer and cognizant official.

(a) If, during the effective period of an indirect coat rate or special rate, the contracting officer has reason to believe that use of an approved rate may result in the payment of unallowable indirect costs, e.g., application of the rate to certain subcontracts, pass through costs or offsite activities which were not considered during the negotiation approval of the rate, he/she shall consult with the cognizant official so that corrective action may be taken, if necessary.

(b) If, during the effective period of an indirect cost rate or special rate the cognizant official has reason to believe that the application of an approved rate may result in unallowable charges to a contract, he/she shall conduct a review of necessary data. If a determination is made to adjust the rate or rate base, all organizations receiving the initial rate agreement will be issued a copy of the revised rate agreement.

(c) Under no conditions will a cognizant official amend an approved rate without issuing a revised rate agreement.

§ 3-3.707-52 Distribution of overhead rate agreements.

Cognizant official for organizations discussed in § 3-1.453-2(b) shall submit copies of rate agreements to OPAL within five days after approval. OPAL will distribute a periodic index of these rate agreements to the OPDIV's, STAFFDIV's and regional offices. Contracting officers or their representatives having a need for an agreement shall request it directly from the cognizant official.

§ 3-3.707-53 Disputes.

If a dispute arises in the approval of an indirect cost rate or special rate, the dispute shall be resolved in accordance with the procedures of the cognizant agency. If HHS is the cognizant agency and the rate will be applied to contracts, the dispute will be resolved in accordance with the procedures set forth in § 3-1.318.

(5 U.S.C. 301; 40 U.S.C. 486(c))

[FR Doc. 83-22480 Filed 8-16-83; 8:45 am]

BILLING CODE 4150-04-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. II

[CC Docket No. 78-72; Phase III]

MTS and WATS Market Structure; Establishment of Physical Connections and Through Routes Among Carriers, et al.; Order Extending Time for Filing Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This Order extends the deadline for filing comments regarding a Notice of Proposed Rulemaking published in the **Federal Register** on June 9, 1983, 48 FR 26632, for the limited purpose of filing comments regarding issues raised in footnote 25 of the Notice which relate to resellers. The time for filing comments for this limited purpose is extended to August 15, 1983, in order to give parties an opportunity to examine issues relating to resellers addressed in a Reconsideration Order adopted by the Commission on July 27, 1983, in a related proceeding. Comments on all other issues remain due August 8, 1983.

DATE: Comments are due not later than August 15, 1983, on issues raised in footnote 25 of the Notice of Proposed Rulemaking.

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

FOR FURTHER INFORMATION CONTACT: John Cimko, Jr., Common Carrier Bureau, (202) 623-9342.

SUPPLEMENTARY INFORMATION:

In the matter of MTS and WATS Market Structure, Phase III Establishment of Phyical Connectionms and Through Routes Among Carriers, *et al.*' CC Docket No. 78-72, Phase III.

Adopted: August 1, 1983.
Released: August 3, 1983

By the Chief, Common Carrier Bureau.

Before us is a motion seeking an extension of time of one week for the filing of comments on the "reseller" issues of footnote 25 to the filing to para. 40 of the *Notice of Proposed Rulemaking* ("Notice"), filed by the Association of Long Distance Telephone Companies ("ALTEL") on July 29, 1983. ALTEL assers that it needs additional time in which to refect on the relationshipo of the issues of this proceeding to the Commission's action of July 27, 1983 on reconsideration of the Third Report and Order In Phase I of this proceeding: that the parties "most likely to respond" to the n. 25 issues have no objection to a grant of this motion; and that a grant will not adversely affect the rights of "any party" to this proceeding. Alternatively, ALTEL requests an extension of time to one week beyond the date of public release of the text of a Commission order on reconsideration of the *Third Report*.

It should be stressed that the Commission intends to resolve the issues of this proceeding before the end of this year, because of the relationship of these issues to the access tariffs which are scheduled to become effective January 1, 1984. For this reason, all parties must be diligent in meeting the comment schedule established in the Notice herein. However, in view of ALTEL's claim that it requires additional time in which to consider the relationship of the Commission's treatment of resellers on reconsideration last week, pursuant to delegated authority we shall grant it, and others filing comment on the "reseller" issues of n. 25 of the Notice, a one week extension to August 15, 1983. Comments on all other issues remain due August 8, 1983.

Accordingly, it is hereby ordered, That, pursuant to authority delegated under sec. 0.91 and 0.291 of the Commission's Rules, the time for filing comments on the "reseller" issues raised in n. 25 to the Notice herein is hereby extended to August 15, 1983, and is otherwise unchanged.

Jack D. Smith,

Chief, Common Carrier Bureau.

[FR Doc. 83-22427 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 18

[Gen. Docket No. 83-806; FCC 83-360]

Regulations Concerning RF Lighting Devices

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: This inquiry seeks to obtain information on newly developed light bulbs which use radio frequency (RF) energy in generating light. This action is taken to aid the Commission in formulating policy and regulations, if necessary, to insure that these new RF light bulbs will not be a source of interference to authorized radio communication services. The current FCC Rules which apply to RF light bulbs are not considered to be appropriate for these new products.

DATES: Comments due by October 31, 1983. Reply Comments due by December 16, 1983.

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

FOR FURTHER INFORMATION CONTACT: Herman Garlan, Federal Communications Commission, Office of Sceince and Technology, Washington, D.C. 20554, Telephone: 202/653-8247.

List of Subjects in 47 CFR Part 18

Household appliances, Medical devices, Radio interference, Scientific equipment, Industrial equipment.

Notice of Inquiry

In the matter of FCC regulations concerning RF lighting devices; Gen. Docket No. 83-806.

Adopted: July 28, 1983.
Released: August 5, 1983.

By the Commission.

Introduction

1. This Notice of Inquiry is issued to assist the Commission in determining what, if any, minimum regulatory requirements are necessary to minimize the interference potential of radio frequency (RF) lighting devices. In this Inquiry we are seeking information concerning the emission characteristics of RF lighting devices and the degree to which these products may become sources of harmful interference to authorize radio communication services.

If a significant potential for interference exists, information submitted in response to this inquiry will aid us in determining what technical standards are necessary to control emissions to a level which would minimize interference.

2. Parallel with our effort in this Inquiry, we encourage the RF lighting industry to study the need for and, if found necessary, adopt voluntary industry standards to minimize the interference potential of their RF lighting devices. The Commission considers that voluntary industry standards would be preferable to government imposed regulations, particularly in an evolving area of technology. An additional purpose of this Inquiry is to seek information on the ability of the RF lighting industry to regulate the interference potential of their devices.

3. If government regulations are needed, information gained from this Inquiry will be useful to the Commission in developing the minimum regulations necessary for the control of harmful interference from these RF lighting devices. We plan to investigate the least burdensome technical or administrative (i.e. labelling, user information, equipment authorization, etc.) regulations which could accomplish our goal of providing for use of this new technology while adequately protecting radio communication services against undue interference. We should stress at the outset that any regulatory requirement will be viewed as a last alternative to a workable voluntary standard.

RF Lighting Devices

4. RF lighting is an energy efficient lighting system currently being developed. AC power is taken from the power line, converted to RF energy [1] and applied to a fluorescent tube to produce light. Such RF lighting is claimed to be up to 3 to 4 times more energy efficient than incandescent lighting and than conventional fluorescent lighting using electromagnetic ballasts. Although this fact has been known for some time, it is only recently that electronic or RF ballasting has become cost effective. Developments of RF lighting are moving in several directions. One development is in the direction of a self contained lamp to be screwed into the standard incandescent bulb socket. A second development is producing an electronic or solid state ballast to replace the conventional electromagnetic ballast in the standard fluorescent fixture. A third development is looking toward the distribution of RF energy over a dedicated set of wires to the individual fluorescent fixtures. In this Notice of Inquiry we will use the term "RF lighting device" to encompass all the developments enumerated above.

5. The SL-18 RF light bulb developed by North American Phillips Lighting Corporation, is typical of the first development enumerated above. This bulb contains a folded fluorescent tube and has the necessary electronic circuitry built into the glass envelope. The electronic ballast produced by International Energy Conservation System and Soli-Tronics typify the second development described above. The operation of a fluorescent tube with an electronic ballast is similiar to that of a tube using a conventional electromagnetic ballast. The difference lies in the internal circuitry. In the electronic ballast the 60 Hz AC line voltage is first rectified to DC. The DC voltage is applied to an inverter whose output is RF energy at a frequency above 20 kHz. The RF energy is then applied to the fluorescent tube through an RF choke [2] to strike an arc which in turn excites the fluorescent coating to emit light. The rectifier, the inverter and the RF choke are all in the same package which looks exactly like the conventional electromagnetic ballast and is installed in the same way by the electrician. In this connection, we are aware that in some commercial and industrial RF lighting systems, instead of using an individual electronic ballast in each fixture, the system uses a centrally located piece of equipment that provides the AC to DC to RF conversion with the RF energy distributed to the individual lighting fixtures over a dedicated set of wires. In other such system, only the rectifier is centrally located with the DC voltage distributed to the individual lighting fixtures, each of which contains a simplified electronic ballast.

6. The General Electric Co. has taken a different path in its development of an RF light bulb—the GE Electronic Halarc light bulb. Unlike the electronic ballasts for fluorescent tubes where RF energy is used continuously while the bulb is on, the GE bulb uses RF energy only for a few seconds in the initial start-up mechanism of the bulb. GE intends for this bulb to replace the standard household incandescent bulb. This bulb allegedly uses ⅓ the energy of an incandescent bulb and lasts 4 or more times longer. As mentioned previously, several RF fluorescent type bulbs have also been designed to fit in the same socket as a regular incandescent bulb. Compared to the incandescent bulb, these RF fluorescent bulbs are much more energy efficient (allegedly only using ¼ the energy).

7. While these RF lighting bulbs have residential application, it is expected that the major use of RF lighting sources will initially be in the commercial and industrial area to replace the standard fluorescent fixtures or incandescent lamps. Commercial and industrial purchasers of lighting devices are more apt to take all costs into account including long term energy costs. The residential consumers, on the other hand, may not be as willing to spend additional money for an expensive RF light bulb even though it may save them money over the long run. [3] However, in the future, with increasing residential consumer awareness, the rising costs of energy, and the probable narrowing of the price differential between standard and RF bulbs, the new RF lighting devices could reach a significant portion of the residential market and could become a significant part of the overall lighting market.

Present Requirements

8. Currently, under the Commission's Rules, RF lighting devices meet the definition for industrial, scientific and medical (ISM) equipment regulated by Part 18. [4] Under these rules RF lighting devices fall within the category of Miscellaneous Equipment in Subpart H which includes, among other devices, apparatus in which RF energy is applied to materials to produce physical, biological or chemical effects such as ionization of gases, etc. [5]

9. Part 18 requirements, however, were never intended to apply to mass produced or consumer items. Rather, these requirements were designed to govern large industrial equipment such as industrial heaters. The current

[1] Most electronic ballasts operate between 20 and 40 kHz. However, the Commission is aware of the development by Litek International Corp. of an electronic ballast for a fluorescent light bulb which operates at 13.56 MHz.

[2] The RF choke is necessary to limit the current that flows when the arc is struck and serves the same function as the magnetic coil in the conventional electromagnetic ballast. The RF choke need not be set out as a separate component, but it is usually incorporated in the circuitry that produces the RF energy.

[3] Currently developed household RF light bulbs are expected to sell for a significantly higher price than the standard incandescent bulb. However, when considering the money saved in reduced energy consumption over the life of the bulb, an individual could justify paying more for an RF light bulb.

[4] Section 18.3 (f) defines ISM equipment as "[d]evices which use radio waves for industrial, scientific, medical or any other purposes including the transfer of energy by radio and which are neither used nor intended to be used for radio comunication".

[5] Section 18.3(d) RF lighting devices contain materials and gases which are excited to emit light by the application of an RF voltage.

radiated emission limit for Part 18 equipment may not provide sufficient protection against interference to consumer devices. In addition, for most Part 18 equipment, there is no conducted emission limit. These liberal standards, accordingly, are inappropriate when applied to products having a widespread use in commercial and residential locations.[6]

10. In the proceeding in Docket 20718 instituted by a *Notice of Inquiry* in 1976 followed by a *Notice of Proposed Rule Making* in 1978, we had proposed to reduce the allowable radiation emissions from ISM equipment, add a new power line conducted interference limit, and simplify the equipment authorization requirements for ISM equipment.[7] In that proceeding, we noted that the rules in Part 18 pose an administrative burden on manufacturers of certain ISM equipment. One of the most burdensome is the requirement for detailed certification and re-certification every three years for medical diathermy and miscellaneous ISM equipment operating on non-assigned ISM frequencies.[8] When the Part 18 rules were adopted, equipment subject to recertification was usually large and very frequently unique. Under these conditions recertification was not considered to be overly burdensome, and it insured that the equipment would continue to comply with our technical standards. However, with the introduction of mass produced and particularly residential consumer items, such as RF lighting devices, we recognize that recertification every three years poses an impractical requirement and had proposed to eliminate this requirement in the proceeding in Docket 20718.

11. In 1980, the Commission granted a waiver of the recertification requirement to the General Electric Company to allow it to produce a limited quantity (up to 10,000) of the GE Electronic Halarc light bulb.[9] Later, at the beginning of 1981, we revised this waiver to eliminate the limitation on the numbers of bulbs that could be produced under the waiver.[10] Three other manufacturers of RF lighting devices have recently filed similar requests for waiver of the re-certification requirement. These petitions for waivers are being considered in a companion *Order Granting Limited Waiver*. These petitions demonstrate the need to develop a policy concerning RF lighting devices.

Discussion

12. The interference potential of RF lighting devices is considered the central issue in this inquiry. Any future regulatory action that we take is directly dependent upon the potential that these devices have to become sources of interference to licensed communication services. Since these devices are relatively new, there is a lack of information on their interference potential. We trust that this inquiry will aid in supplying us with the needed information concerning this question. In addition to responses from the RF lighting industry, we seek comments from other parties particularly those associated with licensed radio communication services which may be affected by emissions from RF lighting devices. We are specifically looking for supporting data, e.g., mathematical analysis, emphirical results, and modeling, to substantiate any claims of interference potential or lack thereof.

13. In addition, test data would be helpful to the Commission in corroborating any predictions concerning interference potential. In this respect, measurements were performed on several sample RF light bulbs at the Commission's Laboratory.[11] Emissions from these bulbs were found to be very broadband with measurable emission spanning the frequency range from 10 kHz up to 80 MHz. Our test data showed that the RF light bulbs were able, for the most part, to meet considerably tighter emission limits, such as those applicable to computers, than the limits now in the Part 18 rules. At the same time, we noted that these bulbs were capable of interfering with AM broadcast radio reception. We question whether technical standards designed to limit emissions from ISM equipment in general would be adequate to protect the commiunications services from harmful interference caused by RF light bulbs especially when considering the unique boadband nature of the emission from these bulbs.

14. In controlled laboratory tests, AM radios received objectionable interference via radiation up to a distance of several meters away from the RF light bulbs tested. In addition, emissions on the power line also resulted in interference to AM radios especially those connected to the AC power line. Tests performed in several homes verified that a potential does exist for harmful interference to AM radio reception. However, because of house wiring differences and others factors, results varied from one home to the next. The home tests are inconclusive at this point, but we are hopeful that the larger real world survey to be accomplished through the associated waivers using a substantial number of bulbs will provide us with a reasonable assessment of the actual degree of interference potential posed by RF lighting devices to AM broadcast and other services. In any case, we are particularly interested in comments regarding the interference potential presented by RF lighting devices to AM radio reception or any other radio service.

15. Further, we are interested in gathering information about the emission characteristics presented by different types of RF lighting devices. We are also interested in comments regarding appropriate technical emission standards, both radiated and conducted, which could restrict emissions from RR lighting devices to levels that would not cause harmful interference. Comments concerning an appropriate measurement procedure to determine compliance with any proposed emission standard would also be beneficial to this inquiry.

Questions

16. The following questions are represented of our concern about RF lighting products. In addition to the FCC generated questions, the list also includes questions contributed by the lighting Division of the National Electrical Manufacturers Association (NEMA).[12] Commenters are requested to

[6] Products which are widely distributed in a residential and commercial environmental require tighter emission limitations because of the greater chance of their operation in close proximity to or on the same electrical circuit as a radio or TV receiver.

[7] Docket 20718: In the matter of overall revision of Part 18 governing Industrial, Scientific, and Medical (ISM) equipment. *Notice of Inquiry* adopted March 9, 1976 and released March 15, 1976 (41 FR 11626). *Notice of Proposed Rule Making* adopted September 19, 1978 and released September 29, 1978 (43 FR 46328). *Second Notice of Proposed Rule Making* adopted January 1, 1979 and released January 29, 1979 (44 FR 9771).

[8] The non-assigned ISM frequencies are all frequencies other than those specifically assigned for ISM purposes as listed in Section 18.13. The assigned ISM frequencies are: 13.56 MHz ± 6.78 kHz, 27.12 MHz ± 160 kHz, 40.68 MHz ± 20 kHz, 915 MHz ± 13 MHz, 2450 MHz ± 50 MHz, 24.125 GHz ± 125 MHz.

[9] *Order Granting Limited Waiver* adopted July 17, 1980 and released July 23, 1980 (FCC 80-418, 45 FR 51649).

[10] *Order Expanding Limited Waiver* adopted January 29, 1981 and released February 4, 1981 (FCC 81-25).

[11] *See* the Technical Memorandum from Philip M. Inglis to the Chief, Authorization and Standards Division, dated February 25, 1983, file No. 31030/EQU/4-0.

[12] Our concern of the potential interference from RF lighting devices had been raised in discussions with the Lighting Division of NEMA. As a result of these discussions, NEMA contributed a list of questions for which answers are required before a sound regulatory policy can be developed for RF lighting devices.

identify each question being answered with the appropriate designator. We also invite comments not directed to any particular question as long as it is related to the general subject matter of this proceeding. Answers should include adequate justification and data, when appropriate.

Regulation and Standards

Q1. What kinds of RF lighting devices and systems are on the market or are being developed with a description of each? Also, is there any information available concerning the interference potential of each such device or system.

Q2. How should RF lighting devices be regulated? should the FCC regulate such devices as part of an official rulemaking or should the Commission give the lighting industry a chance to develop a voluntary industry standard through an organization such as NEMA?

Q3. What are the principal categories of RF lighting devices? Should each category be regulated differently? Should there be different categories by lamp type or industrial use? Or should there be different standards for differing environments, for example, one standard for residential use, one for factory use, one for sensitive areas such as hospital intensive care units, etc.?

Q4. Should there be standards which apply to *groups* of low powered lamp systems, such as areas with many fluorescent fixtures, and other standards that are applicable to high powered systems that may have fewer lamps, such as 20 kilowatt short-arc xenon area lighting? Should some systems have standards which apply both to elements of the system and to the system as a whole?

Q5. Should there be one standard that includes both conducted and radiated interference or should there be separate standards?

Q6. Should there be specific standards for fixtures or systems intended to reduce radiated RFI? (Should lighting specifiers or consumers be given the option of selecting lighting products with "interference ratings"?)

Q7. Should manufacturers label each product, particularly consumer RF lighting devices, to provide user information to educate consumers and users about the interference potential of the device.

Q8. Should standards include operation of systems in an abnormal mode, (such as rectifying lamps, shorted or open lamp elements)?

Q9. Should RF lighting products be moved from Part 18 of FCC Rules and Regulations to Part 15? Should a totally separate, new Rule Part be established for RF lighting devices?

Q10. Should the lighting industry, through a representative committee, establish limits on RF emission? If so, which organization is best suited and able to lead the lighting industry in establishing and policing the standards that the industry imposes upon itself? If industry accepts the responsibility of policing itself, what is the best manner to enforce the standard developed to ensure the EMI product quality will be maintained.

Q11. Would an administrative program of notification and verification by the manufacturer be acceptable to assure adequate compliance? See 47 CFR Part 2, Subpart J, for an explanation of the Commission's equipment authorization program.

Q12. Should the standards be based upon existing international or foreign government standards? If so, which ones? Should it be a guideline for establishing the one in the United States?

Emission Levels and Limits

Q13. What is the effect of the use of multiple RF lighting devices in one location on the interference potential?

Q14. Should there be different limits for interference which may occur for brief periods, such as lamp starting or warm-up, than for more persistent or continuous emissions, as during lamp operation? If so, should intermittent and continuous cases include both conducted and radiated emission limits? Should a derating curve of emission intensity versus emission duration exist?

Q15. Should bands of frequencies be alloted solely for use by RF lighting devices and systems? If so, how many and at what frequencies? Should RF lighting devices and systems be restricted to special frequencies?

Q16. Should harmonic content of interference be specified as well as amplitude (intensity) and direction (spatial characteristics)?

Q17. Should emission level limits, whether imposed by rulemaking or by industry standards, reflect different environments such as residential (consumer), commercial, or industrial? If so, what is the justification and rationale? If not, why not?

Q18. How additive are the effects from multiple sources? Does industry data indicate some relationship in actual installations? Do multiple unit installations represent a significantly greater potential for interference than do individual devices?

Q19. What emission level limits are appropriate for FR lighting devices? Discuss radiated and conducted limits and a rationale for recommended limits. Discuss an appropriate model for developing such limits.

Q20. Should emission limits be established for a "system" consisting of a lamp, ballast, and fixture? Or should emission limits be set for lamp and ballast combinations?

Q21. How shall lighting systems be treated that distribute RF energy to the fixtures over a set of dedicated wires instead of using individual electronic ballasts in each fixture? What limit shall be placed on the radiation of RF energy from the wiring? On the RF energy fed into the wires?

Measurements

Q22. What is an appropriate test methodology for determining the interference potential for each type of RF lighting device? Are both conducted and radiated measurements required? What are the conditions for each? Or, is some other test methodology more suitable?

Q23. Should there be different test equipment for different frequency ranges? What should the measurement procedure be? Should consideration be given to polarization of the radiated interference? In what units should the measurements be recorded and reported?

Q24. What line impedance stabilization network (LISN) should be used for conducted measurements of RF lighting devices be taken?

Q25. What should the setup be for radiated RF emissions? What type of antenna should be used? Should the testing be done in a special test chamber or in a working installation? What distances should be employed and should different distances be used for different frequency bands?

Q26. Under what operating parameters should RF lighting devices be measured?

Q27. What detector function and bandwidths should be used for measurements? Should the same detector and bandwidth be used across the entire frequency spectrum?

Q28. Is measurement of radiated emissions in near rather than far fields an issue for these products?

Q29. Can existing testing methods be incorporated or adopted? Which ones?

Q30. Over what frequency range or bands are conducted and radiated emissions to be monitored?

Q31. What test methodology is suitable for measuring compliance of distributed RF lighting systems?

Susceptibility and Interference

Q32. What government and non-government radio communication services would be susceptible to emissions from RF lighting devices, and to what degree should protection be provided for each authorized radio service?

Q33. What are the emission characteristics and signatures of the various RF lighting devices? How does a susceptible receiver respond to these characteristics?

Q34. What products are likely to be interfered with by such RF lighting devices? What levels of protection will preclude harmful interference?

Q35. What has been the industry history and experience to date on interference from traditional (non-RF) lighting devices?

Q36. What are the ambient levels of radiation and conducted radio noise that already exist in typical residences and commercial structures? Does RF lighting significantly raise the radiated or conducted levels in actual field installations?

Q37. What has been the industry experience with such RF lighting systems to date? What about the neighbors of such systems? Have there been instances of harmful interference from existing RF lighting installations?

Technology

Q38. What does the emerging RF lighting industry predict as far as future directions of RF lighting sources? What freqencies of operation are likely to be employed?

Q39. What emerging communications products might find these new RF lighting devices to be a potential problem?

Q40. Do emissions from current products meet any existing RFI limits?

Economics

Q41. What is the economic benefit to the user and the public from these new RF lighting devices and systems?

Q42. What amount of interference suppression is cost effective for such products? Is suppression strictly a cost issue for manufacturers or are there other factors that determine the degree of emanation control?

Procedural Matters

17. Pursuant to Sections 4(i) and 302 of the Communications Act of 1934, as amended, it is ordered that this Inquiry is hereby instituted.

18. In accordance with the provisions of Section 1.415 of the Commission's Rules, interested parties may file comments on or before October 31, 1983. Reply comments must be filed on or before December 16, 1983. Pursuant to the procedures set forth in Section 1.419 of the Commission's Rules, an original and five copies should be filed by formal participants with the Secretary of the Commission. Participants wishing each Commissioner to have a copy should include six additional 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 comments should be clearly marked General Docket No. 83-806, and will be available for public inspection in the Public Reference Room at the Commission's headquarters. All written comments should be sent to: Secretary, Federal Communications Commission, Washington, D.C., 20554. For further information on this proceeding, contact Herman Garlan at (202) 653-8247. For general information on how to file comments, contact the FCC Consumer Assistance and Information Division at (202) 632-7000.

Federal Communcations Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-21864 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-670; FCC 83-313]

Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes a variety of regulatory options concerning programming and commercialization policies, ascertainment requirements, and program logs for commercial television stations. The options range from complete deregulation of the four subject areas to retention of the Commission's continuing effort to review its existing policies. This proceeding is initiated as part of the existing rules and policies and amend those rules and policies when necessary in order to promote the public interest.

DATES: Comments must be filed on or before November 2, 1983, and reply comments on or before December 19, 1983.

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

FOR FURTHER INFORMATION CONTACT: Michael A. McGregor, Mass Media Bureau, (202) 632-7792.

List of Subjects in 47 CFR Part 73

Television.

Notice of Proposed Rule Making

In the matter of the revision of programming and commercialization policies, ascertainment requirements, and program log requirements for commercial television stations; MM Docket No. 83-670.

Adopted: June 29, 1983.
Released: August 4, 1983.

By the Commission; Commissioner Dawson issuing a separate statement; Commissioner Rivera concurring and issuing a statement; Commissioners Fogarty and Sharp not participating.

I. Introduction

1. In this *Notice* we are soliciting comment on a number of regulatory proposals that would amend this Commission's policies with respect to commercial television programming, commercialization, ascertainment, and program logging. In taking this action, we seek the widest range of discussion on these proposals in terms of their utility in an increasingly diverse and competitive video marketplace. We also are interested in the extent to which these proposed amendments might mitigate the regulatory burdens and costs imposed on commercial television broadcasters by our present rules and policies, thereby serving the public interest.

2. In the past several years, substantial steps have been taken to reduce the regulatory burdens on broadcasters. Recently the Commission adopted a major deregulatory action relating to programming guidelines, commercialization, ascertainment, and program logs for commercial radio broadcasters. *Deregulation of Radio*, 84 F.C.C. 2d 968, *recon. granted in part*, 87 F.C.C. 2d 797 (1981), *aff'd in part and remanded in part sub nom. Office of Communication of the United Church of Christ* v. *FCC*, D.C. Cir. No. 81-1032 (May 10, 1983) (hereinafter cited as *UCC* v. *FCC*). In that action the Commission deleted the delegations of authority relating to the amounts of nonentertainment programming and commercial matter aired by licensees during their license terms.[1] The Commission also deleted its formal ascertainment

[1] The delegations, previously found at § 0.281 and now found in § 0.283 of the Commission's Rules, are instructions to the Commission's staff regarding when an application must be brought to the attention of the full Commission. Applications meeting the processing guidelines may be granted

requirements and substituted a more informal process whereby all radio licensees are required to develop a community issues/programs list containing a listing of programs aired in response to the perceived issues of importance to a community. Finally, all program logging requirements pertaining to commercial radio stations were deleted from the Commission's rules. This issue was remanded by the court so that the Commission might determine the extent to which program logs are necessary to implement the new regulatory scheme. *UCC* v. *FCC*, slip op. at 48–56.

3. The Commission also has taken action recently to deregulate certain aspects of noncommercial radio and television broadcasting. For example, the Commission significantly decreased its intervention into many of the programming decisions of public broadcasters by modifying its rules relating to promotional programming and "on-the-air" fundraising. *Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations*, 86 F.C.C. 2d 141 (1981), *recon. denied, clarification and declaratory ruling granted*, 90 F.C.C. 2d 895 (1982). In August, 1981, the Commission proposed to limit its oversight of noncommercial station programming, to eliminate noncommercial stations' ascertainment obligations, and to delete the program logging requirements. *Revision of Programming Policies and Reporting Requirements Related to Public Broadcasting Licensees*, 87 F.C.C. 2d 716 (*Notice of Proposed Rule Making*). In yet another proceeding we have withdrawn many of the structural and programming requirements that previously applied to over-the-air subscription television operations (STV). *Subscription Television Service*, 90 F.C.C. 2d 341 (1982), *recon. denied*, 53 R.R. 2d 646 (1983).

4. The Commission's efforts to eliminate unnecessary regulation have not been restricted to programming-related rules. Indeed, we have concluded two dockets that, taken together, substantially reduce the paperwork burdens required of all broadcasters. In the first action, the Commission adopted a streamlined and simplified license renewal form for both commercial and noncommercial licensees. *Revision of Application for Renewal of License of Commercial and Noncommercial AM, FM, and Television Licensees*, 49 RR 2d 740, *recon. denied*, 50 RR 2d 704 (1981), *appeal pending sub nom. Black Citizens for a Fair Media, et al.* v. *FCC*, D.C. Cir. No. 81–1710. In the second proceeding, we have eliminated completely the yearly financial reporting requirement imposed on broadcasters. *Amendment of Form 324, Annual Financial Report of Broadcast Stations*, 51 RR 2d 135, *recon. denied*, 52 R.R. 2d 792 (1982).

5. We now believe it is appropriate to begin a commercial television proceeding considering the same type of actions which we recently have taken with respect to radio broadcasting and are currently proposing for noncommercial stations. We feel that exploring such options at this time is particularly justified as commercial television is the sole major broadcast service for which such review has not yet been initiated. Furthermore, the makeup of the video marketplace is changing rapidly. As explained in detail below, commercial television broadcasters are facing increasing competition from alternative media. Because these changes have taken place and additional changes likely will occur in the near future, we intend to evaluate the marketplace to determine whether the public interest can be furthered by competitive forces rather than by the Commission's existing rules and policies.

6. As in the commercial radio and noncommercial broadcasting deregulation proceedings, we are proposing several options for each of the regulations being considered, to wit, programming guidelines, ascertainment, commercial guidelines, and program logs. Each of these options is discussed in detail in Section V of this *Notice*. In general, for all four subject areas, the options represent a continuum from substantial deregulation to taking no action and leaving our present regulations in effect. We hope that by proposing the greatest possible array of options we will stimulate a constructive debate regarding which particular proposals best serve the public interest.

7. This *Notice* is divided into six segments. Following this introductory section, a brief history of the regulations under consideration will be presented. This will be followed in Section III with a discussion of the video marketplace as it currently exists and as it may exist in the near future. Section IV contains a detailed discussion of why we believe that this policy review is appropriate at this time. The actual deregulatory proposals on which we seek comment are detailed in Section V. The final section is devoted to our initial Regulatory Flexibility Act analysis, *ex parte* provisions, filing deadlines, and other procedural information.

II. History of the Regulations and Policies Affected by This Rule Making [2]

8. The Federal Radio Commission (FRC), predecessor agency of the FCC, acting under legislative guidelines similar to those contained in the Comunications Act of 1934, decided very early in its existence that programming and commercialization issues were proper subjects for its consideration in reviewing the performance of radio broadcast stations. *Great Lakes Broadcasting*, 3 FRC Ann. Rep. 32 (1929), *rev'd in part on other grounds*, 37 F. 2d 993 (D.C. Cir. 1930), *cert. denied*, 281 U.S. 706 (1930). Later, FRC consideration of programming "inimical to the public interest" was upheld as a valid criterion to consider in denying a license renewal. *KFKB Broadcast Assoc. Inc.* v. *Federal Radio Commission*, 47 F. 2d 670 (D.C. Cir. 1931). A brief history of the four subject areas under consideration in this proceeding is presented below.

A. Programming

9. The Commission's first major policy statement on commercial programming was the 1946 *Report on Public Service Responsibility of Broadcast Licensees*, or, as it was commonly known, the *Blue Blik*.[3] In the *Blue Book*, the Commission explicitly recognized the need for broadcasters to air programs of local interest, activities and talent. The primary responsibility for determining the scheduling and content of these local interest programs was placed squarely on the individual broadcaster. The Commission did set limited guidelines for programming in the public interest. For example, the Commission stated that the public interest required an adequate amount of time devoted to the discussion of public issues. Also, some local live and sustaining broadcasts were expected. However, the Commission did not establish any quantitative standards by which it might judge whether a licensee had provided

by the staff. Under the delegations recently deleted for commercial radio stations, any AM station application proposing less than 8 percent nonentertainment programming and any FM station application proposing less than 6 percent nonentertainment programming would have been subject to full Commission review. Similarly, applications proposing more than 16 minutes per hour of commercial matter (with certain exceptions) could not have been granted at the staff level.

[2] The *Notice of Proposed Rule Making* and the *Report and Order* in the Radio Deregulation proceeding contain excellent and comprehensive historical summaries of the programming guidelines ans ascertainment. *See* 73 F.C.C. 2d 457, 460–79 (1979); 84 F.C.C. 2d 1040–42, 1073–75, 1091–93. Those detailed summaries will not be repeated here.

[3] The *Blue Book* was issued as an internal Commission document and is available in the Commission Library.

enough of a particular type of programming. Court decisions upheld the Commission's determining that both the content and the amounts of programming aired by licensees were proper subjects for FCC consideration, *Simmons* v. *FCC*, 169 F. 2d 670 (D.C. Cir. 1948), *cert. denied*, 335 U.S. 846 (1948); *Bay State Beacon, Inc.* v. *FCC*, 171 F. 2d 826 (D.C. Cir. 1948).

10. A second major Commission policy pronouncement concerning programming was issued in 1949. In its *Report on Editorializing by Broadcast Licensees*, 13 F.C.C. 1246, the Commission formalized the Fairness Doctrine and permitted editorializing by broadcast licensees for the first time. At the same time, the Commission reiterated it previously stated belief that broadcasters should devote a reasonable amount of time to the discussion of public issues. Again, however, the Commission issued no quantitative guidelines, but expressly stated that programming in the public interest was the responsibility of the individual licensee. These concepts once again were sustained by the Commission in its *Report re En Banc Programming Inquire*, 44 FCC 2303 (1960) (*1960 Programming Statement*). The commission restated its view that the individual broadcaster had great discretion in deciding what programming to offer its community, but went a bit further and listed fourteen major elements usually necessary to meet the interests, needs and desires of the community.[4] Later case law made it clear that a licensee's discretion in programming did not include racial discrimination. *LaMar Life Broadcasting Co.*, 38 F.C.C. 1143, 1154–55 (1965), *rev'd and remanded on other grounds, sub nom., Office of Communication of United Church of Christ* v. *FCC*, 359 F. 2d 994 (D.C. Cir. 1966), not ignoring a strongly expressed need, *Stone v.* FCC, 466 F. 2d 316, 328 (D.C. Cir. 1972), the Commission's policies regarding nonentertainment programming were brought to their present state by the adoption of the delegations of authority in 1973. The history of these delegations is presented in a later section of the *Notice*.[5]

[4] The fourteen listed elements are: opportunity for local self-expression, the development and use of local talent, programs for children, religious programs, educational programs, public affairs programs, editorialization by licensees, political broadcasts, agricultural programs, news programs, weather and market reports, sports programs, service to minority groups and entertainment programs.

[5] In 1974, the Commission also announced a special programming obligation with respect to children. Broadcasters were expected to present educational and age-specific programming designed especially for children. Further, broadcasters were urged to air this programming on weekdays when most child viewing occurs. *Children's Television Policy Statement*, 50 F.C.C. 2d 1 (1974). Broadcaster compliance with the *Policy Statement* was explored in a *Notice of Inquiry*, 43 FR 37136 (1978), and in the report of the Children's Television Task Force, released November 2, 1979. Subsequently, a *Notice of Proposed Rule Making* was adopted looking further at broadcasters' obligation to the child audience, 45 FR 1976 (1980). That proceeding is pending.

B. Commercialization

11. Recognizing that commercials were, at least for the present, the sole means of support for broadcasting, the Federal Radio Commission took the position that regulation had to be relied upon to prevent abuse or overuse of commercials. *Great Lakes Broadcasting Company, supra.* An early FCC decision considered overcommercialization in the context of a license renewal. *R.R. Jackson*, 5 F.C.C. 496 (1938). Regulation of commercial practices, involved the number of commercial interruptions, the length of commercials, and the balance between commercial (sponsored) and sustaining (unsponsored) programs. In the *1960 Programming Statement* the Commission concluded that there no longer was any public interest basis for distinguishing between sustaining and commercially sponsored programs in evaluating a station's performance. Therefore the Commission limited the responsibility of licensees by stating that individual broadcasters need only avoid abuses with respect to the total amount of advertising time aired and the frequency of interruptions. *Id.*

12. Due in part to a lack of formalized guidelines with respect to its commercialization policy, the Commission adopted a *Notice of Proposed Rule Making*, 28 FR 5158 (1963), looking toward the adoption of rigid commercial standards. Although convinced that an overcommercialization problem existed, the Commission chose not to adopt standard rules, concluding that not enough facts were present to support such rules. Moreover, it was not willing to codify the existing National Association of Broadcaster's commercial guidelines. The Commission did state that it would pay closer attention to commercialization on a case by case basis, and instructed the Broadcast Bureau to bring to its attention those applications proposing the greatest amounts of commericals. *Commercial Advertising Standards*, 36 F.C.C. 45 (1964). From this time until the adoption of the current delegation in 1973, the Commission's major policy statements with respect to commercialization concerned the particular issue of program length commercials. The Commission found such commercials contrary to the public interest because they were programs presented in the interests of saleability, almost always inconsistent with a licensee's representations regarding the maximum amount of commerical matter to be aired in any given hour, and usually resulted in program logging violations. *Program Length Commercials*, 39 F.C.C. 2d 1062 (1973). Most recently, the Commission refused to initiate a rule making proceeding on the subject of overcommercialization, citing a lack of adverse viewer reaction and recent First Amendment cases recognizing that commercial speech deserves constitutional protection. *Television Overcommercialization*, 49 RR 2d 391 (1981). The Commission further noted that the industry was best regulated through self-imposed voluntary restraints and that existing Commission policies and guidelines insure that broadcasters will operate in the public interest. *Id.*

C. History of Delegations

13. At its establishment in 1951, the Broadcast Bureau was given delegated authority to act on certain broadcast applications. *See* 47 CFR 0.241 (1952). Beginning in the early sixties, the Commission began to reappraise its existing delegations. In order to give more guidance to the Broadcast Bureau, the Commission adopted a set of confidential notations to the delegations. *Notations re General Agenda*, June 28, 1961. These notations limited the Bureau's authority to act on certain types of broadcast applications. According to an in-house memorandum to the Commission, the notations substantially incorporated the informal criteria that the staff had been using to screen applications. Specifically, the notations provided that the Broadcast Bureau could not act upon any application which proposed any of the following:

(1) Greater than 85 percent commercial programming;

(2) Less than 5 percent local live programming;

(3) Greater than 90 percent network programming;

(4) Less than 10 percent sustaining programming between 6–11 p.m.;

(5) Greater than an average of 12 commercial spot announcements during one hour; and

(6) No programming in the following categories unless an adequate explanation was given: entertainment, religious, agricultural, educational, news, discussion (forum, panel, round

table), and talks (all conversational not falling under one of the above categories).

Thus, as early as 1961, the Commission had adopted formal processing guidelines relating to broadcaster's programming obligations.[6] It is important to note, however, that even these earliest of guidelines were procedural only; they merely indicated when the full Commission was to be alerted to a particular application.

14. After a lengthy review of the delegations, the 1961 notations, and existing Commission policy and precedents, the Commission adopted its present delegations format in 1973. *Delegation of Authority*, 43 F.C.C. 2d 638. The publication of these more specific delegations gave the industry and its legal representatives, for the first time, a clear insight into the general benchmarks used in determining whether particular matters were to be referred to the Commission.[7] Neither the published Commission *Order* establishing the delegations nor the staff memorandum explaining the changes made much mention of how the guidelines were set, except with respect to the sixteen minute guideline for commercial practices, which was considered to be in general accord with industry standards.

15. In adopting the latest programming delegations for commercial television, the Commission added two new categories for consideration. *Delegations of Authority*, 59 F.C.C. 2d 491 (1976). In addition to the nonentertainment programming standard, the guidelines provide that applications proposing less than 5 percent local programming and less than 5 percent informational programming will be refered to the full Commission. The local guideline was added in recognition of the importance of every broadcast facility's function as a locally oriented transmission service. The informational guideline was meant to reaffirm the special contribution to an informed public opinion made by news and public affairs broadcasts. Based on information collected from the 1973 television programming report, Form 303–A, the Broadcast Bureau found that 93 percent of all VHF network affiliates, 83 percent of all VHF independent stations, and 78 percent of all UHF affiliates met the newly established guidelines. Unaffiliated UHF stations are exempt from the programming guidelines.

16. Since establishing and and expanding the processing guidelines in 1976, the Commission has not been inclined to impose additional programming responsibilities on commercial television licensees. For example, in response to a petition seeking the reporting of additional programming categories by commercial television stations, the Commission reasoned that establishing additional reporting categories might imply some obligation to provide that type of programming even though the Commission does not require it. On that basis, the Commission declined to establish a new category of "community service programming." *Community Service Programs*, 82 F.C.C. 2d 130 (1980), *recon. denied*, 50 RR 2d 1245 (1982). In another proceeding, the Commission afforded broadcasters greater programming flexibility by permitting the use of public service announcements in responding to the perceived needs of the community. *Public Service Announcement*, 81 F.C.C. 2d 346 (1980)./

D. Ascertainment

17. The Commission's first major policy statement on ascertainment was contained in the *1960 Programming Report*. The Commission stated that all broadcasters must ascertain the needs and interests of their service areas and reasonably attempt to meet all such needs. Proper ascertainment required that broadcasters make a diligent, positive and continuing effort to discover and fulfill the tastes, needs and desires of their service areas. In setting up this procedure, the Commission intended that ascertainment would become a formal part of every application and license renewal proceeding. Furthermore, the Commission specified not only what it expected out of ascertainment, but how the process should be accomplished. The fact that the Commission was serious about its ascertainment requirements was shown shortly after the release of the *1960 Programming Statement* when the Commission denied an application for a new FM station based on inadequate ascertainment. *Suburban Broadcasters*, 30 F.C.C. 1021 (1961), *aff'd sub nom. Henry* v. *FCC*, 302 F. 2d 191 (D.C. Cir 1962), *cert. denied*, 371 U.S. 821 (1962).

18. The Commission imposed a more formalized four step ascertainment process when it adopted its new television application forms. *Television Program Form*, 5 F.C.C. 2d 175 (1966). Applicants were expected to provide full information on the following matters:

(a) The steps taken to become informed of the problems and needs of the area to be served;

(b) The suggestions received as to how the station could help meet those problems;

(c) The applicant's evaluation of the suggestions; and,

(d) The programming proposed to meet evaluated problems and needs. *Id.* at 178.

During the next several years, the Commission became increasingly aware of the questions and problems that its ascertainment procedures were creating. Consequently, the Commission issued a *Notice of Inquiry* seeking comment on the development of a detailed ascertainment Primer. 20 F.C.C. 2d 880 (1969). A Primer containing 36 questions and answers about the ascertainment process was subsequently adopted by the Commission. *Ascertainment of Community Problems*, 27 F.C.C. 2d 650 (1971).

19. In the ascertainment Primer the Commission set out standards for determining the composition of the area to be served, consultations with community leaders and members of the general public, enumeration of community problems and needs, evaluation of the problems and needs, and relating proposed programing to the evaluated problems and needs. Several years later, a Primer was adopted specifically for renewal applicants. *Ascertainment of Community Problems by Renewal Applicants*, 57 F.C.C. 2d 418 (1975), *recon. granted in part*, 61 F.C.C. 2d 1 (1976). Although the substantive requirements of the original Primer were retained, the Renewal Primer provided for the following procedural changes:

(a) An ongoing ascertainment process throughout the license term;

(b) A community leader checklist;

(c) The specific number of consultations to be made, based on the size of the community of license;

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[6] The actual delegation of authority contained in the Commission's published rules stated that the Bureau could grant applications" * * * which comply fully with the requirements of the Communications Act and the provisions of this chapter, accord with Commission policy and standards, are not mutually exclusive with any other applications, and concerning which no petition to deny * * * or other substantial objection has been filed." 47 CFR 0.281(a)(1) (1962).

[7] The new delegations provided that applications proposing the following types of programming should be sent to the Commission for its consideration: proposals exceeding 16 minutes of commercial matter per hour, with specified exceptions during political campaigns; proposals containing less than 10 percent total nonentertainment programming; proposals containing substantial ascertainment defects that cannot be resolved on the staff level; applications proposing substantial shifts in the station's entertainment of nonentertainment formats; renewal, transfer, and assignment applications that vary substantially from prior representations with respect to nonentertainment programs or commercial practices.

(d) Maintaining information on the composition of a licensee's community in its public file;

(e) Annually filing a list of no more than ten problems and needs of a broadcaster's service area along with a list of programs treating those problems and needs; and,

(f) Placing documentation of ascertainment procedures in the station's public inspection file.

Failure to conduct ascertainment in accordance with the requirements of the Primers has resulted in the denial of applications, and such denials have been upheld in court. *See, e.g., Bamford v. FCC*, 535 F. 2d 78 (D.C.Cir. 1976).[8]

20. In its most recent actions regarding ascertainment, the Commission declined a request to add homosexual and handicapped groups to the community checklist. The Commission did state, however, that groups coming forward for consultation must be included if the licensee considers these groups to represent a significant segment of the community's population. *Ascertainment of Community Problems*, 76 F.C.C. 2d 401 (1980). In a separate proceeding, the Commission approved the use of public service announcements in responding to problems discovered through ascertainment. *Public Service Announcements*, 81 F.C.C. 2d 346 (1980). Also, the Commission recently relieved small market (defined as communities of less than 10,000 persons and that are outside all SMSA's) television renewal applicants from the obligation to conduct formal ascertainment surveys. The Commission stated its belief that small market broadcasters are sufficiently familiar with their communities to enable them to develop responsive programing without the substantial administrative burdens associated with formal ascertainment procedures.[9] *Small Market Ascertainment Exemption*, 86 F.C.C. 2d 798 (1981), *aff's sub nom. National Black Media Coalition v. FCC*, D.C. Cir. No. 80-1758 (May 10, 1983). Finally, the Commission has eliminated the requirement that all applicants for a construction permit file an ascertainment study. Now, only applicants for a broadcast license must submit such studies. *Revision of Application for Construction Permit for Commercial Broadcast Station*, 50 RR 2d 381, 382-83 (1981).

E. Program Logs

21. Some type of program logging requirements have existed virtually since the beginning of broadcast regulation. The original program logs adopted by the Federal Radio Commission contained only two provisions: the entry of all station and all call announcements along with the time of broadcast; and, an entry describing each program broadcast and the time of the program's beginning and end. General Order No. 106, 5 FRC Ann. Report 96 (1931). The 1934 codification of the FRC's rules contained two additions to the program logging requirements. The new rules required broadcasters to log program descriptions by categories and also required all political speeches to be entered as such with the name and political affiliation of the politician for whose benefit the speech was presented. FRC Rules and Regulations, Section 172(A) (1934).[10] Neither the 1931 nor the 1934 regulations were accompanied by any explanation of the regulatory purpose or potential effect of the logging requirements.

22. As the regulation of broadcasting became more pervasive, the program logging requirements became more detailed. For exampe, to implement the stated goals of the *1960 Programing Statement*, the Commission amended the logging rules to require the contemporaneous maintenance of a comprehensive record of programs by specific categories. *Amendment of Program Logging Rules for Television Broadcast Stations*, 5 F.C.C. 2d 185 (1966). Later, the Commission required that television program logs be made available for public inspection if the requestor of the information met certain procedural safeguards. *Program Logs*, 44 F.C.C. 2d 845 (1974), *recon. denied*, 45 F.C.C. 2d 781 (1974).

III. The Television Marketplace

23. In discussing the extent of competition in a particular industry, the scope of the market must first be defined. The relevant market has two components: product and special or geographic. Generally, a "relevant market" is the broadest market that is sufficiently narrow to exclude products from other producers, whether located in the same, adjacent, or remote geographical areas, that cannot compete or substantial parity with those included in the market. In terms of the geographic component, the television marketplace may in a sense be characterized as both a national and a local market. Markets for television equipment and programs may reaonably encompass the entire nation, whereas the geographic market for home viewed television programming might be extremely local. Interested parties should keep this national/local dichotomy in mind when responding to our questions on whether the increasingly competitive nature of the television marketplace makes the present level of regulation unnecessary. Because the relevant geographic market might be characterized as local, it is conceivable that certain localities may be sufficiently competitive to justify a greater degree of deregulation than a less competitive geographic market. In arriving at a definition of the second component of the market, that is, the product market, substitutability among alternatives should be considered. To illustrate, if two services are substitutes they should both be included in the same market and thus be considered as competitors. As their degree of substitutability declines, they provide less competition to one another until the point where they should be classified as belonging in separate industries. There is, however, no hard and fast rule to use in drawing industry lines.

24. In the case of traditional over-the-air television broadcasting, the industry can be coinstrued too narrowly when, in fact, the appropriate confines of the market extend beyond its traditional boundaries. Therefore, in this section of the *Notice*, we assess those technologies that may provide genuine substitutes in the viewer's mind for regular television broadcasting as well as the extent of competition within a narrowly defined over-the-air television submarket.

25. According to the FCC staff report regarding policy on cable ownership, about 90 percent of all television households receive four or more television signals.[11] A. C. Nielsen Co. reports this figure to be significantly higher at 97 percent.[12] In any case, it would appear that almost all television households have access to at least four television signals. In fact, Nielsen figures also indicate that 65 percent of

[8] Procedurally, ascertainment issues are the subject of a delegation similar to the program guidelines. The staff must refer to the full Commission commercial television proposals that contain substantial ascertainment defects that cannot be resolved by further staff inquiry or action. Section 0.283(a)(8) of the Commission's Rules.

[9] As of 1980, the Commission calculated that 29 commercial television stations would be affected by this exemption. The ascertainment requirements for all radio stations were rescinded in the *Radio Deregulation* proceeding.

[10] The 1934 Rules as well as the Federal Radio Commission Annual Reports are available in the Commission's library.

[11] *FCC Staff Report on Cable TV Cross Ownership Policies*, November 17, 1981, pages 62-64. Tables 1 and 2 report this figure as 90.26 and 89.75 depending on assumptions; table 3 states 90 percent receive 3 or more television stations again using different assumptions.

[12] *Nielsen Television 1980; see also Wines, The Cable Revolution—Tough Choices for the Industry and the Government*, the National Journal, page 1891, October 24, 1981 (hereinafter "Wines").

television households receive seven or more signals. These figures illustrate the dramatic increase in signal availability since 1964, when only 26 percent of television households received seven or more signals and only 78 percent received four or more.

26. The total number of commercial television stations in operation has grown from a total of six in 1945 to 439 in 1955 to over 800 at present. Also, it is significant to note that the number of UHF stations in operation, over 200, has more than doubled since 1965.[13] Commercial television stations also must compete against noncommercial, educational television operations. The number of such stations in operation has grown from only 9 in 1955 to around 270 today. More than half of these stations broadcast on UHF frequencies.[14] Predictions of future growth show that most markets will have even more television stations by 1986.[15]

27. In addition to direct competition in the form of traditional over-the-air television broadcasting, over delivery systems have burgeoned and thus offer additional avenues of video product delivery to consumers. The most notable of these is cable television. Originally a delivery system designed to provide viewable television signals to remote or shielded areas of rural America, cable television has expanded into the urban and suburban markets with offerings of programming not available over-the-air. In 1952, approximately 70 systems in the United States served a total of 14,000 subscribers. The subscriber total did not reach the one million mark until 1964. Ten million subscribers were reported for 1976, and that number has almost tripled since that time.[16] The percentage of homes that subscribe to cable is predicted to increase from a current estimated 37 percent of all television households in the United Sates to about 50 percent in 1985.[17]

28. In addition to offering the signals of local and distant television stations, some cable systems offer cable program channels that are paid for over and above the basic cable services. It is predicted that up to 46 percent of United States television households will subscribe to these pay cable cannels by 1990 (up from 17 percent by current estimates).[18] Older cable systems with 12 channels are giving way to upgraded, state of the art, systems with 36 channels or more. Newer systems can offer up to 100 channels, which can deliver an ever increasing array of satellite-delivered program services, community access programming, data information, pay services, and, of course, local and distant broadcast signals.

29. Subscription television channels also offer alternative programming to the consumer. STV is now available on 20 stations in the United States. Most of the stations are in larger markets, but now that several restrictive regulations have been removed, STV could possibly gain footholds in smaller markets.[19] STV subscribers now number about one million. Additionally, the Commission recently authorized all ABC affiliates to offer ABC's proposed Home View Network. This service involves the earlymorning transmission of scrambled pay programming. Subscribing owners of video recorders will be able to descramble and record the programming for viewing at more convenient times.[20]

30. Multipoint Distribution Service also delivers a pay service to consumers over the air via a microwave signal. Although similar in function to an STV operation, MDS currently is regulated as a common carrier. Due to high frequency, low power operation, MDS is limited to line-of-site transmission, thereby reducing the potential audience it can serve. At present, there are approximately 500,000 MDS subscribers. The Commission recently increased the spectrum allocated to MDS and approved in principle the concept of multi-channel MDS or "wireless cable systems".[21]

31. Other new forms of video delivery systems that compete for the attention of the viewer are video tape recorders and video disk players. Video tape recorders not only use prerecorded tape but also permit the operator to record programs from other media, thus enabling the consumer to view programming at his leisure.[22] Currently, there are an estimated 3.5 million homes with video recorders representing about 4.2 percent of U.S. households.[23]

32. Video disk players are relatively new to the marketplace. Although they do not have recording capabilities, they are cheaper than video tape recorders. Prerecorded software also is cheaper for the disk player. Given its relatively recent introduction into the marketplace it would be premature to predict video disk penetration of television households. However, programming availability for both video disk and video disk players continues to expand. There are approximately 33,000 titles available now for both types of players and the potential exists for other specialized services to develop.[24]

33. Along with the multitude of services just discussed, other potential services could make significant breakthroughs that would add to the competitive nature of the video marketplace.[25] Direct broadcast satellite (DBS) could bring additional channels directly into the home from an orbiting satellite. Eight companies have received conditional authorizations to construct high power DBS systems, which could begin service as early as 1986. Moreover, the Commission recently has given its approval to the use of existing satellites for the delivery of video services to the home, which may result in satellite-based services becoming available even sooner.[26] The Commission also has adopted rules that would allow low power television stations to originate programming, sell time to advertisers, or operate in a pay mode. *Low Power Television Service*, 51 RR 2d 476 (1982). As originally

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[13] Appendix A, Table I shows the growth of commercial television stations on a yearly basis.

[14] Appendix A, Table II shows growth of noncommercial educational stations on a yearly basis.

[15] *New Technologies Affecting Radio and Television Broadcasting*, National Association of Broadcasters, Appendix 1, November 1981.

[16] Appendix A, Table III contains a growth chart showing the yearly increase in cable television subscribers.

[17] The actual prediction falls between 35 percent and 65 percent with 50 percent being the average. Wines, *supra*. *Cablevision* magazine predicts that 62 percent of all television households will subscribe to cable by 1990

[18] *Cablevision*, November 1, 1982.

[19] *See Subscription Television Service*, 90 F.C.C. 2d 341 (1982).

[20] The authority for ABC stations and affiliates to operate subscription television services was granted August 4, 1982. *See* letters to American Broadcasting Companies, Inc., Mimeo Nos. 31909 and 31910, released August 10, 1982. File Nos. BSTV-820429KE-KI and KL.

[21] *See Report and Order* in Gen. Docket No. 80-112, mimeo no. ——, adopted May 28, 1983; *Notice of Inquiry and Proposed Rule Making* in CC Docket No. 80-116, 45 FR 29335, published May 2, 1980. Docket 80-116 proposes options for hastening MDS assignment procedures.

[22] Copyright liability for such uses has come under court scrutiny. *Universal City studios, Inc.* v. *Sony Corp. of America*, 659 F. 2d 963 (9th Cir. 1981, *cert. granted*, —— *U.S.* ——, *102 S. Ct. 2926 (No. 81-1687. 1982)*.

[23] *Cablevision*, November 1, 1982.

[24] New Technologies Affecting Radio and Television Broadcasting, National Association of Broadcasters, pp. 36-37, November, 1981.

[25] Although not generally considered in conjunction with the television market, movie viewing certainly competes with television viewing as a source of entertainment. Home video games represent additional competition for over-the-air television stations. Further, at least with respect to news and public affairs, local radio stations, newspapers, and news magazines may be considered reasonable substitutes for television viewing.

[26] *See Direct Broadcast Satellite Service*, 90 F.C.C. 2d 676 (1982); *Satellite Television Corporation*, 91 FCC 2d 953 (1982); *CBS, Inc. et al.*, 92 FCC 2d 64 (1982); *First Report and Order* in Gen. Dkt. No. 80-739, FCC 83-272 (adopted June 2, 1982); *see also GTE Satellite Corp.*, 90 FCC 2d 1009 (1982), *recon. denied*, mimeo no. ——, adopted June 2, 1983.

conceived, the low power service was intended to provide additional television service to rural areas and minority groups. When fully developed, this service may provide up to 4,000 additional video outlets across the country.

IV. The Need to Reevaluate our Regulations

34. One reason for initiating this rule making at this time is to take into account the changes taking place in the marketplace and to seek comment on whether there changes may provide sufficient justification for amending our present regulations and policies. In this regard, several specific questions come to mind. When assessing the geographic component of the relevant market, should we view the market nationally or on the basis of a local home viewing market? Might different regulatory schemes be implemented depending on the competitiveness of locally defined markets? Within the relevant geographic market, do the alternative media discussed above represent true substitutes for commercial television viewing? Is the market now, or will it be in the near future, sufficiently competitive to serve as a reliable alternative to existing Commission regulation of licensee programming and commercialization practices? With respect to the potential competition offered by such incipient services as DBS and LPTV, should we look to some future level of availability before adding them to our competitive matrix? Can we fairly make a finding of workable market competition based on these as yet potential services? Are existing or potential competitive forces strong enough to assure that the Commission's public interest objectives will be satisfied?[27] We readily admit that the television marketplace may be different from the radio marketplace, on which we based in part our recent radio deregulation actions. Interested parties may wish to comment on whether any such differences should affect our thinking with respect to amending our commercial television rules and policies. Parties also may wish to address the extent to which this agency may amend its policies even assuming no change in circumstances has taken place. *See Greater Boston Television Corp. et al.* v. *FCC*, 444 F. 2d 841 (D.C. Cir. 1970).

35. Given the fact that the video market is becoming increasingly competitive, the particular regulations under scrutiny in this proceeding may impede the ability of commercial television licensees to compete with other, unregulated or less regulated technologies, thereby inhibiting their ability to serve the public fully and to grow. For example, cable television system operators are not guided in their choice of programming by local, news, or nonentertainment guidelines. Our cable television rules contain on ascertainment or program logging obligations, nor do cable systems operate under any commercialization policies. With some exceptions, the programming requirements that are applicable to cable systems are similar to those that are imposed on broadcasters by the Communications Act rather than by the Commission's rules.[28] In fact, the Commission recently adopted a *Notice of Proposed Rule Making* looking toward the deletion of many of these programming requirements for cable systems. *Fairness Doctrine and Political Cablecasting Requirements for Cable Television Systems*, 48 FR 28472 (1983). Various pay services, regardless of whether they are delivered by cable systems, over-the-air broadcast stations (STV), or MDS, do not labor under non-statutory content restrictions. Furthermore, the Commission has deleted one peripheral programming requirement for STV stations, the rule which requires all STV stations to present at least 28 hours per week of conventional, non-pay programming. *Subscription Television Service*, 90 F.C.C. 2d 341, 351–54 (1982). We also note that no special programming requirements have been proposed or even recommended for emerging technologies such as Direct Broadcast Satellites (DBS) or low power television.[29] Finally, as noted previously, the Commission is proposing a substantial reduction in the programming and ascertainment responsibilities of noncommercial television stations. *Revision of Programming Policies and Reporting Requirements Related to Public Broadcasting Licensees*, 87 F.C.C. 2d 716 *(Notice of Proposed Rule Making* 1982). Given the fact that competing technologies and emerging delivery systems are unlikely to be burdened by programming restrictions, it may not be in the public interest to continue a regimen of comprehensive program regulation for commercial television broadcasters. Such unequal treatment may result in an increasing inability to compete with other technologies and may provide a disincentive for commercial television broadcasters to experiment and innovate in their programming.

36. A third justification for this regulatory review is reflected in Congress' expression of a strong national policy against government overregulation.[30] For example, in 1980 Congress passed the Regulatory Flexibility Act, which is designed to relieve small businesses and entities from pervasive government requirements. The findings and purposes of the Act are instructive. Among other things, Congress specifically found:

(a) Agencies should achieve stated goals as effectively and efficiently as possible without imposing unnecessary burdens on the public;

(b) Uniform regulations and reporting requirements have, in numerous instances, imposed unnecessary and disproportionately burdensome demands upon small businesses with limited resources;

(c) Regulations have adversely affected competition in the marketplace, discouraged innovation and restricted improvements in productivity;

(d) Pervasive regulations have created barriers to entry; and,

(e) Unnecessary regulations may lead to inefficient use of regulatory agency resources.[31]

Another major regulatory act of Congress, the Paperwork Reduction Act of 1980, lists, *inter alia*, the following purposes:

[27] Several analyses have been published which offer conflicting views of the competitiveness of the video marketplace. *See, e.g.*, Majority Staff of the House Subcommittee on Telecommunications, Consumer Protection, and Finance, 97th Cong., 1st Sess., Telecommunication in Transition: The Status of Competition in the Telecommunications Industry 374–377 (Comm. Print 1981); FCC Office of Plans and Policy, Measurement of Concentration in Home Video Markets (1982); National Telecommunications and Information Agency, Print and Electronic Media: The Case for First Amendment Parity (1983). Interested parties are asked to comment on the varying conclusions reached in these and other relevant studies.

[28] Under the Commission's Rules, cable systems which originate programming are subject to obligations concerning equal opportunities for political candidates, § 76.205; fairness, personal attack, and political editorial requirements, § 76.209; a lottery information prohibition, § 76.213; restraints on the presentation of material that is obscene or indecent, § 76.215, and sponsorship identification requirements, § 76.221. As to statutory programming obligation, *see* n.50, *infra*.

[29] We do recognize that insofar as it is a broadcast service, low power television would have to comply with legislative programming requirements found in the Communication Act and the U.S. Criminal Code. *See Low Power Television Service, supra*, at para. 105. The same is true for those DBS operators who are classified as broadcasters. *See Direct Broadcast Satellite Service*, at paragraph 86.

[30] The 94th Congress introduced over 100 bills dealing with regulatroy reform. G.A.O., *Government Regulatory Activity: Justifications, Processes, Impacts, and Alternatives*, p. 1, June 1977.

[31] Regulatory Flexibility Act, Pub. L. 96–354, Section 2(a), 5 U.S.C. 601, note.

(a) Minimize the Federal paperwork burden for individuals, businesses, state and local governments;

(b) Minimize the cost to the Federal government of collecting, maintaining, using, and disseminating information; and,

(c) Maximize the usefulness of the information collected.

The stated goal of the legislation is to reduce the 1980 paperwork burden by 25 percent in three years.[32] Although these legislative pronouncements may not be directly applicable to the instant proceeding, we think the purposes and intents of these acts offer additional and compelling justification for the actions we are proposing.

37. In the preceding paragraphs we have discussed commonly held views on the detrimental nature of unnecessary government regulation: they are costly, and, in the case of the programming requirements, they impose competitive disadvantages on commercial broadcasters that may stifle experimentation and innovation. Moreover, the case for revisiting and perhaps modifying our programming policies becomes even more compelling when we remember that we are dealing with rules and regulations that relate to the sensitive area of program content. It is at least arguable that our programming guidelines and commercialization policies impinge on a broadcaster's editorial discretion even through those guidelines have no substantive effect. If the Commission's policies have limited continuing utility or if their viable purposes may be achieved by less intrusive means, then the public interest would seem better served by the elimination or modification of such policies.

38. Many of the regulatory burden figures cited herein demonstrate the costly nature of the specific regulations being considered in this proceeding. The paperwork burdens imposed by our rules, plus other, more intangible burdens such as reduced editorial discretion and licensee inflexibility suggest that the costs of retaining our present rules may not be justified in relation to their benefits. Accordingly, a straightforward cost/benefit analysis may provide yet another specific justification or rationale for our proposed actions. Parties are encouraged to conduct such analyses and to comment on the propriety of utilizing a cost/benefit rationale as an additional or alternative justification for any final action we might take. In commenting on this and other rationales as bases for our deregulatory proposals, parties should bear in mind that all rationales do not necessarily apply to all four areas that we are reviewing. Heightened competition may, for example, be directly relevant in evaluating the possible elimination of our commercialization and programming guidelines, but of substantially less importance to our reasoning in addressing program logging or ascertainment requirements, where direct cost/benefit analysis may be most pertinent.

39. Having presented several general rationales for our regulatory review, we now wish to focus on the particular regulations and policies under consideration. We begin our review of the programming and commercialization guidelines by reiterating that the guidelines as written are theoretically procedural. They are intended solely to direct the Mass Media Bureau as to when a particular application must be presented to the Commission *en banc* for consideration. However, it is clear that the delegations have taken on substantive overtones, at least in the minds of commercial broadcasters. This fact was well evidenced by broadcasters' comments in the Children's Television proceeding, in which Commission proposals to adopt processing guidelines on children's programming were almost universally criticized as being substantive in nature.[33]

40. In many instances, however, the Commission has cautioned against relying on percentage guidelines as indicators of substantive performance. Thus, the Commission has stated that service cannot be measured by a simple program percentage test, *North American Communications Corp.*, 69 F.C.C. 2d 1756 (1978), and that it will not dictate the amount or format of news or public affairs programming. *Kaye-Smith Enterprises*, 71 F.C.C. 2d 1402 (1979). Moreover, it is clear that failure to meet the standards is not necessarily a bar to renewal. The Commission ultimately must determine whether the proposal is reasonably calculated to meet the needs of the community. *See, e.g., International Television Corp.*, 44 RR 2d 1115 (1978); *Roy H. Park*, 69 F.C.C. 2d 1603 (1978).

41. Perhaps most indicative of the Commission's attitude about programming guidelines is its reluctance to apply similar guidelines in other contexts. In explaining why it decided not to impose programming categories as an aid in determining substantial service for comparative renewal proceedings, the Commission stated its belief that almost all licensees would adopt the FCC guidelines as their own minimum standards.[34] This, opined the Commission, could result in artifically increased levels of local news and public affairs programming. The proposal was rejected as a "simplistic, superficial approach" which would almost certainly encroach on the broad programming discretion enjoyed by licensees. In a more recent action, the Commission stated that general percentages or numerical guidelines were not appropriate standards for determinig the weight to be given an incumbent's record in the comparative renewal context. *Formulation of Policies Relating to the Broadcast Renewal Applicant, Stemming from the Comparative Hearing Process*, 88 F.C.C. 2d 120 (*Notice of Inquiry* 1981). The Commission also declined to establish additional program categories on the basis that a new category might imply some obligation to provide that type of programming even though not required by the Commission. *Community Service Programs*, 82 F.C.C. 2d 130 (1980), *recon. denied*, 50 RR 2d 1245 (1982). All of these arguments for not establishing new guidelines and program definitions may be equally relevant to the question of eliminating the Commission's present programming and commercialization processing guidelines for commercial television stations, at least insofar as those guidelines have assumed substantive overtones. To the extent that licensees consider our processing guidelines to be substantive requirements, our judgments are being substituted for theirs. Yet, they are in a better position to determine local needs and interests than we.

42. The purpose of ascertainment, as originally stated in the *1960 Programming Statement*, was to insure that licensees took the necessary steps

[32] Paperwork Reduction Act of 1980, Pub. L. 96-511, Section 2(a), 44 U.S.C. 3501; Senate Report No. 96-930, p. 2. We note that, due to recent substantial decreases in our reporting requirements, the Commission has reduced its paper work burden on regulated industries by 63.9 percent since 1980. Approximately 17 million burden hours were eliminated by our abolition of the program log requirements for commercial radio stations. Office of Management and Budget, Information collection Budget 3, 41 (1982).

[33] *See, generally*, the comments filed by broadcasters in response to Option IV of the *Notice of Proposed Rule Making* in Docket 19142. The substantive significance of the guidelines is further highlighted by the fact that the Commission has deferred to licensee discretion whenever the guidelines have been met, even in the context of highly contested proceedings. *See, e.g., KCOP Television, Inc.*, 71 F.C.C. 2d 1430 (1979); *Commercial Radio Institute, Inc.*, 43 RR 2d 1247 (1978); *Turner Communications*, 46 RR 1646 (1980).

[34] *Standard for Substantial Program Service*, 66 F.C.C. 2d 419, *aff'd sub nom. National Black Media Coalition v. FCC*, 589 F. 2d 578 (D.C. Cir. 1978).

to inform themselves of the real needs and interests of the areas they served to enable them to provide for those needs and interests. Thus, broadcasters are required not only to ascertain, but also reasonably to respond to their findings. However, the generalized ascertainment requirement of the *1960 Programming Statement* became a more formalized four-step ascertainment procedure by the mid-sixties. This procedure eventually was transformed into the rigorous specifications of the ascertainment Primers in the early seventies. Furthermore, it often is argued that the form of ascertainment has replaced its substance. As reported in the *Radio Deregulation Notice*, the Pike and Fischer Radio Regulation Digest currently contains over sixty pages of ascertainment annotations, most of which relate to disputes over mechanistic aspects of the process. Indeed, we candidly have characterized ascertainment proceedings as "litigation over trivia." *Revision of Application for Construction Permit for Commercial Broadcast Station*, 50 RR 2d 381, 383 (1981).

43. At present, all commercial televisions licensees except those qualifying under the small market exemption must continuously ascertain community needs and interests according to the Renewal Primer. Under our revised renewal procedures, except for those few stations submitting the long form audit, ascertainment studies need not be submitted to the Commission at renewal time, but must be included in the station's public file. *See* § 73.3526(a)(9), (11), and (12) of the Commission's Rules. Also, all applicants for a new television broadcast license must conduct an ascertainment study. Proposed transferees and assignees of television stations are also obligated to ascertain community needs. The data collected in our radio deregulation proceeding indicate that, for commercial radio stations, our ascertainment requirements cost anywhere from $167 to $20,000 per year. In our system of commercial broadcasting, these costs are considered when stations set their advertising rates and ultimately the consumer must pay for our requirements.[35] Thus, it appears that the costs of ascertainment to the industry and the consumer are significant.[36] We question whether these costs are justified by the benefits derived from our formal ascertainment obligations.

44. We seek comment on the question of whether ascertainment has outlived its usefulness and should therefore be discontinued or at least modified as a formal Commission policy. The process may well have provide a useful analytical tool during the industry's earlier days. Today, however, the importance of news and public affairs programming to the public is beyond dispute. In order to compete, broadcasters constantly must stay aware of the public's desire to be informed about the issues facing their communities. The increased importance of such community-responsive programming coupled with the generally heightened level of competition in the video marketplace forces the broadcaster to be aware of the needs and interests of its service area quite apart from any formal ascertainment mechanism imposed by this Commission. Television stations that fail to meet their communities' needs will most likely receive the ultimate sanction: viewers will stop viewing.

45. Another reason for reviewing our programming and ascertainment policies at this time is the fact that, on the whole, broadcasters appear to be presenting more informational, local, and nonentertainment programming than called for under our programming guidelines. For those programming categories currently covered by our processing guidelines, information taken from the 1979 Programming Report, Form 303–A, indicates that from 6 a.m. to midnight, the program schedule of the average commercial television station contained 13.9 percent news and public affairs programming, 26.1 percent total nonentertainment programming, and 10.1 percent local programming. These figures represent a rise from 1973 in all reporting categories except local programming, which was down from 10.5 percent in 1973. Individually, from the years 1973 to 1979, only 2.8 percent of the stations covered by the guidelines failed to present 5 percent informational programming, and 2.6 percent of the stations failed to meet the 10 percent total nonentertainment programming guidelines. However, 32 percent of the stations failed to meet the 5 percent local programming guideline, although 22.5 percent of these station were UHF network stations.[37] Additionally, there are recent indications that commercial broadcasters are expanding their news and public affairs commitments in the face of increasing competition from emerging technologies.[38]

46. With respect to commercial practices, the staff conducted an analysis of 60 commercial television stations in Florida, Georgia, and Alabama.[39] This analysis shows that on the average, network affiliates presented just under 11 minutes of commercials per hour during weekdays. The average commercialization for the independent stations surveyed was approximately 8½ minutes per hour. Over the entire survey, only four hours were found in which the 16 minute guideline was exceeded. This represents only 0.33 percent of the total broadcast hours for all 60 stations. A limited sample of commercial time during weekends showed that the average broadcast hour contained just over 7 minutes of commercials. These figures indicate, we believe, that market forces are acting to hold commercial practices far below the guidelines set out in our delegations. If, in fact, this is true, there may be no further utility in preserving those guidelines.

47. In addition to the statistical data set out above,[40] corroborative evidence exists to indicate that the commercial practices of television broadcasters have been, on the whole, reasonable. Based on a study conducted by the Children's Televisions Task Force, the Commission's staff concluded that broadcasters have generally abided by the Commission's commercialization policy with respect to children's programming. This has led the Commission to suspend its active consideration of children's television advertising practices. *See Children's Television Programming and Advertising Practices*, 45 FR 1976, para. 5 (January 9, 1980). Furthermore, the ever-decreasing number of commercial-related complaints lodged by television consumers reflects less viewer

[35] All applicants for new television station licenses, proposed television assignees or transferees, and television renewal applicants submitting long form "audits" must file ascertainment information with the Commission. Each ascertainment study that is submitted to the Commission must be reviewed by the staff.

[36] We welcome further enumeration of the specific costs that commercial licensees incur in fulfilling their ascertainment obligations.

[37] Appendix B contains several Tables showing the extent to which commercial television stations have been meeting the current programming guidelines.

[38] *See, e.g.*, "TV Stations Expand Local Informational Programs as Competitive Weapons Against Cable's Intrusion," *TV-Radio Age*, October 19, 1981, p. 41; and "Indies Fighting Hard for News and Public Affairs Viewers," *TV-Radio Age*, August 10, 1981, p. 40.

[39] Appendix C contains a detailed narrative description of the staff survey. A copy of the survey is available for public inspection.

[40] We invite interested parties to submit any additional quantitative data on commercial broadcaster's programming and commercialization practices.

dissatisfaction with the commercial practices of television licensees. *See Television Overcommercialization*, 49 RR 2d 391 (1981).

48. With respect to program logs, all commerical television licensees are required to complete and maintain a contemporaneous listing of all programs broadcast. The program type and source must also be set forth. Program logs must be maintained for a period of two years. Section 73.1840 of the Commission's Rules. As a general matter, program logs are not submitted to the Commission. However, for those renewal applicants selected to complete the long form audit, a copy of the program logs for a composite week must be submitted. These logs are perused by the Commission to determine whether the licensee has programmed in accordance with the promises made in its previous license application. The Commission also utilizes program logs on an *ad hoc* basis for special studies. For example, program logs were utilized by the staff in the preparation of the commercial time study cited in this *Notice*. According to a 1978 GAO report, the Commission's logging requirements constituted the largest government burden on business in terms of total hours per response and number of total burden hours.[41] According to our calculations, the burden currently imposed on commercial television licensees by our program log requirements exceeds 2,468,000 hours per year. Because the Commission's actual utilization of the program logs is minimal, it is possible that the burdens imposed by our present requirements may not be justified.

49. On the other hand, we are mindful that in the radio deregulation case, the court criticized the Commission for completely eliminating the program log requirements and replacing them with an issues/programs list. The court indicated that the Commission failed "to examine in an orderly fashion the information needs created by its revised scheme and the possible ways in which those needs may be met." *UCC* v. *FCC*, slip op. at 51. Accordingly, any decision on program logs cannot be made in a vacuum. Because we now are proposing to revise our regulatory scheme for television licensees, we think it entirely appropriate concurrently to consider our information needs and to reevaluate the present logging requirements.

[41] GAO, *Federal Paperwork: Its Impact on American Business*, pp. 43, 44 (1978). *But see* n. 32, *supra*.

V. Proposals for Deregulation

50. We now turn to the specifics of our deregulatory proposals. The following paragraphs explain in some detail the policy options which we are interested in pursuing. These options are by no means exclusive, and commenting parties should feel free to fashion any other reasonable option for consideration.[42]

Programming Policy and Guidelines

51. Option I. *Community Issues Programming Obligation.* Under this option, television broadcast licensees would operate under a general obligation to address issues of concern to their communities of license. This programming obligation would be identical to that now required of commercial radio stations.[43] Accordingly, the Commission would no longer officially encourage through the use of processing guidelines the presentation of specific program categories. So long as a broadcaster presented programming reasonably calculated to address issues of concern to the community, the licensee's programming obligation would be met. In approving of this type of issue-responsive programming obligation for commercial radio stations, the court expressed its satisfaction that such a requirement is "faithful to and compatible with the Act, its legislative history, and subsequent judicial and administrative interpretations." Slip op. at 29.[44] The determination of community issues and decisions on how to address the issues would be left to the reasonable discretion of the broadcaster.

52. Under this option, the Commission would not routinely consider a licensee's programming at renewal.[45] The Commission would review a renwal applicant's programming in response to a petition to deny based on the failure of a licensee to present programming designed to address community problems.[46] Petitions to deny based on programming considerations would be expected to present specific facts demonstrating the failure of a licensee to provide issue responsive programming. We note that the Commission is currently exploring the comparative renewal process in another proceeding.[47] Because we have proposed to eliminate program processing guidelines, those wishing to comment on the impact this action may have on our resolution of the comparative proceeding are invited to do so. In the interim we intend no departure from our present practice of designating specialized programming issues only where substantial or material differences exist between proposals. When a programming issue is raised in any context, the Commission's inquiry would focus on the licensee's presentation of issue oriented programming.

53. If this option were adopted, all of the programming delegations of authority would be eliminated. This would include not only the program content guidelines, but also the promise versus performance guideline. Sections 0.283 (a)(8) and (a) (9), respectively. The guidelines would be replaced with a public file requirement expressing the Commission's record keeping requirements, whatever they ultimately might be. Programming issues raised in response to a petition to deny or in the context of a comparative proceeding still could be referred to the Commission on the authority of other existing delegation guidelines.[48] The Commission's programming policy would not be incorporated into the official rules, but would be the subject of a policy statement that would be included in the *Report and Order* in this proceeding.

54. Option II. *Retain Existing Programming Policies, but Amend Current Delegations.* This option anticipates the retention of the Commission's current programming

[42] Because we are considering such varied options, we are not following our usual procedure of including an appendix containing specific proposed amendatory language.

[43] Due to the multiplicity of formats and specialized audiences served by commercial radio stations, radio broadcasters under certain circumstances may be only responsible for responding to the needs and interests of their particular audiences. Certain television stations similarly may find it advantageous to direct their community programming to specific audiences. We seek comment on the appropriate circumstances in which television broadcasters might be entitled to specialize in the presentation of community-oriented programming.

[44] The court indicated that, at least for radio stations, this "bedrock" obligation was sufficient to meet the nonentertainment programming obligations imposed by the Act under the public interest standard. Commenters should indicate whether anything inherent in the nature of television broadcasting would lead to a different result for television licensees.

[45] We would, however, continue to require new applicants to supply a programming proposal for use in comparative proceedings when a programming issue is raised. We seek comments on the nature of the programming statement that might be required.

[46] This procedure comports with those applicable to commercial radio stations as established in the short form renewal and radio deregulation proceedings.

[47] *Notice of Inquiry*, 46 FR 55279 (November 9, 1981).

[48] *See, e.g.*, §§ 0.283(a)(10) and 0.283(b)(1) of the Commission's Rules.

policies as they apply to the encouragement of local, nonentertainment, and informational programming. Existing concepts of promise vs. performance utilized in the renewal context would not be amended. We might, however, based on commercial licensees' performance with respect to our individual programming delegations, reduce or eliminate particular programming categories. For example, the data discussed in Section IV of this *Notice* indicates that the vast majority of broadcasters comply with the guidelines covering informational and nonentertainment programming. Therefore, we may wish to ease those guidelines and allow a certain degree of program experimentation in those categories. This could be done by lowering the percentage standards in the delegations, or by permitting licensees to explain to the staff any proposal not meeting the guideline. Allowing licensees to justify to the staff past performance already is permitted under the ascertainment and promise vs. performance guideline. Similar treatment for initial programming proposals may encourage broadcasters to innovate and allow them more easily to compete with alternative technologies.

Ascertainment

55. Option I. *Eliminate the Ascertainment Obligations.* This option comtemplates the complete elimination of our formal ascertainment obligation for commercial television licensees. The rationale for such an option embodies the notion that, because the video marketplace now is workably competitive, commercial broadcasters are forced continually to ascertain community needs and interests, and program in response to those needs and interests in order to remain viable. As stated earlier, failure to react properly to community issues may result in the ultimate sanction: a turn of the tuning dial. Ascertainment related questions would come up, if at all, only in the context of determining whether a licensee acted reasonably in determining which community issues to address in its programming. This approach was approved by the court for commercial radio station. *UCC* v. *FCC*, slip op. at 41–46.

56. In assessing the continued utility of our ascertainment requirements in light of the increased competition facing commercial broadcasters, we are particularly interested in receiving comments on the costs of complying with existing regulations. As we noted previously, the comments submitted in our radio deregulation proceeding tended to show that the burdens imposed by our ascertainment obligations were significant. We wish to pursue a similar type of cost-benefit analysis with respect to commercial television ascertainment. Procedurally, this option would be implemented by deleting all references to ascertainment in the Commission's rules and abolishing the Primers.

57. Option II. *Retain Ascertainment Obligations without Specifying Procedures.* Under this option, each television licensee would be required to ascertain the needs and interests of its community of license and would be required to document its ascertainment effort. However, unlike our present procedures, licensees would be permitted to utilize any reasonable method in making their determinations. This option recognizes that the purpose of ascertainment is to guarantee an awareness on the part or the broadcaster of the community it serves. There may be an infinite variety of ways to carry out that purpose. Should this option ultimately be adopted, the Commission would not normally inquire into the licensee's ascertainment procedures absent a valid complaint that the licensee failed to meet its programming obligations. In relation to this option, we seek comment on whether the licensee should be required to place its ascertainment survey in its public file or regularly submit it to the Commission as part of each application

Commercialization

58. Option I. *Eliminate all Consideration of Commercialization.* At present, the primary reference in the Commission's rules to commercialization is the 16 minute per hour guideline found in the Mass Media Bureau delegations of authority. Section 0.283(a)(7). Under this first option, we would delete the commercial time delegations without replacing them with some other guideline or policy. Thus, the Commission no longer would consider in any fashion a television broadcaster's commercial load. This option is premised on the belief that competition within the video marketplace will serve as an adequate regulator of commercialization.[49] Also, this option would allow television licensees the utmost discretion in trying new or unconventional commercial techniques. This option thus would leave total discretion to the licensee, which, in turn, would answer only to its viewing public. With respect to radio station commercialization, the court has approved of this policy. *UCC* v. *FCC*, slip op. at 46–48.

59. Option II. *Amend the Delegations of Authority.* If we should decide to retain some direct oversight of television commercialization, we may choose to amend our delegations in an effort to give broadcasters more discretion and thereby encourage experimentation. An amended guideline might call for no more than 16 minutes of commercial matter for no less than 75 percent of the station's operating hours. In this manner, licensees would have total discretion for up to a quarter of their broadcast days to present commercial messages in any way they wished. Also, we could raise the number of minutes in our guideline to, perhaps, 20 minutes per hour. In that way, licensees would have greater leeway while the Commission would retain some power to deal with overcommercialization. Under this option, comments should focus on an appropriate commercial guideline that both encourages new applications of commercials and leaves the Commission some oversight authority.

Program Logs/Reporting Requirements

60. Our program logging requirements are, in part, intended as documentation of a licensee's programming and commercialization practices. Therefore, if our programming and commercialization policies are amended, retention of the present logging requirements might be unnecessary. As noted previously, the Commission is well aware of the court's concerns that some logging requirements may be needed to implement or oversee any newly adopted regulatory regime. However, we are also mindful of the fact the GAO has found our program logging requirements to be an exceedingly time-consuming and expensive burden on licensees. Therefore, interested parties are requested to assess the information collection needs of the Commission in light of the various substantive options listed above and the burdens such reporting might impose on licensees.

61. In the radio deregulation proceeding, we deleted our program logging requirements in favor of a reporting obligation taking the form of an issues/programs list that all radio broadcasters must complete during the year and place within the public file. This includes up to ten important issues of concern to the community as ascertained by the licensee; how those specific issues were determined; and the programming presented that reasonably

[49] The National Association of Broadcasters and the Justice Department have entered into a consent decree that discontinues the NAB commercial code. *U.S.* v. *National Association of Broadcasters*, 533 F. Supp. 621 (D.D.C. 1982). Commenters may wish to address how this action affects our proposals.

was calculated to address those community concerns. In *UCC v. FCC*, however, the court expressed some concern that, given the extensive shift in official Commission policy occasioned by the radio deregulation decision, the Commission had not given sufficient consideration to its new information collection needs. Slip op. at 51. Accordingly, the court remanded the program log portion of the radio deregulation decision and invited the Commission to reassess its present information needs. The Commission accommodated the court by seeking comment on an appropriate level of reporting and record keeping for commercial radio licensees. *Further Notice of Proposed Rule Making* in BC Docket No. 79-219 *(Deregulation of Radio)*, mimeo no. 33492, adopted June 29, 1983.

62. Among the options we wish to explore in this television deregulatory proceeding are those specifically listed in the above-referenced Further Notice. In that document, we stated that our tentatively preferred reporting option involved an exemplary issues/programs list plus some form of log specifying the date, time, duration and issue addressed for all those programs aired that are responsive to issues of concern to the community. We also indicated that issues/programs list alone may be sufficient to oversee and implement our newly instituted policies. Parties may wish to comment on the specific record keeping requirements originally adopted in the radio deregulation proceeding and the propriety of applying those requirements—either solely or in addition to some logging requirement—to commercial television licensees. Alternatively, commenters may wish to address whether a revised program logging rule by itself would satisfactorily meet the Commission's information collection requirements. In presenting their views, parties should keep in mind the Commission's goal of carefully tailoring any reporting or logging rules to assure the collection of truly needed information while minimizing the burdens imposed on those submitting the information.

Reliance on Statutory Requirements

63. In addition to the specific options addressed above, we also seek comment on the option of relying in whole or in part on specific statutory requirements in determining whether licensees have met their public interest responsibilities. Under such a regulatory scheme, the Commission might no longer consider a licensee's programming or ascertainment activities in any context save whether that licensee complied with specific programming obligations set forth in the Communications Act and other statutes.[50] For example, applicants for new television stations might not present programming proposals, nor might programming considerations be grounds for petitions to deny the renewal of an existing station, except for showings that a licensee neglected its statutory obligations. Because programming would not be a subject of Commission consideration, programming issues would not be designated for determination in comparative application proceedings. Essentially, adoption of this option would leave total programming discretion to the individual licensee. Except for statutory requirements, this Commission no longer would make regulatory decisions based on programming. Parties are encouraged to comment on this approach to deregulation and to indicate whether such action appropriately might be taken on a national basis or only with respect to limited local markets exhibiting the greatest variety of competitive elements to the extent that competition is determined to be relevant to the action proposed herein. Finally, comment is solicited as to what effect this approach would have on other Commission processes, particularly the comparative renewal process.

Other Options

64. Certainly the Commission is not rigidly bound by any statement made in this *Notice* when fashioning final programming and commercialization policies. Indeed, we intend to consider fully any other deregulatory proposals submitted in response to the *Notice*. Of course, for all of the four subject areas under consideration, after a thorough review of the record, we may choose to take no action whatsoever and leave our existing policies, rules, and guidelines intact. We invite comment on the benefits of retaining these policies, rules and guidelines. Thus, the proposals we have presented represent the full range of options open to the Commission. Our final actions in this proceeding might fall anywhere along the regulatory policy continuum represented by these options.

VI. Procedural Matters

Regulatory Flexibility Act Initial Analysis [51]

65. Due to the ever increasing number of video delivery systems with which commercial television stations must compete and changing regulatory and philosophical attitudes about government intervention in the operations of business, the Commission believes that a complete review of commercial broadcasters' programming and commercialization obligations is appropriate. The options proposed herein, to varying degrees, are designed to permit commercial television broadcasters to compete freely with alternative media by allowing licensees more discretion in their programming and commercial practices. The proposals are also designed to lighten the reporting and paperwork burdens currently imposed on commercial television broadcasters. Third, the proposed actions would decrease the Commission's oversight of the affected entities, thus allowing the Commission to utilize more effectively its limited resources. These actions are proposed pursuant to Section 303(g) of the Communications Act of 1934, as amended, which charges the Commission to ". . . generally encourage the larger and more effective use of radio in the public interest." Although new reporting or record keeping requirements may be created, these new requirements should be substantially less burdensome than existing requirements. To our knowledge, there are no other federal rules that overlap, duplicate or conflict with this action.

66. The precise extent to which deleting our programming and commercialization guidelines might reduce licensee expenses or increase revenues is unknown. According to our estimations, elimination of the guidelines will reduce the paperwork burden on the industry by approximately 1,153 hours. The proposed amendments to our ascertainment and program logging requirements should substantially reduce licensee expenses. As reported in

[50] Programing requirements specifically imposed on broadcasters by the Communications Act of 1934, as amended, include: the reasonable access provision in Section 312(a)(7); the obligation to provide equal opportunities for political candidates in Section 315; and, the sponsorship announcement requirement in Section 317. Further, the Criminal Code (18 U.S.C.) prohibits the broadcast of lottery information, Section 1304; fraud schemes, Section 1343; and, obscene or indecent language, Section 1464. Additionally, electronic media subject to the Commission's jurisdiction, including broadcasting and cable television, may not be used to advertise cigarettes and small cigars. 15 U.S.C. 1335. Finally, we note that some debate exists as to whether or not the Fairness Doctrine constitutes a statutory programming obligation under the terms of Section 315 of the Communications Act. *See Notice of Proposed Rule Making* in MM Docket No. 83-331, FCC 83-130 (adopted March 31, 1983).

[51] This initial analysis is conducted pursuant to the requirements of Section 603(b) of the Regulatory Flexibility Act, 5 U.S.C. 603(b).

the radio deregulation proceeding, the ascertainment obligation for commercial radio stations cost, on the average, over $3,000 per year, and in some cases costs are as much as $20,000 per year. Because commercial television stations, in the main, are licensed to larger communities than commercial radio stations, we may assume that ascertainment expenses for the average television station are larger than for the average radio station. Thus, the savings incurred from our proposals may be greater than the above-listed figures for radio stations. We estimate that elimination of our ascertainment requirements would result in a 86,630 work hour reduction in the industry's present paperwork burden. Small businesses that provide consulting and research services in connection with the general public ascertainment surveys now conducted by commercial television stations may no longer be hired to provide these services. This could result in some loss of revenue to these small businesses. With respect to our program logging requirements, GAO reports these rules constitute an enormous paperwork burden. A reduction in the program logging requirements could save the industry up to an estimated 2.46 million work hours. Although licensees may continue to maintain comprehensive program logs for their own purposes, minimizing our program logging requirements would substantially reduce government-imposed expenses for commercial television licensees. Some small entities that provide services and consultation to assist in station record keeping, and small entities that market necessary record keeping supplies and equipment may experience some loss of business.

67. Initially, we presume that any modifications to our existing rules and policies would apply to all commercial television licensees regardless of size. As to any options presented, however, commenters are expressly requested to specify whether, consistent with legal requirements in the Communications Act, appropriate exemptions or modifications maight be made to minimize any significant economic impact on small entities.

Rule Making Procedures

68. Accordingly, the Commission adopts this *Notice of Proposed Rule Making* pursuant to the authority contained in Sections 4(i) and 303(g) and (r) of the Communications Act of 1934, as amended.

69. Pursuant to procedures set out in § 1.415 of the Commission's Rules, interested parties may file comments on or before November 2, 1983, and reply comments on or before December 19, 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 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.

70. In accordance with the provisions of § 1.419 of the Rules, 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 1 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, Room 239, 1919 M Street, NW., Washington, D.C. For general information on how to file comments, please contact the FCC Consumer Assistance and Information Division at (202) 632-7000.

71. 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 be 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.

72. For further information regarding this proceeding, contact Robert Ratcliffe, Mass Media Bureau, (202) 632-7792.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

TABLE I.—COMMERCIAL TV STATIONS IN OPERATION

Year	Total	VHF	UHF
1945	6	6	
1950	97	97	
1955	439	294	117
1960	573	441	76
1965	586	487	99
1966	598	491	107
1967	620	497	123
1968	648	504	144
1969	675	506	169
1970	690	508	182
1971	696	511	185
1972	699	510	189
1973	700	511	189
1974	705	513	192
1975	711	513	198
1976	710	513	197
1977	728	517	211
1978	727	516	211
1979	732	516	216
1980	746	517	229
1981	756	519	237

Source: Television Factbook, Services Volume, 1981-82 Edition

TABLE II.—NONCOMMERCIAL TV'S IN OPERATION

Year	Total	VHF	UHF
1955	9		
1960	44		
1965	88	54	34
1966	105	61	44
1967	118	67	51
1968	146	71	75
1969	172	76	96
1970	182	77	105
1971	196	85	111
1972	206	89	117
1973	229	91	138
1974	233	91	142
1975	241	95	146
1976	252	97	155
1977	256	101	155
1978	259	101	158
1979	260	102	158
1980	267	105	162
1981	282	111	171

Source: Television Factbook, Services Volume, 1981-82 Edition

TABLE III.—ESTIMATED GROWTH OF THE CABLE INDUSTRY [1] (AS OF JANUARY 1 OF EACH YEAR

Year	Operating systems	Total subscribers
1952	70	14,000
1953	150	30,000
1954	300	65,000
1955	400	150,000
1956	450	300,000
1957	500	350,000
1958	525	450,000
1959	560	550,000
1960	640	650,000
1961	700	725,000
1962	800	850,000
1963	1,000	950,000
1964	1,200	1,085,000
1965	1,325	1,275,000
1966	1,570	1,575,000
1967	1,770	2,100,000
1968	2,000	2,800,000
1969	2,260	3,600,000
1970	2,490	4,500,000
1971	2,639	5,300,000
1972	2,841	6,000,000
1973	2,991	7,300,000
1974	3,158	8,700,000
1975	3,506	9,800,000
1976	3,681	10,800,000
1977	3,832	11,900,000
1978	3,875	13,000,000
1979	4,150	14,000,000
1980	4,225	16,000,000
1981	4,375	18,300,000
1982	4,625	21,000,000

[1] The change in the number of systems operating each year is determined by three factors: (1) New systems which began operation during the year. (2) Older systems coming to the attention of Television Factbook for the first time and therefore included in the total for the first time. (3) The splitting or combining of systems by operators. Source: Television Factbook, p. 83A, 1981–82 Edition.

Appendix B

The following tables illustrate various percentages of news and public affairs programming, local programming and total nonentertainment programming for VHF network affiliates, UHF affiliates, VHF independents and UHF independents. Satellite stations were not included since they duplicate the parent station's programming and do no local programming of their own. All the data for these tables were compiled from FCC Form 303–A. Only the broadcast hours of 6 a.m. to midnight were used in this analysis. The years 1973–1979 are all inclusive as 1973 was the first year of collecting the data and 1980 data has yet to be processed.

TABLE 1.—7-YEAR AVERAGE FOR EACH GROUP

	Number of stations	Percent news and public affairs	Percent local	Percent total nonentertainment
VHF Net.	424	14.9	10.3	24.4
VHF Ind.	30	9.9	15.8	19.1
UHF Net.	115	12.5	7.0	22.6
UHF Ind.	69	8.2	14.0	28.9
All stations	638	13.7	10.3	24.3

TABLE 2.—7-YEAR TREND FOR VHF AFFILIATES

	Number of stations	Percent news and public affairs	Percent local	Percent total nonentertainment
1973	420	14.4	10.5	23.6
1974	428	14.2	10.6	22.8
1975	423	15.7	10.5	25.6
1976	424	14.8	10.0	24.5
1977	424	15.1	10.0	24.5
1978	426	14.8	10.0	24.6
1979	425	15.5	10.2	25.3

TABLE 3.—7-YEAR TREND FOR VHF INDEPENDENTS

	Number of stations	Percent news and public affairs	Percent local	Percent total nonentertainment
1973	29	9.6	17.9	20.6
1974	29	9.8	18.0	17.8
1975	30	10.4	16.2	18.7
1976	28	10.4	15.3	19.0
1977	31	10.2	14.6	20.0
1978	30	9.8	14.5	19.4
1979	30	9.1	14.6	18.3

TABLE 4.—7-YEAR TREND FOR UHF AFFILIATES

	Number of stations	Percent news and public affairs	Percent local	Percent total nonentertainment
1973	109	12.1	7.6	20.5
1974	114	11.3	7.2	19.0
1975	112	13.2	7.0	22.8
1976	116	12.5	6.9	22.7
1977	117	12.7	6.7	23.6
1978	118	12.3	6.9	23.9
1979	118	13.2	7.1	25.0

TABLE 5.—7-YEAR TREND FOR UHF INDEPENDENTS

	Number of stations	Percent news and public affairs	Percent local	Percent total nonentertainment
1973	53	7.0	13.4	18.2
1974	61	7.8	15.1	22.1
1975	64	9.0	15.0	25.8
1976	69	9.0	15.0	29.3
1977	73	9.8	14.6	31.5
1978	74	7.5	12.9	32.8
1979	80	7.4	12.9	34.6

TABLE 6.—NATIONAL AVERAGE FOR EACH YEAR

	Number of stations	Percent news and public affairs	Percent local	Percent total nonentertainment
1973	611	13.3	10.5	22.6
1974	632	13.0	10.6	21.8
1975	629	14.5	10.5	24.8
1976	637	13.7	10.1	24.4
1977	645	13.9	10.1	24.8
1978	648	13.4	9.9	25.0
1979	663	13.9	10.1	26.1

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Table 7

Frequency Distribution by Type of Station for Three Program Categories--A Seven-Year Average(1973-1979)

	News and Public Affairs				Local Programming				Total Non-Entertainment			
% Of Broadcasting Hours	VHF Net.	UHF Net.	VHF Ind.	UHF Ind.	VHF Net.	UHF Net.	VHF Ind.	UHF Ind.	VHF Net.	UHF Net.	VHF Ind.	UHF Ind.
0-4.9	0.2	0.7	1.9	39.5	4.2	22.5	5.3	27.9	0.0	0.0	0.0	1.0
5-9.9	5.3	18.7	55.1	36.0	49.2	64.6	20.8	28.9	0.3	0.9	1.4	7.0
10-14.9	46.7	62.2	35.7	11.2	34.4	11.3	33.8	12.4	2.2	5.2	19.8	20.5
15-19.9	42.2	18.0	6.8	5.0	10.0	1.2	14.5	7.2	12.2	24.5	44.0	17.8
20-24.9	5.4	0.4	0.5	2.1	1.9	0.4	5.3	6.4	41.3	39.6	20.8	9.9
25-29.9	0.3	-	-	1.0	0.2	-	10.6	3.7	34.5	24.0	11.1	8.7
30-34.9	-	-	-	1.0	-	-	5.3	2.5	8.4	4.1	1.4	4.3
35-39.9	-	-	-	1.0	-	-	1.9	1.7	1.0	1.4	0.5	4.8
40+	-	-	-	2.5	-	-	1.5	9.3	0.1	0.4	1.0	26.0

below guidelines

Appendix C—Analysis of Commercial Time

An analysis was conducted of the number of commercial minutes aired on all commercial television stations in Florida, Georgia, and Alabama. These states were chosen because they were in the most recent license renewal periods and their program logs were thus readily available.

A number of other stations were in the two renewal groups under consideration but were not included in the sample because of their particular circumstances. Puerto Rico and the Virgin Islands fell into the same renewal period of Florida, but were not included in the analysis because we did not consider their stations to be representative of mainland stations.

Of the 60 stations which were included in the three-state sample, 55 were network affiliates and five were independents. In addition, there were several additional stations that were operating with construction permits but had not been fully licensed and, therefore, did not submit renewal forms with program logs. Finally, there was one religious station that had no commercials. As a consequence of these various situations, these stations were not included in our analysis.

For analytical purposes, one day of the composite week, Thursday, was randomly chosen. In addition to this basic analysis, a small sample of weekend commercial time was separately analyzed. Results from that analysis also are discussed.

Commercial Time of Network Affiliates

An analysis of the entire broadcast day (sign-on to sign-off) showed that the 55 network affiliates in the sample averaged just under 5 minutes of local commercials per broadcast hour.[1] When the network average of about 8 minutes, 30 seconds of commercials per hour of network programming is added to this local commercial figure, a combined average of 13 minutes 30 seconds of total commercial time during network programming is reached.[2] Of course, this is an overstatement of the true average for the entire broadcast day because the amount of commercial time varies throughout the day and is less on average during non-network hours.[3] For example, during prime time the NAB code suggests a 9 minute, 30 second limit on commercial matter.[4] It is during prime time that the networks average about 6 minutes of commercials and the affiliate typically adds about one minute, 30 seconds of their own commercials, thereby not exceeding the guidelines set by NAB. When affiliates are clearing network programming, there is an inverse relationship between the amount of time devoted to network originated commercials and local commercials so that neither the NAB nor FCC guidelines will be exceeded. In other words, as more time is accounted for by network commercials, less time can be apportioned to local commercials since the station must not exceed an upper constraint of either 9 minutes, 30 seconds for NAB's prime time limit nor the FCC guideline of 16 minutes.

Another approach to deriving the amount of commercial time aired by the affiliates in our sample and one which may give a more accurate estimate is to consider the typical network affiliate commercial make-up. As discussed earlier this type of station airs an average of 100 minutes, 20 seconds of local commercials per day; clears an average of 119 minutes, 50 seconds of network commercial minutes, and broadcats an average of 20 hours, 15 minutes per day. By adding the average number of local commercial minutes aired by an affiliate per day to the average number of network commercial minutes per day and then dividing by the average number of broadcast hours by an affiliate per day, the resulting figure of about 10 minutes, 52 seconds of commercials per hour is reached.[5]

By actually adding the number of network commercial minutes to logged local commercials from each station's Thursday log, it was found that two CBS affiliates were 1 minute, 10 seconds over 16 minutes in the same hour. This occured when both had a half hour of local news and then aired the first half hour of the CBS late night movie. Another affiliate was 40 seconds over the limit during the 6–7 pm slot when broadcasting local news and an episode of MASH.

Commercial Time of Independents

In examining logs of the five independent stations in the sample, there was only one hour where the amount of commercial time exceeded 16 minutes. WLTV, a specialty station in Miami, logged 16 minutes, 20 seconds for one hour of the sampled Thursday. There was no other single hour of an independent's time that approached 16 minutes per hour. In fact, the next highest count was 13 minutes, 30 seconds for one hour. The average for the five independents for the entire broadcast day was 8 minutes, 36 seconds per hour.[6] This is significantly less than the 10 minutes, 52 seconds per hour average found for affiliates.

The four hours where the 16 minute limit was exceeded (3 on affiliates and one on an independent) represent 0.33% of the total broadcast hours for all 60 stations. In other words, 99.67% of all broadcast hours were within the guidelines. This result is comparable with recent NAB data that showed that of over 71,000 broadcast hours monitored, 99.84% were within NAB guidelines.[7] The sample used by NAB was almost 60 times larger than the one used in our analysis yet the percentages are quite close. Both figures are higher than the data compiled for the radio deregulation effort which showed that 98.71% of the hours observed contained a quantity of commercials less than the 18 minute commercial guideline for radio.[8]

Weekend Commercial Time

The commercial time aired by a seven station sample of network affiliates was compiled and revealed an average of

[1] In total, stations averaged 100 minutes, 20 seconds of local commercials for the broadcast day. This sum divided by an average of 20 hours, 15 minutes of air time per station yields an average of 4 minutes, 57 seconds per hour.

[2] There was an average of about 14 hours of network programming by each network for the randomly selected Thursday. The average amount of commercial time on a network for that day was 119 minutes, 50 seconds. Therefore, the average per hour was 8 minutes, 30 seconds.

[3] Station program logs have two purposes—engineering and billing. They inform engineering personnel when to air broadcast material and act as transcripts of commercial record keeping for billing. As such, there is no need to log or be aware of commercials that are within blocks of pre-recorded syndicated programming or programming sent down to affiliates from the networks. Consequently, logged commercial time during any broadcast hour that included syndicated programming may not reflect total commercial time. However, commercials that are network originated but not logged by stations have been determined from documents which the networks supplied to their affiliated stations and are accounted for in this study.

[4] We realize the NAB commercial code has been suspended. However, it was in effect during the studied station's most recent license terms.

[5] Mathematically:

$$\frac{[100 \text{ min., } 20 \text{ sec.} + 119 \text{ min., } 50 \text{ sec.}]}{20 \text{ hours, } 15 \text{ minutes}} = 10.87 \text{ min./hr.}$$

[6] One independent in the sample operated in an STV mode for a portion of the day. Those pay broadcast hours were not included in determining the average.

[7] Source: NAB Code Authority.

[8] FCC Public Notice, January 11, 1980, Report No. 15448, Table 24.

only 62 minutes, 48 seconds of local commercial minutes per day. This figure is substantially lower than the average of 100 minutes of local commercials per affiliate for the Thursday used in the weekday sample. Similary, the networks average only 77 minutes, 25 seconds of commercials on either Saturday or Sunday. This is also substantially lower than the Thursday average of 119 minutes, 50 seconds. Given that both the network and local commercial minute totals are lower on the weekends, the likelihood of any commercial overages occurring is minimal. In fact, the average number of commercial minutes per hour for the weekend is about 7 minutes, 9 seconds as compared to about 11 minutes per hour for Thursday.

Separate Statement of Commissioner Mimi Weyforth Dawson

This rulemaking [1] gives the Commission a tremendous opportunity to take significant steps towards the elimination of Commission-generated policies. [2]

In particular, I view the comments in three areas as critical:

(1) *Description of the Video Market.* If the Commission is to rely in whole or in part on "competition" in the video market as a rationale for significant television deregulation, then it is important to have a clear idea as to what that market is. Thus, it is significant that the Commission asks for comments on the scope of both the product and geographic markets for television and whether the relevant geographic market should be viewed primarily as a local or a national market. *NPRM* at para. 23. This information will be especially important since it will potentially impact the Commission's approach to ownership issues as well.

(2) *Alternative Rationales.* It is also critical that this rulemaking essentially asks whether the Commission must find a "competitive" market, as it did in the radio deregulation decision,[3] in order to take the deregulatory steps which the NPRM proposes. I am not convinced that "competition" must be the exclusive basis for deregulation,[4] and in this regard, the NPRM proposes several alternative theories which may form the basis for a decision deregulating television.[5] The most promising of these alternative rationales seems to be a straightforward cost-benefit analysis. *NPRM* at para. 38. Quite simply, if the subject rules and policies do little or nothing to advance their various goals, then they would be likely candidates for elimination, especially where the costs to broadcasters are substantial. *Id.* It will undoubtedly be important for commenting parties to consider not only the paperwork burdens imposed by the subject rules and policies but also such burdens as reduced editorial discretion and licensee flexibility. *Id.*

(3) *Option of Reliance on Statutory Requirements Alone.* Most important, this NPRM asks whether and to what extent the Commission may rely on the relevant statutory requirements of the Communications Act rather than on Commission-imposed obligations.[6] In essence, the NPRM asks whether the time may have come for a return to the regulatory basics of the Act and for the repudiation of the regulatory baggage that the Commission—not the Communications Act—has imposed on television broadcasters.

Such an approach, in my reading of the Act, would mean that: (1) there would be no requirement to ascertain communities of license; (2) there would be no commercialization standards; (3) there would be no requirement for certain kinds of programming, except for those required by the Act, particularly Sections 312(a)(7) and 315 of the Act, 47 U.S.C. §§ 312(a)(7), 315 (1976);[7] and (4) there would be no program log requirement, except for those logs necessary to assure compliance with statutory programming obligations.[8] Obviously, this approach would go further than the FCC was willing to go in the radio deregulation decision, where the Commission replaced formal programming and ascertainment requirements with more general standards.[9] However, it should be noted that a similar approach was proposed in the radio deregulation NPRM although it was not finally adopted.[9]

My initial reaction is that the statutory approach has much to commend itself to the Commission, the television industry and, most important, the American public. First, such an approach would avoid the largely ritualistic regulatory burdens imposed by the Commission for no particular statutory reason. Moreover, it has become painfully clear in recent years that concepts such as ascertainment and

[1] Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations,—— F.C.C. 2d —— (FCC 83-313, adopted June 29, 1983) [hereinafter *NPRM*].

[2] Deregulation of Radio, 84 F.C.C.2d 968 [hereinafter *Radio Deregulation*] *reconsideration granted in part*, 87 F.C.C.2d 797 (1981), *aff'd in part and remanded in part sub nom.* Office of Communication of the United Church of Christ v. Federal Communications Comm'n, ——F.2d —— (D.C. Cir., May 10, 1983) [hereinafter *Radio Deregulation Appeal*].

[3] For example, the Commission did not rely on "competition" in its decision exempting small-market radio and television licensees from formalized ascertainment procedures. Ascertainment of Community Problems by Broadcast Applicants, 78 F.C.C.2d 444 (1980), *modified* 86 F.C.C.2d 798 (1981), *aff'd sub nom.* National Black Media Coalition v. Federal Communications Comm'n, 706 F.2d 1223 (D.C. Cir. 1983).

[4] Among the alternative rationales are: (1) the burden of conventional television regulation vis-a-vis other video delivery technologies, *NPRM* at para. 35; a Congressional policy against "over-regulation," *NPRM* at para. 36; and the impact of regulation on first Amendment values, *NPRM* at para. 37.

[5] The subject rules and policies present a remarkable history of regulatory accretion. For example, neither the Radio Act of 1927 nor the Communications Act of 1934 contained explicit requirements that broadcast stations present particular kinds of programs or that they ascertain their local communities. In fact, except for the gradual development of the Fairness Doctrine, *see* Editorializing by Broadcast Licensees, 13 F.C.C. 1246, 1247–48 (1948), both the Radio Commission and the Communications Commission avoided the erection of "a rigid schedule specifying the hours or minutes that may be devoted to one kind of programming or another," *Federal Radio Comm'n, Annual Rep't* 32 (1929). However, in 1960 the Commission imposed an affirmative obligation on broadcasters to provide programming to their communities in response to the ascertained needs and interests of the community and, in fact, listed 14 program types "usually necessary to meet the public interest, needs and desires of the community." En Banc Programming Inquiry, 44 F.C.C. 2303, 2314 (1960). In 1973, despite its previous statements, the Commission added a 10 per cent informational programming "guideline" for the staff in acting on applications. Amendment of Part O of the Commission's rules, 43 F.C.C.2d 638 (1973). And in 1975, the Commission decided that all applications proposing less than five per cent "local" and less than five per cent "informational" programming should be referred to the Commission for action. Amendment to Section 0.281 of the Commission's Rules 59 F.C.C.2d 491 (1976). Thus, in less than 40 years, the Commission has gone from the generalized requirement of the Fairness Doctrine that licensees cover various views on controversial issues of public importance to a system whereby the federal government prescribes the types—and in some cases the amounts—of programming for broadcast licensees.

[6] If the Commission ultimately chooses to rely in whole or in part on statutory compliance, it will be necessary to know exactly what is required by the Communications Act and what is not. *See* NPRM at n.50. To the extent that the Fairness Doctrine is found to be statutory, *see id.*, The obligation to present differing views of controversial issues of public importance would, of course, survive should the Commission opt for the statutory approach.

[7] *See Radio Deregulation Appeal*, sl. op. at 48–56. *See also Radio Deregulation*, 48 FR (1983).

[8] The radio deregulation decision is perhaps more accurately denominated radio "reregulation" since its primary effect seems to have been the reformulation of Commission-imposed standards rather than the elimination of such standards. In fact, Commissioner Fogarty concurred in the decision "not because it 'deregulates' radio—it does not—but because it rationally refines the public interest obligations of radio station licensees in light of the contemporary reality of the radio marketplace." *Radio Deregulation* at 1119 (concurring opinion).

[9] Deregulation of Radio, 73 F.C.C.2d 457, 529–32 (1979).

generalized programming requirements have grown to encumber other Commission processes, particularly the Commission's comparative process. In addition, they clearly impinge on broadcasters' First Amendment choices. Finally, a statutory approach would avoid what I view as a critical failing of the radio deregulation decision: the replacement of specific ascertainment and programming guidelines with amorphous ones.[10]

I do not accept the view that the current FCC may do no more with regard to television deregulation than retrace the steps of a prior Commission with regard to radio deregulation. Courts have consistently recognized that the Commission, as an expert regulatory agency, is entitled to great deference in its policy decisions [11] and that its statutory construction should be followed unless clearly incorrect.[12]

In this regard the *WNCN* case [13] is particularly instructive. There, the Court reversed an appeals court decisions that the Commission was statutorily obligated to review certain entertainment format changes of broadcast stations. The Court found that the Commission had made a "reasonable explanation" of its preference not to inquire into entertainment format changes, 450 U.S. at 603, and stated.

As we read the legislative history of the Act, Congress did not unequivocably express its disfavor of entertainment format reviewed by the Commission, but neither is there substantial indication that Congress expected the public-interest standard to *require* format regulation by the Commission. The legislative history of the Act does not support the Court of Appeals and provides insufficient basis for invalidating the agency's construction of the Act.

450 U.S. at 597–98 (emphasis in original). Similarly, in the instant situation, nothing in the Act appears to *require* the Commission to impose ascertainment and informational programming obligations on broadcasters, Accordingly, assuming the Commission could provide a reasonable explanation of its action, nothing appears to keep the Commission from relying exclusively on the strictures of the Act in this area.

Similarly, I find nothing in a statutory approach which is necessarily inconsistent with the court's decision in the radio deregulation appeal. Indeed, the court specifically noted that the Commission's original "preferred approach" has been "to rely totally on the market and the decisions of individual licensees to set the amounts and types of nonentertainment programming." *Radio Deregulation Appeal*, sl. op. at 23. However, since the FCC did not ultimately adopt this approach, the court stated no opinion on it, finding that it "need not consider whether the Act would permit the Commission to reply solely on market forces in the area of nonentertainment programming." *Id.* at 23, n. 34.

In short, I see no reason why the Commission may not view the radio deregulation decision as a point of departure rather as an absolute limit. And my initial reaction is that reliance on statutory requirements rather than Commission-generated standards is the best hope of bringing significant deregulatory relief to television licensees and more diverse program choice to the American people.

Concurring Statement of Commissioner Henry M. Rivera

Re: Notice of Proposed Rulemaking to Revise Commercial Television Licensing Policies.

My concurrence in this Notice of Proposed Rulemaking is premised on the belief that the Commission should periodically reexamine its policies and procedures to see whether they can be improved. Most of the guidelines, policies and rules under study here have not been comprehensively revisited—as they apply to commercial television—for a decade or more.[1] Therefore, although I emphatically disagree with the Notice's suggestion that the television industry is ripe for substantial deregulation, I do not object to its issuance because the options outlined specifically include proposals that would improve, rather than eliminate, the existing regulatory structure.

Despite this acquiescence I differ fundamentally with the reasons given for launching this broadly-gauged review. My objections are detailed at greater length below. Initially, however, it bears emphasizing that regardless of how this proceeding may be publicly characterized, it does not, and could not, propose complete television deregulation. *That* is possible only by legislation. Recent judicial decisions confirm that licensees remain, by law, public trustees, whose fiduciary status carries with it binding public service obligations.[2] As the court of appeals has once again confirmed:

The regulatory scheme that Congress envisioned for the broadcast industry was a unique hybrid of private sector ownership of the broadcast licenses tempered by public service responsibilities; in return for "free and exclusive use of a limited and valuable part of the public domain," broadcasters were to be "burdened by enforceable public obligations."[3]

These public obligations may not be nullified by the philosophical predilections of this or any other Commission. Thus, any revision of the existing regulatory scheme must retain rational procedures to measure a licensee's service to the public. It must also preserve the public's opportunity to contribute meaningfully to our licensing decisions. The right of citizens to participate in our statutory public interest determinations is a "crucial" safeguard, one which the Commission may not indirectly undermine.[4]

Some of my fellow commissioners are apparently inclined to defer oversight of the television industry "to the marketplace" except where the Communications Act expressly requires otherwise.[5] In my judgment, pursuing

[10] The transmutation of vague ascertainment guidelines into specific ascertainment requirements should be instructive to the Commission as it approaches deregulation. In 1960 the Commission found that broadcast licensees were obligated "to make a positive, diligent and continuing effort, in good faith, to determine the tastes, needs and desires of the public in his community" En Banc Programming Inquiry, 44 F.C.C. at 2314. After several years of case law development, the Federal Communications Bar Association asked for some "clarification" of the Commission's standard, and the Commission obligated with numerous, specific rules regarding ascertainment. Ascertainment of Community Problem, 27 F.C.C. 2d 65u (1971). It was the ritual of that clarifications that the Commission largely repudiated in the radio deregulation decision as it returned as to a standard of allowing radio licensees to ascertain "by any reasonable means." *Radio Deregulation* to 993. It takes no great analytical skill to discern a disturbing pattern here, and I hope that our decisions in this proceeding will do something more than start a similar metamorphosis.

[11] *E.g.*, Federal Communications Comm'n v. National Citizens Committee for Broadcasting, 436 U.S. 775, 810 (1978).

[12] *E.g.*, Red Lion Broadcasting Co. v. Federal Communications Comm'n, 395 U.S. 367, 381 (1969).

[13] Federal Communications Comm'n v. WNCN Listeners Guild, 450 U.S. 582 (1981).

[1] Although some regulations function so effectively that their review by notice and comment would be wasteful, I cannot unequivocally vouch for the efficacy of regulations under study in this Notice.

[2] *See Office of Communication of United Church of Christ* v. *FCC*, No. 81–1032 (D.C. Cir. May 10, 1983) (*"UCC* v. *FCC"); Central Florida Enterprises, Inc.* v. *FCC*, 683 F.2d 503 (D.C. Cir. 1982).

[3] *UCC* v. *FCC*, *supra*, slip op. at 24–25 (citation omitted).

[4] *Id.* slip op. at pp. 52–53.

[5] It is difficult to respond fully to the proposal that the Commission forswear all behavioral regulation except where required by statute, *see* para. 63, since the Notice advances neither policy nor legal support for this dramatic regulatory shift. However, it is worth observing that the FCC has already rejected such an approach for radio as administratively unworkable and of dubious legality. *See Deregulation of Radio*, 84 FCC 2d 968, 1022, 1069–71 (1981). The likely success of implementing in television what was just rejected for radio—after extensive study and public comment—is dim indeed. Consequently, I see no constructive public purpose to be served by inviting comment on the issue.

that course before recently planted seeds of new competition fully mature, even if it could be legally justified, would work a profound disservice on the television viewers of this country, and could only be perceived as reflecting gross indifference to our mandate to regulate "for the benefit of the public, not for incumbent broadcasters.[6] Common sense and experience confirm that the two sets of interests are *not* always synonymous, and that the broader public interest will not be fully satisfied in the existing television marketplace absent continued selective regulatory involvement.[7] Any action ceding substantial new discretion to television licensees must be scrutinized closely to ensure that it does not undermine the public's interest *sub silentio*.

With these principles firmly in mind, I turn to my specific problems with the Notice. The Commission sets forth three primary arguments for reducing television regulation. The first two are wholly unpersuasive. The Notice suggests that: (1) Growing competition in the television marketplace may offer an effective substitute for attaining the goals underlying FCC regulations; (2) regardless of the competitive condition of the television industry, our policies disadvantage licensees in competing with other, less regulated video services; and (3) in any event, existing federal policy disfavors burdensome and costly regulations.

As for the first contention, it is undeniable that television is a competitive industry; that has long been the case. However, in premising and fundamental policy shift on the degree of competition in television broadcasting, the Commission must have evidence that there has been a substantial increase in the number of outlets competing for the local television viewer. Only then can we plausibly assert that spectrum scarcity—the longstanding rationale for content-related regulation—has been reduced to such an extent that the FCC can largely rely on competitive market incentives to ensure that all major programming needs are satisfied and that all significant issues are aired.

Judged by that standard, it cannot be demonstrated that today's video market is fundamentally different, *nationwide*, than it was ten or twenty years ago.[8] Nevertheless, the Notice is somewhat schizophrenic about the present level of competition in television. On the one hand, it frankly acknowledges that recent FCC efforts to expand television viewing alternatives nationwide have not yet advanced much beyond regulatory fantasy; or the other, it suggests that a "burgeoning multitude" of video sources is spurring television licensees to render the most desirable program service. Whatever position the Notice means to espouse, it does not, nor could it, rebut the fact that conventional over-the-air television continues as the dominant video medium for a majority of the public. In other words, while the prospects for greater diversity seem bright, the choice of video service available to most Americans today is scarcely wider than it was before most of these rules and procedures were adopted.[9] One need only witness the recent astronomical sales prices of major market television stations—both VHF and UHF—to confirm that scarcity of television signals is still very much with us today.

The Commission's appraisal of the competitiveness of the existing video marketplace would have been considerably aided, and the necessity for comment on the issue substantially foreshortened, by meaningful consideration of the detailed report published just 18 months ago by the House of Representatives' Subcommittee on Telecommunications, Consumer Protection and Finance. That study is the most comprehensive assessment of competition in television performed outside the FCC. The Notice's failure to address these findings lends credence to the view that the Commission's bottom line in this proceeding is predetermined. After exhaustive factual, economic and policy analysis, the Subcommitee concluded that despite the advent of increased choices in some markets, "[i]f the argument for deregulation of television broadcasting is that the competitive infusion of the new technologies has overcome an pre-existing scarcity, thus reducing or eliminating the former's position of market dominance, the argument must fail."[10] The Subcommittee's conclusions are amply supported by an extensive record and I fully concur in its judgment that "the burden falls on those who urge deregulation in the absence of sufficient competition to demonstrate how the public interest will be protected."[11] The analysis set forth by the Commission in this notice falls woefully short on this score.

Unlike commercial radio, where since 1965 the number of outlets has swelled by several thousand to a current total of nearly 9,000 stations, the ranks of commercial television licensees have increased by roughly two hundred (to approximately 800 stations) during the same period. Although 90 percent of the public receives at least four television signals, that is hardly the abundance witnessed in radio, where the number of outlets exceed outstanding television authorizations by a factor of ten.

The Commission's radio deregulation rulemaking noted fundamental structural differences between television and radio. Those distinctions still exist. For example, the FCC recognized that while both radio and television were part of a larger information market, the television industry's growth has been far more limited due to considerable technical constraints.[12] The Commission also found that in contrast to the pronounced trend toward specialization in radio, the economics of television encourge licensees to offer broad, common denominator programming, thus diminishing their capacity to respond to specialized needs.[13] Finally, the Commission observed that in sharp contrast to radio, television has achieved a prominent, if not paramount, role in informing and educating our society.[14]

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[6] *Central Florida Enterprises, Inc.* v. *FCC, supra*, 683 F.2d at 507.

[7] *See generally Notice of Proposed Rulemaking In the Matter of Children's Television Programming and Advertising Practices*, 75 FCC 2d 138 (1980) (inviting comment on task force findings that industry's self-regulatory efforts have failed and that public demand for additional children's programs is unlikely to be met in the present marketplace absent direct regulatory intervention).

[8] It is true that some markets boast a multitude of video services, including VHF and UHF television, cable and STV. However, those markets are the exception rather than the rule. Where there is robust competition among numerous competing firms and types of service, more significant deregulatory measures may well be called for. *See* U.S. House of Representatives Committee on Energy and Commerce, *Telecommunications in Transition: The Status of Competition in the Telecommunications Industry*, 97th Cong. 1st Sess. 374–76 (1981). On the other hand, the Commission cannot take broadly based deregulatory steps today premised on the hope or expectation that a multiplicity of video outlets will develop tomorrow.

[9] At this time, cable systems provide the only significant alternative to over-the-air television. And although cable penetration has deepened impressively in the last decade, cable television is still available in only about one-third of this nation's homes.

[10] U.S. House of Representatives Committee on Energy and Commerce, *Telecommunications in Transition: The status of competition in the Telecommunications Industry*, 97th Cong. 1st Sess. 375–76 (1981).

[11] *Id.* at 376.

[12] *See In the Matter of Deregulation of Radio*, 73 FCC 2d 457, 484–86 (1979).

[13] Id., 73 FCC 2d at 486–87.

[14] Television may well be the primary source of news and information for most Americans, who rely on it for exposure to issues of local and national importance. *See* 73 FCC 2d at 486. Any action reducing Commission oversight of television must be especially sensitive to this fact and must be calculated to preserve undiminished the public's access to "diverse social, political, aesthetic, moral

In view of the significant differences between television and radio, any attempt to pattern "television deregulation" after our radio deregulation order could be achieved after only the most searching analysis. However, this Notice scarcely acknowledges the existence of distinctions between the two media, tersely observing that "[i]nterested parties may wish to comment on whether these [unspecified] differences should affect our thinking with respect to amending our commercial television rules and policies." *See* Notice at para. 34.

The Notice's second premise—that these policies and rules are ripe for review because they hinder licensees' ability to compete with less regulated media forms—is little more than a paper tiger. As the Notice concedes, neither DBS nor LPTV is now a reality, nor is there any prospect for their becoming widely available in the immediate future.[15] The same is true of STV and MDS, neither of which presently reaches more than one million viewers. Accordingly, there can be no material competitive disadvantage as far as these services are concerned. Cable television, the only service that has made competitive inroads into the broadcast television market, is not subject to the identity panoply of rules applicable to broadcasters, but is often more extensively regulated by local franchise authorities. Thus, to the extent there are disparities between cable and broadcast regulation, they are not likely to dampen television licensees' incentive to compete and to innovate; in any event, the Notice has made no case to the contrary.

The final argument for revising these rules—the growing federal policy against overregulation—is the only persuasive basis supplied for going forward.[16] Over time, our administrative intervention into broadcaster's daily activities may have become more intrusive than reasonably necessary to protect the public interest.[17] With the advantage of hindsight, it appears that the cost of complying with certain requirements—the ascertainment primers, for example—may indeed outweigh their public interest benefits, and that our programing guidelines, *as now structured*, may not optimally serve the public interest. Therefore, while I do not propose at this time to abandon ascertainment, non-entertainment programing, commercialization and logging requirements altogether, I am receptive to schemes that would permit television licensees to meet their public interest requirements in a less burdensome manner. In other words, my initial view is that it may be possible to achieve the public interest objectives at the heart of these procedures through more finely tuned administrative tools. All constructive ideas along these lines will receive my most careful attention.

In conclusion, I have considerable reservations about this Notice. Therefore, I hope these proposals will attract robust comment and debate by affected licensees, the general public they serve, and all other interested parties. The Commision cannot properly discharge its public interest mandate in an information vacuum. If our policies are misguided or unduly burdensome, it is incumbent upon the public to identify these failings, and if possible, to propose alternatives also calculated to safeguard the public interest. In the final analysis, of course, this Commission bears the responsibility for protecting the paramount interests of this nation's viewers and listeners. Absent legislative change, our statutory stewardship may not be delegated to licensees in the name of deregulation or any other popular ideology.

[FR Doc. 83-22430 Filed 8-16-83; 8:45 am]
BILLING CODE 6712-01-M

and other ideas. *See Red Lion Broadcasting* v. *FCC*, 395 U.S. 367, 390 (1969). This Notice unfortunately reflects no such insight or sensitivity.

[15] The Notice's apparent concern over the competitive injustice resulting from the fact that DBS and LPTV are minimally regulated is seriously misguided. In each case, the Commission's rationale for refraining from detailed regulation was carefully tailored to the unique attributes of the service being authorized. With respect to DBS, we concluded that it would be inappropriate to subject a service of unknown viability to extensive regulation during the initial "experimental" period; however, the Commission committed to revisit the matter before adopting permanent regulatory policies. *See Direct Broadcast Satellites*, 90 FCC 2d 676 (1982). The viability of LPTV is similarly undetermined, and the sharply limited range and preemptible status of those stations render them, at best, supplements to conventional television service. *See Low Power Television Service*, 51 RR 2d 476 (1982). Having couched its regulatory judgments in these limited terms, it would be disingenuous in the extreme for this agency suddenly to bootstrap significant commercial television deregulation on the fact that its DBS and LPTV decisions prejudice conventional broadcasters.

[16] It is argued that a "straightforward cost/benefit analysis" may supply another rational for reducing these regulations. This approach is substantially a restatement of the third justification advanced, since many recent federal initiatives against burdensome regulation are essentially based on this calculus. In any event, at the risk of stating the obvious, a regulation should not be rescinded merely because it imposes costs. Furthermore, even if a regulation's costs outweigh its public benefits, the Commission is obliged to consider less burdensome alternatives before reflexively repealing it. *See UCC* v. *supra* note 2, slip op. at 48-52.

The Notice also maintains that licensees will remain responsive to the public absent present requirements because: (1) Most licensees exceed the programing guidelines and generally air less commercial matter than specified by the commercialization guideline; and (2) if a broadcaster is unresponsive, it will invite "the ultimate sanction: Viewers will stop viewing." *See* Notice at para. 43. The persuasiveness of these arguments is extremely limited. The fact that most licensees comply with FCC programing guidelines is unremarkable—after all, those guidelines were intended to reflect industry norms so the Commission's oversight resources could be reserved for exceptional license renewal applications. As for the latter claim, given that the economics of television foster mass appeal programing, the contention that dissatisfied viewers can substantially affect television choices is fundamentally flawed. It is altogether irrelevant as to demographically undesirably groups (*i.e.* those with limited purchasing power), whose "sanction" is unheard in this marketplace, and for residents of communities with limited video alternatives.

[17] I must confess some bewilderment, however, over the industry's apparent enthusism for this rulemaking. At least part of the scheme under review here was prompted by licensees in the interest of certainty and security. That certainty has been undermined to some extent by the FCC's failure to promulgate understandable comparative renewal standards. If the most deregulatory options proposed herein are adopted, a licensee's certainty about what service is necessary to obtain a "renewal expectancy" would be further reduced (as would the FCC's ability to fashion managable and meaningful comparative renewal standards) because evaluation of licensee performance would inescapably require more subjective administrative judgments. *See also Deregulation of Radio*, 84 FCC 2d 968-898 (1981) (licensee not intitled to comparitive renewal expectancy for "minimal service," which consists of "performance of all statutory obligations (i.e., Fairness Doctrine, access by the candidates for federal elective office, etc.) and minimal although adequate, attention to the issues confronting the licensee's community primarily, and service area outside its community secondarily"). In such an environment, a substantial number of licensees would probably adhere to existing requirements in an effort to insure against a petition to deny or competing application, thereby negating the claimed benefits of reduced regulation. *See also Simon Geller*, 90 FCC 2d 250 (1982), *appeal docketed sub. nom. Committee for Community Access* v. *FCC*, No. 82-2314 (D.C. Cir. Nov. 2, 1982).

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47 CFR Part 73

[MM Docket No. 83-834; RM-4440; RM-4502]

FM Broadcast stations in Guadalupe and Luis Obispo, Calif. Proposed Changes in Tables of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposal rule.

SUMMARY: This consolidated action proposes FM channel assignments for Guadalupe and San Luis Obispo, California, in response to petitions filed by Dellar-Davis Broadcasting Company and William V. Johnson, repectively.

DATE: Comments must be filed on or before September 26, 1983, and reply comments on or before October 11,1983.

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

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

SUPPLEMENTARY INFORMATION:

List of Subject in 47 CFR Part 73

Radio broadcasting.

In the matter of Amendment of Amendment of § 73.202(b), table of assignments, FM Broadcast Stations. (Guadalupe and San Luis Obispo, California): MM Docket No. 83–834, RM–4440, and RM–4502.

Adopted: July 25, 1983.
Released: August 10, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission are two separate petitions for rule making. The first, filed by Dellar-Davis Broadcasting Company ("DDBC") proposes the assignment of Channel 288A to Guadalupe, California, as that community;s first FM service. The second petiton, filed by William V. Johnson ("Johnson"), requests the assignment of Class B FM Channel 289 to San Luis Obispo as that community's fourth FM allocation. Since the two communities are separated by a distance of 22 miles, whereas 65 miles is required, these proposals are mutually exlusive. Both petitioners stated their intention to apply for the channels if assigned.

2. Even though petitioners submitted data to justify their proposals, which we normally require in conflicting situations, [1] this information is not necessary in this instance in light of our proposed action herein.

3. Standing alone, each proposal complies with the minimum mileage separation requirements of § 73.207 of the Commission's Rules. However, as indicated above, they are mutually exclusive. a staff engineering study reveals that no other Class B channel is available to San Luis Obispo. However, Channel 261A is available at Guadalupe with a site restriction 3.7 miles northwest of the community to avoid short spacing to Station KTYD (Channel 260B) in Santa Barbara, California. Therefore, we shall optionally propose that channel as a substitute for proposed Channel 288A at Guadalupe. This alternative would not conflict with the requested assignment of Channel 289 at San Luis Obispo and it would enable us to satisfy each petitioner's request for FM service. DDBC, or any other interested party must indicate in their comments whether they will apply for Channel 261A at Guadalupe, California, if it is ultimatley assigned.

[1] See, *Revisions of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982).

4. In view of the above, we propose the following revisions to the FM Table of Assignments, § 73.202(b) of the Commission's Rules:

City	Channel No.	
	Present	Proposed
Guadalupe, California		261A.
San Luis Obispo, California	227, 241, 251	227, 241, 251, and 289.

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before September 26, 1983, and reply comments on or before October 11, 1983, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

Richard M. Riehl, Esq., Haley, Bader and Potts, 2000 M Street, N.W., Suite 600, Washington, D.C. 20036, Counsel for Dellar-Davis Broadcasting Co.

Edward M. Johnson, One Regency Square, Suite 450, Knoxville, TN 37915, Consultant to William V. Johnson.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutues an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 stat., as amended, 1066, 1083; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial on the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commisssion's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(1), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-22412 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-835; RM-4449]

TV Broadcast Stations In Big Bear Lake, California; Proposed Changes In Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF television Channel 59 to Big Bear Lake, California, as that community's first television assignment, in response to a proposal filed by Joseph Felice.

DATES: Comments must be filed on or before September 26, 1983, and reply comments on or before October 11, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 C.F.R. Part 73

Television broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.606(b), table of assignments, TV Broadcast Stations. (Big Bear Lake, California); MM Docket No. 83-835, RM-4449.

Adopted: July 28, 1983.
Released: August 10, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the petition for rule making filed by Joseph Felice ("petitioner") seeking the assignment of UHF television Channel 59 to Big Bear Lake, California, as that community's first television assignment. Petitioner submitted information in support of the proposal and expressed his interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements and other technical criteria.

2. Big Bear Lake (population 5,268),[1] in San Bernadino County (population 893,157), is located in southern California, approximately 120 kilometers (75 miles) east of Los Angeles. It has no local television service.

3. Since Big Bear Lake is located within 320 kilometers (199 miles) of the U.S.-Mexican border, the proposed assignment requires the concurrence of the Mexican government.

4. In view of the fact that Big Bear Lake could receive its first local television broadcast service, the Commission finds that it would be in the public interest to seek comments on proposal to amend the TV Table of Assignments (Section 73.606(b) of the Commission's Rules) for the following community:

City	Channel No.	
	Present	Proposed
Big Bear Lake, Calif.	—	59+

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

[1] Population figures are taken from the 1980 U.S. Census Advance Report.

6. Interested parties may file comments on or before September 26, 1983, and reply comments on or before October 11, 1983, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Joseph Felice, P.O. Box 1554, Big Bear Lake, CA 92315.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the Notice of proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-22411 Filed 8-15-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-833-RM-4465]

TV Broadcast Stations in Durango, Colorado; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign UHF Television Channel 33 to Durango, Colorado, in response to a petition filed by David E. Sparks. The assignment could provide Durango with its second commercial television service.

DATES: Comments must be filed on or before September 26, 1983, and reply comments on or before October 11, 1983.

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

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

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.606(b), table of assignments, TV Broadcast Stations. (Durango, Colorado); MM Docket No. 83-833, RM-4465.

Adopted: August 3, 1983.
Released: August 11, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by David E. Sparks ("petitioner"), requesting the assignment of UHF Television Channel 33 to Durango, Colorado, as that community's second commercial television service. Petitioner states that he, or an entity of which he is a part, will apply for the channel, if assigned.

2. Durango (population 11,426),[1] the seat of La Plata County (population 27,424), is located approximately 370 kilometers (230 miles) southwest of Denver. It is currently served by Station KREZ-TV (Channel 6), and is assigned noncommercial education Channel *20, which is unoccupied.

3. UHF Television Channel 33 can be assigned to Durango consistent with the minimum distance separation and other technical requirements. We believe petitioner's proposal warrants consideration since the proposed assignment could provide a second commercial outlet as well as a first competitive television broadcast service to Durango. Accordingly, the Commission proposes to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Durango, Colorado	6+, *20-	6+, *20-, and 33+

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before September 26, 1983, and reply comments on or before October 11, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, and his consultant, as follows:

David E. Sparks, 6320 Trailhead Circle, Knoxville, TN 37920
(Petitioner) and
Edward M. Johnson, One Regency Square—Suite 450, Knoxville, TN 37915
(Consultant to Petitioner)

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-

[1] Population figures were extracted from the 1980 U.S. Census, Advance Reports.

6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the persion(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals avanced in this proceeding will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advance in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposasl(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterporposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-22413. Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-830; RM-4472]

TV Broadcast Stations in Manistique, Michigan; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign UHF Television Channel 25 to Manistique, Michigan, in response to a petition filed by David E. Sparks. The assignment could provide Manistique with its first commercial television service.

DATES: Comments must be filed on or before September 26, 1983, and reply comments on or before October 11, 1983.

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

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

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.606(b), table of assignments, television braodcast stations, (Manistique, Michigan); MM Docket No. 83-830, RM-4472.

Adopted: August 3, 1983.

Released: August 12, 1983.

By the Chief, Policy and Rules Division.

1. A petition for rulemaking was filed by David E. Sparks ("petitioner"), seeking the assignment of UHF Television Channel 25 to Manistique, Michigan, as that community's first commercial television service. Petitioner indicates that he, or an entity of which he is a part, will apply for the channel, if assigned.

2. Manistique (population 3,962),[1] the seat of Schoolcraft County (population 8,575), is located on the Upper Peninsula of Michigan, approximately 480 kilometers (300 miles) northwest of Detroit. It is currently assigned educational Channel *15, which is unoccupied, and has no local commercial television service.

3. We believe the petitioner's proposal warrants consideration. The channel can be assigned consistent with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules. However, because Manistique is located within 400 kilometers (250 miles) of the common U.S.-Canadian border, the Commission must obtain Canadian concurrence in the proposal.

4. In view of the foregoing and the fact that the proposed assignment could provide a first local commercial television broadcast service to Manistique, the Commission believes it appropriate to propose amending the Television Table of Assignments,

[1] Population figures were extracted from the 1980 U.S. Census, Advance Reports.

§ 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Manistique, Michigan	*15+	*15+, 25

5. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before September 26, 1983, and reply comments on or before October 11, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, and his consultant, as follows:

David E. Sparks, 6320 Trailhead Circle, Knoxville, TN 37920
(Petitioner) and
Edward M. Johnson, One Regency Square—Suite 450, Knoxville, TN 37915
(Consultant to Petitioner)

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, §73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comments which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial coments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-22416 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-832; RM-4471]

TV Broadcast Stations in Oxford, Mississippi; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign UHF Television Channel 50 to Oxford, Mississippi, in response to a petition filed by David E. Sparks. The assignment could provide Oxford with its first commercial television service.

DATE: Comments must be filed on or before September 26, 1983, and reply comments on or before October 11, 1983.

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

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

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.606(b), table of assignments, television broadcast stations, (Oxford, Mississippi); MM Docket No. 83-832, RM-4471.

Adopted: August 3, 1983.
Released: August 11, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration a petition for rule making filed by David E. Sparks ("petitioner"), requesting the assignment of UHF Television Channel 50 to Oxford, Mississippi, as that community's first commercial television service. Petitioner indicates that he, or an entity of which he is a part, will apply for the channel, if assigned.

2. Oxford (population 9,882),[1] the seat of LaFayette County (population 31,030), is located approximately 240 kilometers (150 miles) north of Jackson, Mississippi. Oxford currently is served by noncommercial educational Station WMAV(TV) (Channel *18).

3. UHF Television Channel 50 can be assigned to Oxford in conformity with the minimum distance separation and other technical requirements. We believe petitioner's proposal warrants consideration since the proposed assignment could provide a first commercial television service to Oxford. Accordingly, the Commission proposes to amend the Television Table of Assignemts, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Oxford, Mississippi	*18	*18, 50+

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before September 26, 1983, and reply comments on or before October 11, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, and his consultant, as follows:

David E. Sparks, 6320 Trailhead Circle, Knoxville, TN 37920 (Petitioner) and

Edward M. Johnson, One Regency Square—450 Knoxville, TN 37915 (Consultant to Petitioner)

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(l), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filing made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference

[1] Population figures were extracted from the 1980 U.S. Census, Advance Reports.

Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-22414 Filed 8-16-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-836; RM-4467]

TV Broadcast Stations in Tupelo, Mississippi; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign UHF television Channel 35 to Tupelo, Mississippi, as that city's second television facility, in response to a petition filed by Allen Sheets.

DATES: Comments must be filed on or before September 26, 1983, and reply comments on or before October 11, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Televison broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.606(b), table of assignments, TV broadcast stations, (Tupelo, Mississippi); MM Docket No. 83-836, RM-4467.

Adopted: July 28, 1983.
Released: August 10, 1983.

By the Chief, Policy and Rules Division.

1. The Commission has before it a petition for rule making filed by Allen Sheets ("petitioner") proposing the assignment of UHF Channel 35 to Tupelo, Mississippi as that community's second television facility. The petitioner submitted informaion in support of the proposal and expressed his interest in applying for the channel, if assigned. The channel can be assigned in compliance with the minimum distance separation requirements and other criteria.

2. Tupelo, (population 23,905),[1] seat of Lee County (population 57,601), is located in northeastern Mississippi, approximately 160 kilometers (100 miles) southeast of Memphis, Tennessee.

3. In view of the fact that the proposed assignment would provide Tupelo with its second television broadcast service, the Commission finds that it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments (Section 73.606(b) of the Rules) with regard to the following community:

City	Channel No.	
	Present	Proposed
Tupelo, Mississippi	9-	9-, 35+

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before September 26, 1983, and reply comments on or before October 11, 1983, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Allen Sheets, c/o Edward M. Johnson & Associates, Inc., One Regency Square, Suite 450, Knoxville, TN 37915.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Roderick K. Porter

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and

[1] Population figures are taken from the 1980 U.S. Census Advance Report.

Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-22410 Filed 8-16-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-837; RM-4450]

TV Broadcast Stations in Syracuse, New York; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF television Channel 56 to Syracuse, New York as its seventh television assignment in response to a petition filed by Allen Sheets.

DATES: Comments must be filed on or before September 26, 1983, and reply comments on or before October 11, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.606(b), table of assignments, TV broadcast stations, (Suracuse, New York); MM Docket No. 83-837, RM-4450.

Adopted: July 28, 1983.
Released: August 10, 1983.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed by Allen Sheets ("petitioner") proposing the assignment of UHF television Channel 56 to Syracuse, New York, as that community's seventh television assignment. Petitioner submitted information in support of the proposal and expressed his interest in applying for the channel, if assigned. A site restriction is required for this assignment of 8.7 miles north of Syracuse to avoid short-spacing to a construction permit on Channel 56 in Hazelton, Pennsylvania.

2. Syracuse (population 170,105) [1] seat of Onondaga County (population 463,324), is located in central New York State, approximately 220 kilometers (135 miles) east of Buffalo, New York. It has five commercial and one noncommercial educational channel.

3. Since Syracuse is located within 400 kilometers (250 miles) of the U.S.-Canadian border, the proposed assignment requires the concurrence of the Canadian government.

4. In view of the fact that Syracuse, New York, could receive its seventh television broadcast service, the Commission finds that it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) for the following community:

City	Channel No.	
	Present	Proposed
Syracuse, New York	3-, 5-, 9-, *24+, 43+, 62+.	3-, 5-, 9-, *24+, 43+, 56+, and 62+.

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before September 26, 1983, and reply comments on or before October 11, 1983, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Allen Sheets, c/o Edward M. Johnson & Associates, Inc., One Regency Square, Suite 450, Knowville, TN 37915.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibilitity Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 72.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commisison, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 305, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 104, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communication Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in

[1] Population figures are taken from the 1980 U.S. Census Advance Report.

initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorportes by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.4315 and 1.420 of the Commisison's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-22417 Filed 8-16-83; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-831; RM-4481]

TV Broadcast Stations in Toledo, Ohio; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign UHF Television Channel 40 to Toledo, Ohio, in response to a petition filed by David E. Sparks. The assignment could provide Toledo with its fifth commercial television service.

DATE: Comments must be filed on or before September 26, 1983, and reply comments on or before October 11, 1983.

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

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

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.606(b), table of assignments, Television Broadcast Stations (Toledo, Ohio); MM Docket No. 83-831, RM-4481.

Adopted: August 3, 1983.
Released: August 11, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is a petition for rule making filed by David E. Sparks ("petitioner"), requesting the assignment of UHF Television Channel 40 to Toledo, Ohio, as that community's fifth commercial television service. Petitioner states that he, or an entity of which he is a part, will apply for the channel, if assigned.

2. Toledo (population 354,635),[1] the seat of Lucas County (population 471,741), is located on Lake Erie in northern Ohio, approximately 150 kilometers (90 miles) west of Cleveland. Currently, it is served by commercial Stations WTOL-TV (Channel 11); WTVG(TV) (Channel 13); WDHO-TV (Channel 24), Channel 36 (CP issued); and noncommercial educational Station WGTE-TV (Channel *30).

[1] Population figures were extracted from the 1980 U.S. Census, Advance Reports.

3. UHF Television Channel 40 can be assigned to Toledo consistent with the minimum distance separation and other technical requirements provided the transmitter is restricted to an area 15 miles southwest of the community to avoid short-spacing to a construction permit on Channel 36 in Toledo, and to Station CBEFT (Channel 54) in Windsor, Ontario, Canada. Moreover, because Toledo is located within 400 kilometers (250 miles) of the common U.S.-Canadian border, the Commission must obtain Canadian concurrence in the proposal.

4. Since the proposed assignment could provide a fifth commercial television broadcast service to Toledo, we believe the proposal warrants consideration. Accordingly, the Commission proposes to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Toledo, Ohio	11-, 13, 24-, *30+, and 36-.	11-, 13, 24-, *30+, 36-, and 40-.

5. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before September 26, 1983, and reply comments on or before October 11, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, and his consultant, as follows:

David E. Sparks, 6320 Trailhead Circle, Knoxville, TN 37920
(Petitioner) and

Edward M. Johnson, One Regency Square—Suite 450, Knoxville, TN 37915
(Consultant to Petitioner)

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the*

Commission's Rules, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments § 73.606(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponents(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-22415 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-829; RM-4456]

TV Broadcast Stations in Martinsburg, West Virginia; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign UHF Television Channel 60 to Martinsburg, West Virginia, in response to a petition filed by David E. Sparks. The assignment could provide Martinsburg with its first commercial television service.

DATES: Comments must be filed on or before September 26, 1983 and reply comments on or before October 11, 1983.

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

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

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.606(b), table of assignments, TV broadcast stations, (Martinsburg, West Virginia); MM Docket No. 83–829, RM–4456.

Adopted: August 3, 1983.
Released: August 12, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is a petition for rule making filed by David E. Sparks ("petitioner"), proposing the assignment of UHF Television Channel 60 to Martinsburg, West Virginia, as that community's first commercial television service. Petitioner stated that he, or an entity of which he is a part, will apply for the channel, if assigned as proposed.

2. Martinsburg (population 14,646),[1] the seat of Berkely County (population 36,356), is located in the eastern panhandle of West Virginia, approximately 100 kilometers (63 miles) northwest of Washington, D.C. Currently, it is assigned educational channel *44, which is unoccupied.

3. UHF Television Channel 60 can be assigned to Martinsburg consistent with the minimum distance separation and other technical requirements provided the transmitter is restricted to an area 11.4 miles northwest of the community to avoid short-spacing to Station WBFF (Channel 45) in Baltimore, Maryland.

[1] Population figures were extracted from the 1980 U.S. Census, Advance Reports.

and unoccupied Channel 68 in Hagerstown, Maryland, which was recently assigned in BC Docket No. 80-123, RM-3460. Additionally, Canadian concurrence in the proposal is required since Martinsburg is located within 400 kilometers (250 miles) of the common U.S.-Canadian border.

4. Since the proposed assignment could provide a first local commercial television broadcast service to Martinsburg, the Commission believes it appropriate to propose amending the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Martinsburg, West Virginia	*44	*44, 60+

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirments are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before September 26, 1983, and reply comments on or before October 11, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, and his consultant, as follows:

David E. Sparks, 6320 Trailhead Circle, Knoxville, TN 37920
(Petitioner) and
Edward M. Johnson, One Regency Square—Suite 450, Knoxville, TN 37915
(Consultant to Petitioner)

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assinged, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See §§ 1.420 (a), (b), and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-22409 Filed 8-16-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-828; RM-4470]

TV Broadcast Station in Santa Rosa, California; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign UHF Television Channel 34 to Santa Rosa, California, in response to a petition filed by Charles Joseph Thompson. The assignment could provide Santa Rosa with its second commercial television service.

DATES: Comments must be filed on or before September 26, 1983, and reply comments on or before October 11, 1983.

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

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

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rulemaking

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Santa Rosa, California); MM Docket No. 83–828, RM–4470.

Adopted: August 3, 1983.
Released: August 12, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission is a petition for rulemaking filed by Charles Joseph Thompson ("petitioner"), requesting the assignment of UHF Television Channel 34 to Santa Rosa, California, as that community's second commercial television service. Petitioner indicates that he, or an entity of which he is a part, will apply for the channel, if assigned.

2. Santa Rosa (population 83,205),[1] the seat of Sonoma County (population 299,827), is located approximately 90 kilometers (58 miles) north of San Francisco. The community is currently served by commercial Station KFTY (Channel 50) and noncommercial educational Channel *62 (applications pending).

3. UHF Television Channel 34 can be assigned to Santa Rosa in conformity with the minimum distance separation requirements of § 73.610 and § 73.698 of the Commission's Rules, provided the transmitter is restricted to a site 5.9 miles north of the community to avoid short-spacing to Station KTZO(TV) (Channel 20), San Francisco.

4. In view of the above, we believe the petitioner's proposal warrants consideration since the proposed television assignment could provide Santa Rosa with its second commercial television service. Accordingly, the Commission proposes to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Santa Rosa, California	50-, *62	34, 50-, *62

[1] Population figures were extracted from the 1980 U.S. Census, Advance Reports.

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before September 26, 1983, and reply comments on or before October 11, 1983, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, and his consultant, as follows:

Charles Joseph Thompson, 2500 Legion Drive, Knoxville, TN 37920
(Petitioner), and

Edward M. Johnson, One Regency Square—Suite 450, Knoxville, TN 37915
(Consultant to Petitioner)

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1968 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.*

8. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments: Service.* Pursuant to applicable procedures set out in § § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be

made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 83-22431 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 48, No. 160
Wednesday, August 17, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

August 12, 1983.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Marshall L. Dantzler, Acting Department Clearance Officer, USDA, OIRM, Room 108–W Admin. Bldg., Washington, D.C. 20250, (202) 447–6201.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Revised

• Agricultural Stabilization and Conservation Service
Agricultural Foreign Investment Disclosure Act Report
ASCS–153
On occasion
Individuals or households, farms, businesses or other for-profit: 4,000 responses; 2,000 hours; not applicable under 3504(h)
William Brown (202) 447–6601

• Food and Nutrition Service
Commodity Supplemental Food Program Regulations
SF–269
Monthly, quarterly, semi-annually, annually
Individuals or households, state or local governments: 294,169 responses; 151,260 hours; not applicable under 3504(h)
Karen Coffman (703) 756–3730

• Farmers Home Administration
Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients
FmHA 444–8, 444–27A, 1930–5, –6, –7, –8, 1944–25, –27, –29
On occasion, monthly
Individuals and households, state or local government, farms, businesses: 409,190 responses; 631,076 hours; not applicable under 3504(h)
Bill Daniel (202) 382–1619

Extension
• Agricultural Stabilization and Conservation Service
Report of Cargo Over, Short and/or Damaged
KC–269A (Reverse)
On occasion
Businesses or other for-profit: 9,000 responses; 2,250 hours; not applicable under 3504(h)
Dean Petersen (816) 926–6451

• Food and Nutrition Service
Food Stamp Regulations, Part 275, Performance Reporting, Management Evaluation (Reporting and Recordkeeping)
On occasion
State or local governments: 5,282 responses; 217,323 hours; not applicable under 3504(h)
Kathryn Hamilton (703) 756–3431

Reinstatement
• Agricultural Cooperative Service
Marketing and Transportation of Grain by Local Cooperatives
Nonrecurring
Businesses: 960 responses; 320 hours; not applicable under 3504(h)
Francis Yaeger (202) 382–1773

Marshall L. Dantzler,
Acting Department Clearance Officer.

[FR Doc. 83-22534 Filed 8-16-83; 8:45 am]
BILLING CODE 3410-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 16–83]

Foreign-Trade Zone 27, Boston, Massachusetts; Proposed Subzone for General Dynamics Shipbuilding Facility in Quincy—Extension of Comments Period

The period for comments on the above proposal submitted by Massport requesting foreign-trade subzone status for the shipyard of the Quincy Shipbuilding Division of General Dynamics Corporation in Quincy, Massachusetts (48 FR 22604, 5/19/83) is extended to September 2, 1983.

This extension is intended primarily to allow further comment on the question of whether subzone status will result in the use of more foreign goods and material for ship construction than would otherwise be used. All comments received from May 12 to September 2, 1983, will be included in the record.

Dated: August 11, 1983.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 83-22468 Filed 8-16-83; 8:45 am]
BILLING CODE 3510-25-M

International Trade Administration

NCI-Frederick Cancer Research Facility; 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. 83–196. Applicant: NCI--Frederick Cancer Research Facility, P.O. Box B, Frederick, MD 21701. Instrument: 14800–3 Cryokit, including 14860–1 Cryotools (without Dewar Flasks). Manufacturer: LKB Produkter, AB, Sweden. Intended use of instrument: See notice on page 23285 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 application relates to a compatible accessory for an instrument that has been previously imported for the use of the applicant institution. The accessory is being furnished by the manufacturer which produced the instrument with which it is intended to be used. We are advised by the National Bureau of Standards in its memorandum dated July 21, 1983 that the accessory is pertinent to the applicant's intended uses and that it knows of no comparable domestic accessory.

The Department of Commerce knows of no similar accessory being manufactured in the United States which is interchangeable with or can be readily adapted to the instrument with which the accessory is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Stanley P. Kramer,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83–22500 Filed 8–16–83; 8:45 am]

BILLING CODE 3510-25-M

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection of Information

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. 3501 *et seq.),* the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for approval of a proposed collection of information in the form of a telephone survey of consumers to determine the feasibility of obtaining in this manner information concerning the use of drugs distributed in dual-purpose packaging. Dual purpose packaging is packaging utilizing a closure that can be attached to a container to provide either child-resistant or conventional packaging, depending upon which mode the user selects. The use of this type of packaging is beginning to increase, and the Commission's staff is concerned that if the use of such packaging becomes widespread, many consumers may elect to use the closures in the conventional mode under circumstances that will result in an increase in the number of ingestions of hazardous substances by young children.

For this reason, the Commission proposes to conduct a pre-test by telephone to determine the feasibility of determining the desired information in this manner. If an adequate response rate to this pre-test is obtained, the Commission will know whether it is feasible to conduct a larger, statistically valid study to determine whether the use of dual-purpose closures leads to increased accidental ingestions among children under five.

Information about the Proposed Collection of Information:

Agency addrees: Consumer Product Safety Commission, 1111 18th Street , NW., Washington, D.C. 20207.

Title of information collection: Dual Purpose Packaging and Accidental Ingestions.

Type of request: Approval of new plan.

Frequency of collection: One time.

General description of respondents: Consumers associated with accidental ingestions by children.

Estimated number of respondents: 1000.

Estimated average number of hours per response: 0.42 (20 min.)

Comments: Comments on this proposed collection of information should be addressed to Gwen Pla, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503; telephone (202) 395–7313. Copies of the proposed collection of information requirement are available from Francine Shacter, Office of Budget and Program Implementation, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492–6529.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: August 10, 1983.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 83–22490 Filed 8–16–83; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Dates of meeting: Tuesday & Wednesday, 13 & 14 September 1983

Times: 0830–1700 hours, 13 & 14 September (Closed)

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board Ad Hoc Subgroup on Updating Old Equipment will meet for classified presentations and discussions on Mission Area Analysis topics addressed during fact-gathering briefings at U.S. Army Training and Doctrine Command Schools at Fort Bliss, Fort Knox, and Fort Leavenworth. Principal topics are threats, deficiencies, and needs in each area. Following classified briefings on each mission area, discussions will take place to arrive at recommendations on equipment upgrade in the long term. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board's Acting Administrative Officer, Maria P. Winters, may be contacted for further information at (202) 695–3039 or 697–9703.

Maria P. Winters,

Acting Administrative Officer.

[FR Doc. 83–22516 Filed 8–16–83; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

College Library Resources Program

AGENCY: Department of Education.

ACTION: Application Notice.

SUMMARY: Applications are invited for grants under the College Library Resources Program for Fiscal Year 1984.

Authority for this program is contained in Part A of Title II of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1021 *et seq.*)

Under this program the Secretary may award a grant to an institution of higher education, a branch of an institution of higher education, a combination of these institutions, or any other public or private nonprofit library institution whose primary function is to provide library and information services to institutions of higher education on a formal cooperative basis.

The purpose of these grants is to assist institutions of higher education and other public and private nonprofit library institutions to improve the quality of their library resources, including law library resources, and to encourage libraries of institutions of higher education to share their resources through the establishment and maintenance of networks.

Closing date for transmittal of applications: An application for a grant must be mailed or hand delivered by November 18, 1983.

Applications delivered by mail: Applications must be addressed to the Department of Education Application Control Center, Attention: (84.005) Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant for a new project will be notified that its application will not be considered.

Applications delivered by hand: Hand delivered applications must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new project that is hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing day.

Program information: Grant awards will not exceed $10,000. To be considered for a grant, an applicant must provide an assurance that it will meet the maintenance of effort requirement for library materials or request a waiver of that requirement, as set forth in the regulations. To ensure consideration for a grant, an applicant must be certified as eligible by Janaury 20, 1984, by the Department of Education's Division of Eligibility and Agency Evaluation.

Available funds: For Fiscal Year 1984, the Department of Education has not requested funds for the College Library Resources Program. However, applications are invited to allow for sufficient time to evaluate applications and complete processing prior to the end of the fiscal year in the event that funds are appropriated. There are not multi-year awards under this program.

In Fiscal Year 1983 grant funds were awarded to 2,141 institutions either directly or through joint applications. With a Fiscal Year 1983 appropriation of almost $2,000,000, each institution received an average of $890. However, the U.S. Department of Education is not bound to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages will be mailed to all Fiscal Year 1983 applicants.

Application forms may also be obtained by writing to the Library Education, Research and Resources Branch, Attn: II–A, U.S. Department of Education (Suite 725, Brown Building, Mail Stop 30), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the Regulations, instructions and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paper work, application content, reporting, or grantee performance requirement beyond those imposed under the statute or Regulations.The Secretary urges that all narratives be as brief as possible.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the College Library Resources Program, (34 CFR Part 773); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77 and 78).

Further information: For further information contact Frank A. Stevens or Beth Phillips Fine, Library Education, Research and Resources Branch, Division of Library Programs, U.S. Department of Education (Suite 725, Brown Building Mail Stop 30), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone (202) 254–5090.

(20 U.S.C. 1020)

(Catalog of Federal Domestic Assistance Program No. 84.005, College Library Resources Program)

Dated: August 12, 1983.

Donald J. Senese,

Assistant Secretary, Office of Educational Research and Improvement.

[FR Doc. 83-22535 Filed 8-16-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

Peaceful Uses of Atomic Energy; Proposed Subsequent Arrangement; European Atomic Energy Community (EURATOM)

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-779, to the Central Bureau of Nuclear Measurements, Geel, Belgium, 6 microcuries of plutonium-236, to be used for measurements in the study of the fission process.

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: August 12, 1983.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-22539 Filed 8-16-83; 8:45 am]

BILLING CODE 6450-01-M

Alaska Power Administration

Proposal to Adjust Wholesale Power Rates; Snettisham Project, Alaska

AGENCY: Alaska Power Administration, DOE.

ACTION: Notice.

SUMMARY: Proposal to adjust rate schedule SN-F1 increasing the energy rate from 15.6 mills per kilowatt-hour to 25 mills per kilowatt-hour. The proposed rate will be submitted to the Assistant Secretary for Conservation and Renewable Energy for interim approval and rate is subject to confirmation and final approval from the Federal Energy Regulatory Commission.

DATES: Written comments will be considered for 60 days from the date of publication. Interim basis rates are expected to be in effect by December 1, 1983.

To submit written comments or for further information contact:

Gordon Hallum, Chief, Power Division, Alaska Power Administration, Department of Energy, Room 825 Federal Building, P.O. Box 50, Juneau, AK 99802, (907) 586-7405.

Darlene Low, Computer Specialist, Power Division, Alaska Power Administration, Department of Energy, Room 825 Federal Building, P.O. Box 50, Juneau, AK 99802, (907) 586-7405.

SUPPLEMENTARY INFORMATION: The present rates, established in 1973 and extended in 1979, will expire November 30, 1983. Preliminary studies show that increased rates are necessary to meet cost recovery criteria, including repayment of deferred interest, and to offset inflation-ralated increases in Operation and Maintenance costs.

The Rate proposal and supporting studies are available in the Alaska Power Administration's headquarters office, Room 825, Federal Bulding, Juneau, Alaska.

A public information and comment forum will be held on September 7, 1983, 7:30 p.m., in Room 117, Juneau Federal Building, Alaska.

All comments will be considered and the proposed rates may be revised on the basis of public input.

Dated: August 1, 1983.

Robert J. Cross,

Administrator.

[FR Doc. 83-22546 Filed 8-16-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 83-CERT-160, as amended, et al.]

Union Carbide Corp., et al.; Amended Certifications of Eligible Use of Natural Gas To Displace Fuel Oil

In the matter of Union Carbide Corp. [ERA Docket No. 83-CERT-160, as amended], Koppers Co., Inc. [ERA Docket No. 83-CERT-166, as amended], W.R. Grace & Co. [ERA Docket No. 83-CERT-168, as amended], Eastern Stainless Steel Co. [ERA Docket No. 83-CERT-169, as amended], PEMCO Products [ERA Docket No. 83-CERT-170, as amended], Genstar Stone Products Co. [ERA Docket No. 83-CERT-172, as amended].

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following applications to amend existing certifications of the 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 each amendment request, 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.

Applicant and facility	Existing certification number and date issued	Date amendment filed	Federal Register notice of applicant's amendment
Koppers Co., Inc., Piston Ring & Seal Div., Baltimore Plant, Baltimore, Md	83-CERT-166 July 6, 1983	June 24, 1983	48 FR 33527, July 22, 1983.
W.R. Grace & Co., Davison Chemical Div., Baltimore Plant, Baltimore, Md	83-CERT-168 July 1, 1983	June 24, 1983	48 FR 33528, July 22, 1983.
Eastern Stainless Steel Co., Baltimore Plant, Baltimore, Md	83-CERT-169 July 6, 1983	June 24, 1983	48 FR 33526, July 22, 1983.
Pemco Products, Mobay Chemical Corp., Baltimore Plant, Baltimore, Md	83-CERT-170 July 6, 1983	June 24, 1983	48 FR 33527, July 22, 1983.
Genstar Stone Products Co., Baltimore Plant, Baltimore, Md	83-CERT-172 July 6, 1983	June 24, 1983	48 FR 33527, July 22, 1983.
Union Carbide Corp., Niagara Falls Plant; Niagara Falls, N.Y	83-CERT-160 June 30, 1983	June 24, 1983	48 FR 33528, July 6, 1983.

The ERA has carefully reviewed the above applications to amend the existing certifications in accordance with 10 CFR 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 each application satisfies the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the amended certifications and transmitted those amended certifications to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on August 5, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-22544 Filed 8-16-83; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

National Petroleum Council, Coordinating Subcommittee on Petroleum Inventories and Storage Capacity; Meeting

Notice is hereby given that the Coordinating Subcommittee of the NPC Committee on Petroleum Inventories and Storage Capacity will meet in September 1983. The National Petroleum Council was established to provide

advice, information, and recommendations to The Secretary of Energy on matters relating to oil and natural gas or the oil and gas industries. The Committee on Petroleum Inventories and Storage Capacity will study and update the analysis of minimum operating levels as well as update the estimates of total storage capacity to assemble information for use. The Subcommittee was established to assemble information and report to the Committee on matters relating to petroleum inventories and petroleum product storage capacities.

The Coordinating Subcommittee will hold its meeting on Tuesday and Wednesday, September 13–14, 1983, starting at 8:30 a.m., in the 40th Floor Conference Room of the Chevron U.S.A., Inc. Building, 575 Market Street, San Francisco, California.

The tentative agenda for the Coordinating Subcommittee meeting follows:

1. Review preliminary draft report.
2. Discuss assignments for the next meeting.
3. Discuss any other matters pertinent to the overall assignment of the Coordinating Subcommittee.
4. Public comment (10 minute rule).

The meeting is open to the public. The Chairman of the Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should contact Jimmie L. Petersen, Office of Oil and Gas, Energy Information Administration, Forrestal Building—Room 2H–058, Washington, D.C., 202/252–6401, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review approximately 30 days following the meeting at the Freedom of Information Public Reading Room, Room 1E–190, Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on August 10, 1983.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

[FR Doc. 83-22543 Filed 8-16-83; 8:45 am]

BILLING CODE 6450-01-M

Secondary and Tertiary Storage Task Group of the Coordinating Subcommittee of the National Petroleum Council's Committee on Petroleum Inventories and Storage Capacity; Meeting

Notice is hereby given that the Secondary and Tertiary Storage Task Group of the Coordinating Subcommittee of the National Petroleum Council's Committee on Petroleum Inventories and Storage Capacity will meet in September 1983. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and gas industries. The Committee on Petroleum Inventories and Storage Capacity will study and update the analysis of minimum operating levels as well as update the estimates of total storage capacity available for use. The Subcommittee was established to assemble information, and report to the Committee on matters relating to petroleum inventories and petroleum product storage capacities. The Secondary and Tertiary Task Group of the Subcommittee was established to develop a methodology to estimate more precisely the storage capacity of the secondary and tertiary segments of the petroleum distribution system.

The Secondary and Tertiary Storage Task Group will hold its meeting on Monday, September 12, 1983, starting at 1:30 p.m., in the 40th Floor Conference Room of the Chevron U.S.A., Inc. Building, 575 Market Street, San Francisco, California.

The tentative agenda for the Task Group meeting follows:

1. Review sample procedure for secondary petroleum distribution system survey.
2. Discuss small survey of major petroleum refining companies to develop a list of major petroleum marketers.
3. Discuss methodology and data sources to determine the inventory and storage capacity of the tertiary segment.
4. Public comment (10 minute rule).

The meeting is open to the public. The Chairman of the Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should contact Jimmie L. Petersen, Office of Oil and Gas, Energy Information Administration, Forrestal Building—Room 2H–059, Washington, D.C., 202/252–6401, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review approximately 30 days following the meeting at the Freedom of Information Public Reading Room, Room 1E–190, Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on August 10, 1983.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

[FR Doc. 83-22545 Filed 8-16-83; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and appeals

Objection to Proposed Remedial Orders Filed; Week of July 18 through July 22, 1983

During the week of July 18 through July 22, 1983, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare and official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: August 11, 1983.

George D. Breznay,

Director, Office of Hearings and Appeals.

Pel.Star Energy Inc., Dallas, Tex., HRO-0175
Crude Oil.

On July 20, 1983, Pel-Star Energy, Inc. (PSE), 1760 One Dallas Center, Dallas, Texas 75201, filed a Notice of Objection to a Proposed Remedial Order the DOE Dallas Office of the Economic Regulatory Administration (ERA) issued to the firm on

June 13, 1983. In the PRO, the Dallas Office found that during the period June 1978 through December 1980, PSE committed pricing violations in connection with the resale of crude oil at prices in excess of those permitted by 10 CFR Part 212, Subpart L.

According to the PRO, the PSE violation resulted in $9,327,705.78 of overcharges, plus interest.

Southern Crude Oil Resources Inc., Fort Worth, Tex., HRO-0176, Crude Oil

On July 21, 1983, Southern Crude Oil Resources, Inc. (SCOR), 901 Oil and Gas Building, Fort Worth, Texas 76102, filed a Notice of Objection to a Proposed Remedial Order which the Dallas Office of the Economic Regulatory Administration issued to the firm on June 13, 1983. In the PRO, the Dallas Office found that during March 1980 through August 1980, SCOR resold crude oil at prices in excess of those permitted by 10 CFR Part 212, Subpart L.

According to the PRO, the SCOR violation resulted in $377,618.06 of overcharges.

Westport Petroleum Corp., Englewood, Colo., HRO-0177, Crude Oil

On July 22, 1983, Westport Petroleum Corporation, 770 West Hampden, Suite 300, Englewood, Colorado 80110, filed a Notice of Objection to a Proposed Remedial Order which the Tulsa Office of the Economic Regulatory Administration issued to the firm on June 10, 1983. In the PRO, the Tulsa Office found that during June 1980 through November 1980, Westport violated the Mandatory Petroleum Price Regulations by reselling crude oil at prices in excess of those permitted by 10 CFR Part 212, Subpart L.

According to the PRO, the Westport violation resulted in $117,638.05 of overcharges.

[FR Doc. 83-22542 Filed 8-16-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PP 3G2842/T424; PH-FRL 2415-2]

American Cyanamid Co.; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the pesticide (±)cyano(3-phenoxyphenyl)methyl(±)-4-(difluoromethoxy)-alpha-(1-methylethyl) benzeneacetate in or on certain raw agricultural commodities. These temporary tolerances were requested by American Cyanamid Company.

DATE: These temporary tolerances expire May 27, 1984.

FOR FURTHER INFORMATION CONTACT: Timothy Gardner, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2690).

SUPPLEMENTARY INFORMATION: American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540, has requested, in pesticide petition PP 3G2842, the establishment of temporary tolerances for residues of the pesticide (±)cyano(3-phenoxyphenyl)methyl(±)-4-(difluoromethoxy)-alpha-(1-methylethyl) benzeneacetate in or on the raw agricultural commodities corn grain (except popcorn), fresh corn, and sweet corn (kernels, and cob with husk removed) at 0.05 part per million (ppm).

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 241-EUP-103 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. American Cyanamid Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire May 27, 1984. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: August 4, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-22175 Filed 8-16-83; 8:45 am]

BILLING CODE 6560-50-M

[PH-FRL 2415-4]

Certain Companies; Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions relating to the establishment of tolerances for residues of certain pesticide chemicals in or on certain commodities.

ADDRESS: Written comments should be submitted to the Product Manager (PM) named in each petition at the following address:

By Mail: Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to the PM at the office location given in each petition at the following address:

Registration Division, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number [PF-340] and the petition number. All written comments filed in response to this notice will be available for public inspection in the PM's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The PM cited in each petition at the telephone and room number provided.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide petitions relating to the establishment of

tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

Initial Filings

1. *PP 3F2926.* American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540. Proposes amending 40 CFR 180.352 by establishing tolerances for the combined residues of the insecticide terbufos (*S*-[[1,1-dimethyl)thio]methyl] *O, O*-diethyl phosphorodithioate and is cholinesterase-inhibiting metabolites in or on the following raw commodities; mustard and rape seed at 0.05 part per million (ppm). The proposed analytical method for determining residues is gas chromatography equipped with a flame photometric detector. (William Miller, PM–16, 703–557–2600, CM#2, Rm. 211).

2. *PP 3F2899.* E. I. du Pont de Nemours & Co., Wilmington, DE 19898. Proposes amending 40 CFR 180.106 by establishing tolerance for the residues of the herbicide diuron (3-(3,4dichlorophenyl)-1,1-dimethylurea) in or the raw commodity nectarines at 0.1 ppm. The proposed analytical method for determining residues is E C gas chromatography. (Robert Taylor, PM–25, 703–557–1800, CM#2, Rm 253).

3. *PP 3F2900.* E. I. du Pont de Nemours & Co. Proposes amending 40 CFR 180.209 by establishing tolerances for the residues of the herbicide terbacil (3-*tert*-butyl-5-chloro-6-methyluracil) in or on the raw commodity nectarines at 0.1 ppm. The proposed analytical method for determining residues is microcoulometric gas chromatrography. (Robert Taylor, PM–25, 703–557–1800), CM#2, Rm. 253).

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 136))

Dated: August 3, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-22173 Filed 8-16-83; 8:45 am]

BILLING CODE 6560-50-M

[PP 2G2669/T429 PH–FRL 2915–3]

2,2-Dichlorovinyl Dimethyl Phosphate; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice

SUMMARY: EPA has established temporary tolerances for residues of the insecticide 2,2-dichlorovinyl dimethyl phosphate in or on the raw agricultural commodities almond meat, almond hulls and almond shells. These temporary tolerances were requested by the California Agricultural Experiment Station at the University of California, Davis, CA.

DATE: These temporary tolerances expire September 30, 1983.

FOR FURTHER INFORMATION CONTACT:

By mail: George LaRocca, Product Manager (PM) 15, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

Office location and telephone number: Rm. 204, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2400).

SUPPLEMENTARY INFORMATION: Agricultural Experiment Station, Department of Plant Pathology, 386 Hutchinson Hall, University of California, Davis, CA 95616, has requested, in pesticide petition PP 2G2669 the establishment of temporary tolerances for residues of the insecticide 2,2-dichlorovinyl dimethyl phosphate in or on the raw agricultural commodities almond meat at 0.10 part per million, almond hulls at 2.0 parts per million (ppm), and almond shells at 2.0 ppm. These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 46879–EUP–2 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. The Agricultural Experiment Station, University of California at Davis, CA, must immediately notify the EPA of any findings from the experiment Station must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire September 30, 1983. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerances requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: August 4, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-22174 Filed 8-16-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP–50601; PH–FRL 2415–6]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail, the product manager cited in each experimental use permit at the address below: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person or by telephone: Contact the product manager at the office location or telephone number cited in each experimental use permit.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

279–EUP–77. Extension. FMC Corporation, 2000 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 2,040 pounds of the insecticide permethrin or various crops to evaluate the control of various authorized insects. A total of 4,585 acres are involved; the program is in the States of Alabama, Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, and Wisconsin. The experimental use permit is effective from July 18, 1983 to July 18, 1984. This permit is issued with the limitation that all crops are destroyed or used for research purposes only. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703–557–2690))

8730–EUP–16. Issuance. Health-Chem Corporation, 1107 Broadway, New York, NY 10010. This experimental use permit allows the use of 39.69 pounds of the pheromones (Z)-11-hexadecenal and (Z)-9-tetradecenal on tobacco to evaluate its use in mating disruption and population suppression of tobacco budworms. A total of 900 acres are involved; the program is authorized only in the State of Arizona. The experimental use permit is effective from July 18, 1983 to July 18, 1984. (Timothy Gardner, PM 17, Rm. 207, CM#2, (703–557–2690))

3125–EUP–173. Issuance. Mobay Chemical Corporation, P.O. Box 4913, Kansas City, MO 64120. This experimental use pemit allows the use of 2,160 pounds of the nematicide ethyl-3-methyl-4-(methylthio)phenyl(1-methylethyl) phosphoramidate on grapes to evaluate the control of various nematodes. A total of 120 acres are involved; the program is authorized only in the State of Missouri. The experimental use permit is effective from February 18, 1983 to December 31, 1983. A temporary tolerance for residues of the active ingredient in or on grapes has been established. (Henry Jacoby, PM 21, Rm. 229, CM#2, (703–557–1900))

524–EUP–62. Issuance. Monsanto Company, 1101 17th St., NW., Washington, D.C. 20036. This experimental use permit allows the use of 1,350 pounds of the herbicide glyphosate on wheat to evaluate preharvest topical treatment for weed control. A total of 2,650 acres are involved; the program is authorized only in the States of Alabama, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, Wisconsin, and Wyoming. The experimental use permit is effective from July 1, 1983 to April 1, 1985. This permit is issued with the limitation that all crops are destroyed or used for research purposes only. (Robert Taylor, PM 25, Rm. 245, CM#2, (709–557–1800))

2139–EUP–23. Renewal. NOR–AM Agricultural Products, Inc., 350 West Shuman Boulevard, Naperville, IL 60540. This experimental use permit allows the use of the remaining supply of 950 pounds (1,530 pounds had been previously authorized) of the herbicide thidiazuron on cotton to evaluate its use as defoliant. A total of 4,750 acres are involved; the program is authorized only in the States of Arizona, Arkansas, Georgia, Louisiana, Mississippi, Oklahoma, and Texas. The experimental use permit was previously effective form September 30, 1981 to July 1, 1983. The permit is now effective from July 15, 1983 to July 15, 1984. Permanent tolerances for residues of the active ingredient in or on cottonseed; milk; eggs; meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep have been established (40 CFR 180.403). A feed additive regulation for residues of the active ingredient in or on cottonseed hulls has been established (21 CFR 561.385). (Richard Mountfort, PM 23, 253, CM#2, (703–557–1830))

264–EUP–60. Renewal. Union Carbide Corporation, P.O. Box 12014, T. W. Alexander Drive, Research Triangle Park, NC 27709. This experimental use permit allows the use of 25,076 pounds of the insecticide thiodicarb on cotton and soybeans to evaluate the control of various insect pests. A total of 11,205 acres are involved; the program is authorized in the States of Alabama, Arizona, Arkansas, California, Florida, Georgia, Louisiana, Mississippi, Missouri, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia for cotton and in Alabama, Arkansas, Florida, Georgia, Illionois, Indiana, Iowa, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and Virginia for soybeans. The experimental use permit was previously effective from March 31, 1982 to March 31, 1983. The permit is now effective from June 14, 1983 to June 14, 1984. Temporary tolerances for residues of the active ingredient in or on cottonseed and soybeans have been established. Temporary feed additive tolerances for residues of the active ingredient in or on cottonseed hulls and soybean hulls have been established. (Jay Ellenberger, PM 12, Rm. 202, CM#2, (703–557–2386))

264–EUP–63. Issuance. Union Carbide Corporation, P.O. Box 12014, T. W. Alexander Drive, Research Triangle Park NC 27709. This experimental use permit allows the use of 1,032 ponds of the insecticide thiodicarb on filed corn and sweet corn to evaluate the control of various pests. A total of 475 are involved; the program is authorized only in the States of Colorado, Georgia, Minnesota, Nebraska, New Mexico, and Wisconsin. The experimental use permit is effective from June 14, 1983 to June 14, 1984. Temporary tolerances for residues of the active ingredient in or on field corn grain, fresh corn, and corn forage and fodder have been established. (Jay Ellenberger, PM 12, Rm. 202,CM#2, (703–557–2386))

264–EUP–64. Issuance. Union Carbide Corporation, P.O. Box 12014, T.W. Alexander Drive, Research Triangle Park, NC 27709. This experimental use permit allows the use of 5,440 pounds of the insecticide thiodicarb on field corn and sweet corn to evaluate the control of various pests. A total of 1,495 acres are involved; the program is authorized only in the States of Alabama, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Texas, Virginia, Washington, and Wisconsin. The experimental use permit is effective from June 14, 1983 to June 14, 1984. Temporary tolerances for residues of the active ingredient in or on field corn grain, fresh corn, and corn forage and fodder have been established. (Jay Ellenberger, PM 12, Rm. 202, CM#2, (703–557–2386))

876–EUP–40. Issuance. Velsicol Chemical Corporation, 341 East Ohio St., Chicago, IL 60611. This experimental use permit allows the use of 500 pounds of the insecticide 3-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-4-hydroxy-l-methyl-2-imidazolidinone on noncropland to evaluate the control of weeds. A total of 25 acreas are involved; the program is authorized only in the States of Iowa, Minnesota, Missouri, Nebraska, and South Dakota. The experimental use permit is effective from July 5, 1983 to July 15, 1984. This permit is issued with

the limitation that the experimental use program will be conducted by or under the supervision of Velsicol participants. (Richard Mountfort, PM 23, RM. 253, CM#2, (703–557–1830))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the person cited above. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended, (7 U.S.C. 136)).

Dated: August 4, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-22171 Filed 8-16-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180627 PH-FRL 2415-5]

Nebraska; Issuance of Specific Exemption for Use of Strychnine Baits for Control of Rabid Skunks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Nebraska Department of Agriculture (hereafter Nebraska) for use of strychnine baits to control populations of rabid skunks in Clay County. This specific exemption is issued under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA).

DATES: The specific exemption is effective from July 22, 1983, through July 1, 1984.

FOR FURTHER INFORMATION CONTACT:

By mail: Donald R. Stubbs, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C.

Office location and telephone number: Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–1192).

SUPPLEMENTARY INFORMATION: On June 22, 1983, Nebraska requested that EPA allow the use of strychnine-treated egg baits to control rabid skunks in Clay County. Because strychnine is not registered for this use, Nebraska has applied under FIFRA section 18 for a specific exemption from the provisions of FIFRA requiring that every pesticide distributed or sole in commerce be registered.

Nebraska reports that a large number of rabid skunks has been taken in the past two years and that there has been a high number of non-human rabies cases confirmed during this time period. During 1982 a total of 124 animals—101 skunks, 15 domestic livestock, 7 pets, and 1 bat—were diagnosed through laboratory analysis as rabid. Recently, a cow at a United States Department of Agriculture research farm in Clay County contracted rabies and died. Nebraska will confine its rabid skunk control program to Clay County, where the most serious problem is reported to exist.

Under FIFRA section 18 and EPA's implementing regulations, 40 CFR Part 166, the Administrator may issue an exemption permitting the emergency use of an unregistered pesticide if he determines that,

(a) A pest outbreak has [occurred] or is about to occur and no pesticide registered for the particular use, or alternative method of control, is available to eradicate or control the pest, (b) significant economic or health problems will occur without the use of the pesticide, and (c) the time available from discovery or prediction of the pest outbreak is insufficient for a pesticide be registered for the particular use. [40 CFR 166.1.]

Based on the information in Nebraska's application and subsequent conversations with State and Federal officials responsible for rabies control, the Agency finds that each of these criteria is met. Nebraska is currently experiencing an outbreak of rabid skunks which could cause health problems as the result of human exposure and possibly could cause significant economic problems through infection of domestic livestock and pets. There is no pesticide registered to control skunks, and alternative methods have proven ineffective. Moreover, EPA concludes that there would not be sufficient time available to register this use before these problems occurred.

Under EPA's regulations, issuance of a specific exemption shall be subjected to such restrictions as the Agency may prescribe. [40 CFR 166.2(a).] In granting this exemption, EPA has established specific requirements with regards to use of strychnine baits that are expected to protect humans and non-target wildlife. Similar restrictions have been imposed on the use of strychnine baits in previous rabies control programs, and no adverse effects on either humans or non-target wildlife populations have been attributed to such use.

The terms under which strychnine baits may be used in Clay County, Nebraska are:

1. The Nebraska Department of Agriculture is responsible for ensuring that all provisions of this specific exemption are met. It is also responsible for providing information in accordance with 40 CFR 166.5. This information must be submitted to EPA headquarters through the EPA Regional Office.

2. The following criteria must be used for the placement of toxic baits in the Nebraska skunk suppression program.

a. *Control* Strychnine egg baits are to be placed within a three-mile radius of the finding of a laboratory-positive skunk if that location lies within two miles or a human habitation. The three-mile radius of bait placement may be extended another two miles (for a radius of up to five miles) if additional "pockets" of dense skunk population are found. Skunks taken in this control effort are to be laboratory-tested for rabies on an "as needed" basis; otherwise, they are to be buried. No more than 500 baits are to be placed at a site, and baits are to be removed within 30 days.

b. *Surveillance.* Upon the determination of a laboratory-positive species other than skunks or bats, together with either a determination of high skunk populations near a human habitation or upon reports of strange-acting skunks, not more than 100 egg baits may be placed in an appropriate skunk habitat within a three-mile radius of the sighting for not over 30 days. All skunks taken are to be laboratory-tested to determine whether rabies is present. Actions thereafter depend on evaluation of the skunk populations and human risks.

3. Strychnine baits may not be placed within the vicinity of a prairie dog colony or within ten miles of a known blackfooted ferret sighting. The distance of 10 miles may be reduced with the written approval of the Director, Office of Endangered Species, USDI, or by specific amendment to this exemption.

4. Each strychnine egg bait shall contain approximately 0.035 gram strychnine.

5. Licensed pesticide applicators, trained by the Fish and Wildlife Service in accordance with the training procedures set out in Nebraska's request, are responsible for preparing the strychnine baits, selecting bait stations, posting warning signs, securing premises entry agreements, checking bait stations periodically for kills, and retrieving all unconsumed baits at the termination of the control program.

6. A maximum of two strychnine baits per site may be placed in the following skunk habitat: skunk dens, holes, garbage dumps, road culverts, junk piles, and occupied buildings. Baits must be covered or placed in such a way as to prevent visibility to children and birds. No baits may be placed in the open, but must be covered at all times.

7. Strychnine baits may be placed only on those lands where premises entry agreements have been signed by the landowner, lessee, or administrator.

8. Warning signs must be posted at entries to all premises and other visible positions near locations where treated baits have been placed. Eggs must be stamped with the word "POISON."

9. Each bait station must be checked as often as possible for kills but, in any case, no less than once a week.

10. All retrieved or excess strychnine baits must be disposed of by burial at least 18 inches deep in an approved sanitary landfill or burned in an incinerator. Containers to be destroyed must be handled in a similar manner.

11. Animals poisoned in the control program must be submitted for laboratory analysis for presence of rabies virus if possible. Otherwise, they must be buried on the premises to prevent possible secondary non-target species poisonings.

12. The Nebraska Department of Agriculture must follow any more stringent requirements imposed by State law or regulations applied by the state pesticide regulatory officials.

13. The Nebraska Department of Agriculture must notify the State fish and wildlife authorities concerning areas to be baited.

14. The Nebraska Department of Agriculture is responsible for reporting to this Agency through the EPA Region VII office on a monthly basis the names, addresses, and telephone numbers of individuals performing applications and number of baits placed, retrieved, consumed or missing. Total fatalities, including non-target species, must be reported. Any adverse effects must be reported immediately.

15. A final report summarizing the results of this program must be submitted by October 30, 1984.

16. This specific exemption expires on July 1, 1984.

Finally, because EPA cancelled the registrations of strychnine products used for predator control in 1972, this action is also subject to EPA's Subpart D regulations, 40 CFR 164.130 through 164.133. Subpart D provides that any application for a registration or an emergency exemption for a pesticide use that has been cancelled shall be considered as a petition for reconsideration of the prior cancellation order. Ordinarily, Subpart D requires the Agency to hold a formal hearing to determine whether there is substantial new evidence to justify modification of the previous cancellation order to allow the proposed use. Subpart D, however, allows the Administrator to dispense with a hearing, where otherwise required, when he determines:

(1) That the application presents a situation involving need to use the pesticide to prevent an unacceptable risk (i) to human health, or (ii) to fish or wildlife population when such use would not pose a human health hazard; and

(2) That there is no other feasible solution to such risk; and

(3) That the time available to avert the risk to human health or fish and wild life is insufficient to permit convening a hearing as required by § 164.131; and

(4) That the public interest requires the granting of the requested use as soon as possible. [40 CFR 164.133(b).]

Based on the information described earlier in this Notice, the Agency determines that each of these criteria has been met. The risks to human health from the current outbreak of rabid skunks in Nebraska are unacceptable, particularly in view of the small risks to humans and non-target wildlife from a tightly restricted rabies control program using strychnine baits. Because alternative methods of control have been ineffective, these problems might become substantially worse during the one- to two-year period required to conduct a Subpart D hearing. Thus, on balance, the public interest requires granting the requested use as quickly as possible, and waiving the hearing requirement under Subpart D.

Dated: August 4, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 83-22340 Filed 8-16-83; 8:45 am]

BILLING CODE 6560-50-M

[PP 1G2555/T418; PH-FRL 2416-3]

Nomuraea Rileyi; Extension of an Exemption From Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended the temporary exemption from the requirement of a tolerance for residues of the fungus *Nomuraea rileyi* on all raw agricultural commodities.

DATE: This temporary exemption from the requirement of a tolerance expires June 15, 1984.

FOR FURTHER INFORMATION CONTACT: Timothy Gardner, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice that was published in the **Federal Register** of July 28, 1982 (47 FR 32605) that a temporary exemption from the requirement of a tolerance had been established for residues of the fungus *Nomuraea rileyi* on all raw agricultural commodities. This exemption from the requirement of a tolerance was established in response to a pesticide petition PP 1G2555, submitted by Abbott Laboratories, Chemical and Agricultural Products Division, 14th and Sheridan Road, North Chicago, IL 60064.

The company has requested a one-year extension of the temporary tolerance to permit the continued marketing of raw agricultural commodities when treated in accordance with the provisions of experimental use permit 275-EUP-26 which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the exemption from the requirement of a tolerance will protect the public health. Therefore, the temporary exemption from the requirement of a tolerance has been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Abbott Laboratories must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary exemption from the requirement of a tolerance expires June 15, 1984. Residues remaining in or on raw agricultural commodities after this expiration date will not be considered

actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary exemption from the requirement of a tolerance. This temporary exemption from the requirement of a tolerance may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: August 4, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-22343 Filed 8-16-83; 8:45 am]

BILLING CODE 6560-50-M

[PP 2G2612/T426 PH-FRL 2415-1]

Oryzalin; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the herbicide oryzalin in or on certain raw agricultural commodities. These temporary tolerances were requested by Elanco Products Company.

DATE: These temporary tolerances expire June 27, 1984.

FOR FURTHER INFORMATION CONTACT:

By mail: Robert Taylor, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1800).

SUPPLEMENTARY INFORMATION: Elanco Products Company, 740 South Alabama St., Indianapolis, IN 46285, has requested, in pesticide petition PP 2G2612, the establishment of temporary tolerances for residues of the herbicide oryzalin (3,5-dinitro-N^4, N^4-dipropylsulfanilamide), in or on the raw agricultural commodities alfalfa hay at 1.0 part per million (ppm), green alfalfa at 0.2 ppm, and in meat, milk, poultry, and eggs at 0.05 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permits 1471-EUP 76, and 1471-EUP-77 which are being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permits and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permits.

2. Elanco Products Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire June 27, 1984. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permits and temporary tolerances. These tolerances may be revoked if the experimental use permits are revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: August 3, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-22178 Filed 8-16-83; 8:45 am]

BILLING CODE 6560-50-M

[PP 3G2782/T428; PH-FRC 24616-4]

Thiodicarb; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for the combined residues of the insecticide thiodicarb, and its metabolite methomyl in or on certain raw agricultural commodities. These temporary tolerances were requested by Union Carbide Corporation.

DATE: These temporary tolerances expire June 14, 1984.

FOR FURTHER INFORMATION CONTACT:

By mail: Jay Ellenberger, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: Union Carbide Corporation, P.O. Box 12014, Research Triangle Park, NC 27709, has requested, in pesticide petition PP 3G2782 the establishment of temporary tolerances for the combined residues of the insecticide thiodicarb, dimethyl N, N'-[thiobis][(methylamino)carbonyl] oxy]] bis [ethanimidothioate], and its metabolite methomyl, N-[(methyl-carbamoyl)] oxy] thioacetimidate, in or on the raw agricultural commodities field corn grain at 0.1 part per million (ppm), fresh corn (including sweet K + CWHR) at 1.5 ppm, and corn forage and fodder at 150 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permits 264-EUP-63 and 264-EUP-64 which are being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as

amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permits and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permits.

2. Union Carbide Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire June 14, 1984. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permits and temporary tolerances. These tolerances may be revoked if the experimental use permits are revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register**, of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: August 4, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-22344 Filed 8-16-83; 8:45 am]

BILLING CODE 6560-50-M

[PF-339; PH-FRL 2417-1]

Rhone-Poulenc Inc.; Pesticide Petition; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Rhone-Poulenc Inc. submitted a pesticide petition proposing the establishment of tolerances for the combined residues of the fungicide iprodione and its metabolites in or on certain commodities. Rhone-Poulenc has amended the petition.

ADDRESS: Written comments, identified by the document control number [PF–339], should be submitted by mail to: Product Manager (PM) 21, Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Product Manager (PM) 21, CM#2 Rm. 227, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, PM–21, (703–557–1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of September 22, 1982 (47 FR 41845) which announced that Rhone-Poulenc Inc., PO Box 125 Black Horse Lane, Monmouth Junction, NJ 08852, had filed pesticide petition 2F2728, proposing to amend 40 CFR 180.399 by establishing tolerances as follows:

a. For residues of the fungicide iprodione 3–(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinercarboxamide and its metabolites (3-(1-methylethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide and 3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide, in or on the raw commodities almond nutmeat at 0.05 part per million (ppm) and almond hulls at 0.25 ppm.

b. For the combined residues of 3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide and its non-hydroxylated metabolites, typically 3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide, by converting the non-hydroxylated phenyl ring moiety to the *N*-heptafluorobutyrate derivative of 3-5,-dichloroanaline common moiety, as iprodione equivalents in or on the raw commodities meat, meat byproducts (meat, kidney, fat, and liver) of cattle, goats, hogs, horses, and sheep at 0.80 ppm.

c. For the combined residues of 3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide, 3-(3-5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide, and *N*-(3,5-dichloro-4-hydroxyphenyl)-ureido carboxamide by converting respectively, the hydroxylated and the non-hydroxylated moiety to the 4-methoxy-3,5-dichloroaniline and the 3,5-dichloroaniline hepltafluorobutyrates, as iprodione equivalents in or on the raw commodity milk at 0.15 ppm.

Rhone-Poulenc Inc., on April 6, 1983 (48 FR 15002), amended the petition in paragraphs b. by decreasing the tolerance level from 0.80 ppm to 0.1 ppm; and c. by decreasing the tolerance level from 0.15 ppm, to 0.02 ppm.

Rhone-Poulenc has further amended the petition in paragraphs b. and c. as follows:

b. By changing the expression of residues to the combined residues of 3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide and its non-hydroxylated metabolites (expressed as iprodione equivalents) in or on the raw commodities fat, meat and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.1 ppm.

c. By changing the expression of residues to the combined residues of 3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide and its non-hydroxylated and hydroxylated metabolites (expressed as iprodione equivalents) in or on the raw agricultural commodity milk at 0.02 ppm.

The proposed analytical method for determining residues is by gas liquid chromatography with electron capture detector.

(Sec. 408(d)(1), 68 Stat. 512 (7 U.S.C. 136))

Dated: August 3, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-22483 Filed 8-15-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180626 PH-FRL 2416-7]

United States Department of the Interior; Issuance of Specific Exemption for Use of Sodium Cyanide in M-44 Devices To Control Mammalian Predation at Grays Lake National Wildlife Refuge, Idaho

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the United States Department of the Interior, Fish and Wildlife Service (hereafter "USDI"), for use of sodium cyanide in M–44 devices to control canine predators of whooping cranes. This specific exemption is issued

under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA).

DATES: The specific exemption is effective from October 1, 1983, through September 30, 1984.

FOR FURTHER INFORMATION CONTACT:

By mail: Donald R. Stubbs, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

Office location and telephone number: Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, Virginia, (703–557–1192).

SUPPLEMENTARY INFORMATION: On June 6, 1983, USDI requested that EPA allow the use of sodium cyanide in M–44 devices to control canine predators of whooping cranes on the Grays Lake National Wildlife Refuge, Idaho. Because sodium cyanide is not registered for this use, USDI has applied under FIFRA section 18 for a specific exemption from the provisions of FIFRA requiring that every pesticide distributed or sold in commerce must be registered.

The USDI reports that since 1975 whooping crane eggs have been taken from nests in Wood Buffalo Park, Canada, transported to Grays Lake and placed under selected pairs of sandhill cranes. The object is for the sandhill cranes to incubate and hatch the whooping crane eggs and rear the whooping crane chicks. The whooping crane chicks migrate with their foster parents. Having established the migration tradition, it is anticipated that whooping cranes will mate and breed in the wild at Grays Lake and, thereby, establish a second breeding population.

Results of the program so far have indicated that sandhill cranes can and will hatch the whooping crane eggs, rear the chicks, migrate with them and that some of the whooping cranes will return to Grays Lake. Since the start of the program, there has been a high rate of mortality in whooping crane chicks, between hatching and fledging. Losses due to predation are difficult to doument. Dense marsh vegetation in chick rearing areas makes observations very difficult. However, on a number of occasions, coyote and/or fox signs have been observed in the immediate area where a chick disappeared. Since 1976, USDI has carried out intensive predator control activities in support of the whooping crane propagation program in an area immediately adjacent to the propagation area. These activities include aerial gunning, trapping, calling and shooting and, since 1977, sodium cyanide in M–44 devices. The authorization to use sodium cyanide was requested because of the limitations of the other methods. Traps are often rendered inoperable by precipitation or freezing temperatures or may present a direct hazard to the young whooping cranes. Aircraft become ineffective in tall dense growth and create an undesirable disturbance when the birds are present. Calling and shooting require frequent human disturbance and are manpower intensive and thus costly. The M–44s have the advantage that protection can be provided in the immediate area of the birds while minimizing disturbances to the cranes.

Under FIFRA section 18 and EPA's implementing regulations, 40 CFR Part 166, the Administrator may issue an exemption permitting the emergency use of an unregistered pesticide if he determines that,

(a) A pest outbreak has [occurred] or is about to occur and no pesticide registered for the particular use, or alternative method of control, is available to eradicate or control the pest, (b) significant economic or health problems will occur without the use of the pesticide, and (c) the time available from discovery or prediction of the pest outbreak is insufficient for a pesticide to be registered for the particular use. [40 CFR 166.1.]

Based on the information in USDI's application, the Agency finds that each of these criteria has been met.

Predation of whooping cranes at Grays Lake can be reasonably expected to take place during the time period that this exemption will be valid. Because the number of whooping crane eggs and chicks each year is extremely small, the loss of a single egg/chick to a predator has a substantial impact on the success of the program. There is no pesticide registered to control canine predators, and alternative methods have not proven to provide sufficient protection. Moreover, EPA concludes that there would not be sufficient time available to register this use before the problem occurs.

Under EPA's regulations, issuance of a specific exemption shall be subjected to such restrictions as the Agency may prescribe. [40 CFR 166.2(a).] In granting this exemption, EPA has established specific requirements with regards to use of sodium cyanide in M–44 devices that are expected to protect humans and non-target wildlife. Similar restrictions have been imposed on the use of sodium cyanide in M–44 devices in previous predator control programs and no adverse effects on either humans or non-target wildlife populations have been attributed to such use.

The terms under which sodium cyanide in M–44 devices may be used are:

1. The U.S. Department of the Interior, Fish and Wildlife Service, is responsible for ensuring that all provisions of this specific exemption are met. It is also responsible for providing information in accordance with 40 CFR 166.5. This information must be submitted to EPA headquarters through the EPA Regional Office.

2. A maximum of 40 M–44 devices and 860 sodium cyanide capsules, approximately 763.51 grams of sodium cyanide, is authorized.

3. The M–44 devices are to be placed on 3,000 acres of land and marsh at Grays Lake National Wildlife Refuge in Idaho.

4. Only trained Fish and Wildlife personnel shall handplace the M–44 devices.

5. All unused sodium cyanide capsules shall be recovered at the end of the season.

6. All precautions shall be taken to avoid or minimize hazards to non-target species that may result from use under this program.

7. All applicable label precautions for M–44 cyanide capsules (EPA Reg. No. 6704–75), including the posting of warning signs, must be adhered to.

8. The EPA shall be immediately informed of any adverse effects resulting from this program.

9. A report must be submitted to EPA by January 31, 1985, summarizing the results of this program.

10. This specific exemption becomes effective on October 1, 1983, and expires on September 30, 1984.

Finally, because EPA cancelled the registration of sodium cyanide products used for predator control in 1972, this action is also subject to EPA's Subpart D regulations, 40 CFR 164.130 through 164.133. Subpart D provides that any application for a registration or an emergency exemption for a pesticide use that has been cancelled shall be considered as a petition for reconsideration of the prior cancellation order. Ordinarily, Subpart D requires the Agency to hold a formal hearing to determine whether there is substantial new evidence to justify modification of the previous cancellation order to allow the proposed use. Subpart D, however, allows the Administrator to dispense with a hearing, where otherwise required, when he determines:

(1) That the application presents a situation involving need to use the pesticide to prevent an unacceptable risk (i) to human health, or (ii) to fish or wildlife population when such use

would not pose a human health hazard; and

(2) That there is no other feasible solution to such risk; and

(3) That the time available to avert the risk to human health or fish and wildlife is insufficient to permit convening a hearing as required by § 164.131; and

(4) That the public interest requires the granting of the requested use as soon as possible. [40 CFR 164.133(a).]

Based on the information described earlier in this Notice, the Agency determines that each of these criteria has been met. The risks to the endangered whooping crane from uncontrolled canine predators are unacceptable, particularly in view of the small risks to humans and non-target wildlife from a restricted predator control program at Grays Lake National Wildlife Refuge. Alternative methods of control have not proven practical in controlling predators in the propagation area when the cranes are present. Thus, on balance, the public interest requires granting the requested use as quickly as possible, and waiving the hearing requirement under Subpart D.

Dated: August 5, 1983.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 83-22482 Filed 8-16-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 83-661; File No. 26100-CL-P-(6)-82; et al.]

American Mobile Communications of Florida, et al.; Hearing

Memorandum Opinion and Order on Reconsideration

In re applications of, CC Docket No. 83-661, American Mobile Communications of Florida, File No. 26100-CL-P-(6)-82, Cell-Tel Network, File No. 26-059CL-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, Celluar Mobile Systems of Miami, 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 Celluar 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, 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 (7-11-83; 48 FR 31716).

Adopted August 1, 1983.
Released August 5, 1983.
By the Common Carrier Bureau.

1. Before the Common Carrier Bureau are petitions for reconsideration of the Bureau's Miami/Fort Lauderdale cellular designation order.[1] The petitions were filed by Florida Cellular Telephone Company (Florida Cellular) and MRTS-Poe of Miami (MRTS-Poe). A Partial Opposition was filed by Charisma Communications Corp. of America. The petitions refer to the Miami nonwireline application.

2. *CGSA Extension.* Petitioner Florida Cellular argues that although six applicants proposed systems whose service areas extended impermissibly into the neighboring West Palm Beach SMSA, only four of those applicants were ordered to amend their applications to conform to the Commission's rules. After reviewing the applications of MCI and MRTS-Poe, we agree and we will grant reconsideration. In our discussion in the *Miami Order, supra,* at paras. 9–11, we determined that none of the proposed extensions into the West Palm Beach SMSA were *de minimis.* Accordingly, the northern-most cells in MCI's and MRTS-Poe's proposals extend impermissibly into the West Palm Beach SMSA, and thus violate the cellular rules. The Bureau inadvertently failed to include a discussion of this issue regarding these two applicants in the *Miami Order, supra.*[2] Accordingly, we will require both MCI and MRTS-Poe to file conforming amendments to shrink their 39 dBu contours to within the Miami/Fort Lauderdale SMSA. The amended contours shall not cover any area in the SMSA not previously covered by the nonconforming 39 dBu contours. These amendments should consider the effects, if any, that these changes may have on other parts of the two applications. Under the circumstances, brief extensions of time may be granted at the discretion of the Administrative Law Judge.[3]

3. *75% Coverage of CGSA.* Petitioner Florida Cellular agrues the only one applicant was required to establish the coastline as its eastern boundary, and that confusion therefore exists as to the basis of comparison and the percentage of coverage among the other applicants. Florida Cellular requests further clarifying language regarding the inclusion of water areas in CGSA coverage calculations. We find that the language of the *Miami Order,* e.g. at paras. 13 and 27, establishes very clearly that water areas will not be included in the calculation of 75% coverage of the CGSA, and we therefore deny Florida Cellular's petition in this regard.[4]

4. Petitioner MRTS-Poe alleges that the Bureau's statement of $15.4 million proposed costs for its Tampa system is erroneous, and should be corrected to read $9,088,287. We accede to MRTS-Poe's request to the extent of noting that its Tampa application proposes costs of $9,088,287.[5] We would also note, however, that the source of the $15.4 million figure was, as stated in the *Miami Order, supra,* at para. 76, the Amcom Petition To Deny and MRTS-Poe's own Reply thereto, at page 3. The difference does not result in the resolution of MRTS-Poe's financial issue, but means that MRTS-Poe may need to show availability of funding to cover a total of $19,067,006, rather than $25,378,719. These two figures should be considered by the ALJ in his determination of this issue.

5. Accordingly, for the reasons given above, it is ordered, that the petitions for reconsideration are granted to the extent indicated above, and the Miami designation order is amended to correct the errors discussed above.

6. It is further ordered, that MCI and MRTS-Poe are directed to file the conforming amendments described above within 15 days of the publication of this order in the **Federal Register** and that the date for filing rebuttal cases under § 22.916(b)(4) of the Rules is deferred pending establishment of procedural dates by the Administrative Law Judge.

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[1] Advanced Mobile Phone Service, Inc. (Miami Order), CC Mimeo 5061, released July 1, 1983.

[2] Applicants should note that the *Miami Order* does state that all applicants will be bound by the definitive discussion in paras. 9–11. *Id.* at note 13.

[3] Florida Cellular also petitions to be allowed to amend its own service proposal. This portion of Florida Cellular's petition is denied. The allowance of amendments pursuant to para. 17 of the Commission's order, Advanced Mobile Phone Service, Inc. (Chicago Order), 91 FCC 2d 512 (1982), is intended to permit applicants to correct defective applications in order to qualify for comparative consideration, not to improve already qualified applications in order to gain comparative credit.

[4] Florida Cellular objects to the singling out of CTFC, and states that all applicants should similarly be ordered to clarify their showings. We would note that Amcom and CTFC were so ordered because of the failure to meet the 75% coverage requirement of Section 22.903(a) without the inclusion of water areas. Because other applications were not defective in this regard, they were not ordered to amend.

[5] We also take the opportunity to correct the typographical error which causes MRTS-Poe's available funds to be recorded at $15.5 million rather than the correct amount of $15.0 million.

7. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

Jack D. Smith,

Chief, Common Carrier Bureau.

[FR Doc. 83-22436 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-783; File No. BPCT-830118KE et al.]

Arapahoe Silent Majority, Inc. et al.; Hearing

Hearing Designation Order

In re applications of Arapahoe Silent Majority Inc., Topeka, Kansas, MM Docket No. 83-783, File No. BPCT-830118KE; Channel 43, Inc., Topeka, Kansas, MM Docket No. 83-784, File No. BPCT-830311KJ; For Construction Permit.

Adopted: July 22, 1983.

Released: August 9, 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 Arapahoe Silent Majority, Inc. (Arapahoe), and Channel 43, Inc. for authority to construct a new commercial television station on Channel 43, Topeka, Kansas.

2. The effective radiated power, antenna heights above average terrain and other technical data submitted by the applicants indicate that there would be a significant difference in the size of the areas and population which would be served by each of the proposals. Consequently, for the purpose of comparison, the areas and population which would be within the predicted 64 dBu (Grade B) contours, together with the availability of other television service of 64 dBu (Grade B) or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

3. The material submitted by Channel 43, Inc. does not demonstrate the applicant's financial qualifications.[1] Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, the applicant will be given 20 days from the date of release of this Order to review 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 qualifications. If the applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue.

4. No determination has been reached that the tower height and location proposed by Channel 43, Inc.[2] would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

6. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, 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 Channel 43, Inc. would constitute a hazard to air navigation.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

7. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with regard to issue 1.

8. It is further ordered, That within 20 days of the release of this Order, Channel 43, 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 required certification cannot be made.

9. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

10. 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 Section 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Video Services Division, Mass Media Bureau.

[FR Doc. 83-22434 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

[File No. 26052-CL-P-(10)-82 et al.]

GTE Mobilnet of Tampa, Inc., et al.; Hearing

Memorandum Opinion and Order Granting Authorization and Designating Applications for Hearing

In re Application of GTE MOBILNET OF TAMPA, INC., File No. 26052-CL-P-(10)-82, For a construction permit to establish a new cellular radio system operating on frequency Block B in the Domestic Public Cellular Radio Telecommunications Service to serve the Tampa/St. Petersburg, Florida Standard Metropolitan Statistical Area.

In re Applications of, CC Docket No. 83-823, CELCOM COMMUNICATIONS CORPORATION OF FLORIDA, File No. 26163-CL-P-(10)-82, CELLULAR MOBILE SYSTEMS OF FLORIDA, INC., File No. 26171-CL-P-(8)-82, CELLULAR TELEPHONES OF FLORIDA CORPORATION, File No. 26063-CL-P-(8)-82, CHARISMA COMMUNICATIONS CORPORATION OF FLORIDA, File No. 26096-CL-P-(13)-82, FLORIDA CELLULAR GROUP, File No. 26127-CL-P-(9)-82, GENCOM INCORPORATED, File No. 26035-CL-P-(5)-82, MAXICOM, INCORPORATED, File No. 26078-CL-P-(8)-82, MCI CELLULAR TELEPHONE COMPANY, File No. 26101-CL-P-(9)-82, METRO MOBILE CTS, File No. 26152-CL-P-(12)-82, MRTS-POE OF TAMPA, File No. 26080-CL-P-(8)-82, UNITY TELECOMMUNICATIONS SYSTEMS, INC., File No. 26121-CL-P-(9)-82, WESTEL-TAMPA COMPANY, File No. 26091-CL-P-(11)-82, For a construction permit to establish a new cellular radio system operating on frequency Block A in the Domestic Public Cellular Radio Telecommunications Service to serve the Tampa/St. Petersburg Standard Metropolitan Statistical Area.

Adopted: August 3, 1983.

Released: August 10, 1983.

By the Common Carrier Bureau.

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[1] Applicant has indicated that its certification will be submitted at a later date.

[2] The Commission is not in receipt of FAA's determination for the tower proposed by Channel 43, Inc. The FAA clearance granted to another entity for this site has expired, and a new FAA approval is required.

1. Presently before the Chief, Common Carrier Bureau, under delegated authority, are (a) the captioned applications of GTE Mobilnet of Tampa, Inc. (GTE), Celcom Communications Corporation of Florida (Celcom), Cellular Mobile Systems of Florida, Inc. (CMS), Cellular Telephone of Florida Corporation (CTFC), Charisma Communications Corporation of Florida (Charisma), Florida Cellular Group (FCG), Gencom Incorporated (Gencom), Maxicom, Incorporated (Maxicom), MCI Cellular Telephone Company (MCI), Metro Mobile CTS (Metro), MRTS-Poe of Tampa (MRTS-Poe), Unity Telecommunications Systems, Inc. (Unity), and Westel-Tampa Company (Westel) to construct cellular radio systems to serve the Tampa/St. Petersburg, Florida Standard Metropolitan Statistical Area (SMSA);[1] and (b) various motions, petitions and pleadings related to the applications. GTE proposes use of the wireline allocation (frequency Block B), and the others propose use of the nonwireline allocation (frequency Block A).

2. As discussed below, we find all remaining applicants[2] except Maxicom and MRTS-Poe to be qualified to construct and operate a cellular radio system in Tampa/St. Petersburg. Because we find that the public interest would be served thereby, we will grant the GTE application. The proposals of Celcom, CMS, CTFC, Charisma, FCG, Gencom, Maxicom, Metro, MCI, MRTS-Poe and Westel are electrically mutually exclusive, so a comparative hearing will be held to determine which of the applicants would best serve the public interest. We are also requiring that CMS, Maxicom, Metro, MCI, Gencom, Westel and Charisma modify their applications as set forth below.[3] Determination of MRTS-Poe's financial qualification is being made in a separate proceeding (*See* para. 40, *infra*) which will be binding upon the applicant in this market as well. Finally, for the reasons discussed below, we are designating qualifying issues regarding the Maxicom application.

Celcom

3. *Site Availability.* All petitioners[4] argue that Celcom has not provided reasonable assurance of the availability of its proposed sites. Celcom has attached to its reply copies of site agreement letters which adequately demonstrate site availability. To the extent that ambiguity in the application itself prompted petitioners to raise objections, that ambiguity is now resolved, and we will not designatee an issue based on site availability. *See Alabama Citizens for Responsive Public Television, Inc.*, 59 FCC 2d 1 (1976).

4. *Financial Qualification.* CMS, MRTS-Poe, Metro, Maxicom and Westel raise objections to Celcom's financial showing. They charge that Celcom is relying on the same assets (TCI stocks) twice—once to pay off a loan, and once to collateralize the loan arranged here with Michigan National Bank. A clarifying bank letter attached to Celcom's reply states that Michigan National is fully aware of this situation and finds it unobjectionable. Maxicom, CMS and Westel argue that Celcom cannot rely on the letter of commitment for $9 million from Michigan National Bank because the letter refers to Michigan National as the lead bank in a consortium of banks consisting of holding company affiliates of Michigan National Bank, Mellon Bank and Pittsburgh National Bank. Absent evidence of commitments by the latter two banks, petitioners allege, the letter does not provide reasonable assurance of the availability of the loan. A virtually identical letter was submitted by Celcom in its Buffalo application, and was found adequate. *Advanced Mobile Phone Service, Inc. (Buffalo Order)*, CC Mimeo 1320, released December 14, 1982, para. 10. The letter describes the terms and conditions of the loan, including security provisions, and provides for prior written notice to the FCC before any radio facilities may be repossessed. As additional collateral, Celcom's parent Associated Communications Corporation is to secure its guarantee by pledging its shares of Tele-Communications, Inc. (TCI) common stock. Under applicable precedent this letter is acceptable as reasonable assurance that $9 million will be available to Celcom for its Tampa system. *Multi-State Communications, Inc.* v. *FCC*, 59 F.2d 1117 (D.C. Cir. 1978), *cert. denied*, 440 U.S. 959 (1979).

5. MRTS-Poe, Westel and Metro object to Celcom's apparent inclusion of revenues in its financial planning. Celcom points out that with construction and first-year costs totalling $8.9 million, its assured loan of $9 million provides adequate funding, without reliance on revenues. We agree, and therefore do not reach the question of reliance on revenues. Westel objects that no assurance is offered of Celcom's ability to meet the financial requirements of its several cellular service applications,[5] which total approximately $83 million, but Celcom's reply includes a clarifying bank letter which notes the availability of $113.5 million for the eight applications. Metro states that seven new antenna towers will be required, and that their construction cost has not been included, but Celcom, citing its Exhibit 5, appendices A and B, replies that the cost of these towers was in fact included in its expense figures. Metro and Charisma argue that fluctuations in the market price of TCI stock, possible miscalculations of Associated's net liquid assets, and recent commitments by Associated render this financial showing unacceptable. Celcom replies that its cellular financing is based only on the bank funding discussed above, that the TCI stock is partial security for that loan, and that price fluctuations, recent non-cellular commitments, and Associated's balance sheet are all irrelevant here. We agree. Celcom has projected costs of $8.9 million and has shown the availability of $9 million to meet them. We therefore find no reason to designate a financial issue against Celcom.

6. *Technical.* MRTS-Poe puts forward various objections to the engineering/technical showings of the Celcom application, including, among other things, the frequency plan, the system expansion plan, purported CGSA extensions, and the lack of polar diagrams. MRTS-Poe's objections are largely unsupported and hypertechnical. Even as MRTS-Poe attacks Celcom, it fails to provide us with any basis for its criticism. Moreover, in those few instances, such as its recalculation of the line loss figures, when MRTS-Poe does support its allegations, the alleged errors are so minuscule as to fall far short of the threshold test in section 309 of the Communications Act.[6]

[1] In its decision in Cellular Communications Systems, CC Docket No. 79-318, 86 FCC 2d 469 (1981) (hereinafter referred to as Report and Order), *modified* 89 FCC 2d 58 (1982) (hereinafter Reconsideration Order), *further modified*, 90 FCC 2d 571 (1982), the Commission adopted rules for the cellular radio service.

[2] Due to the partial settlement agreement discussed at note 7, *infra*, the application of Unity Telecommunications Systems, Inc. is withdrawn; eleven nonwireline applicants remain.

[3] Applicants are being directed to amend to correct their applications, even with regard to basic qualifying factors, because of the Commission's determination in Advanced Mobile Phone Services, Inc. (Chicago Order), 91 FCC 2d 512 (1982), at para. 17, that "inflexible application of the rules would not be in the public interest."

[4] Petitions to deny the Celcom application were filed by MCI, CMS, MRTS-Poe, FCG, Metro, Westel, Maxicom and Charisma.

[5] Celcom has applications pending in eight top-30 markets, including New York, Philadelphia, Atlanta, Detroit, Buffalo, Pittsburgh and San Jose in addition to Tampa.

[6] We take this opportunity to remind MRTS-Poe to refrain from filing spurious and unsubstantiated

Nevertheless, we have reviewed all the allegations, and we find that the Celcom application satisfies our basic qualifying requirements.

CMS

7. *Issues Already Settled.* The CMS application[7] is attacked upon several issues which have been settled in previous orders. Briefly, these issues are as follows:

(a) Financial Qualification. Charisma, CTFC, Celcom, Westel, Maxicom, Metro and MRTS-Poe petition to deny CMS' application on the basis of an inadequate financial showing. The financial qualification of CMS, a subsidiary of Graphic Scanning, was dealt with in *Advanced Mobile Phone Service, Inc. (Chicago Order),* 91 FCC 2d 512 (1982), at para. 6. The Commission stated that CMS' financial showing met our standards to qualify, and that this holding would apply, absent new or distinctive factual showings, to CMS' applications in all the top-30 markets. Here, no such showing has been made.[8]

(b) Cost Estimates. Celcom and MRTS-Poe challenge CMS' cost estimates. The fact that one applicant's cost estimates are lower than another's is insufficient to warrant designation of an issue. *Chicago Order, supra,* at para. 13. Where, as here, the estimate is not unreasonable on its face, the Commission will not designate an issue. *Id.*

(c) Character. Charisma, CTFC, Celcom, Maxicom and MRTS-Poe attack CMS' application on the basis of legal and character qualification due to the pending hearing designated in *A.S.D. Answering Service, Inc. (ASD),* FCC 82–391, released August 24, 1982. The Commission determined that the qualifications of CMS, of its parent Graphic Scanning, or of any Graphic subsidiaries will not be an issue in the context of any cellular proceedings. *Chicago Order, supra,* at n. 19; *Advanced Mobile Phone Service, Inc. (Boston Order),* CC Mimeo 896, released November 19, 1982, note 14. Any grant to CMS will, however, be open to review depending on the outcome of the *ASD* proceeding. *Boston Order, supra,* at para. 28; *infra,* para. 62.

(d) Direct Case Deficiencies. Maxicom points up certain alleged shortcomings in CMS' direct case, including defective affidavits and improper or absent pagination. As we have said before, these are evidentiary matters to be dealt with in the comparative hearing; they are not proper subjects of a petition for denial or issue designation. *Celcom, Inc. (Minneapolis Order),* CC Mimeo 1573, released December 30, 1982, at para. 9.

(e) CMS as Wireline Carrier. Charisma petitions to deny the CMS application on the basis that CMS, through its parent Graphic Scanning and its co-subsidiary Graphnet, is a wireline common carrier, and thus applies improperly for authority to operate on the Block A cellular frequencies. This argument was made and rejected in the *Miami Order, supra,* at para. 45, based on the determination that a nonwireline carrier is "a carrier which does not provide public landline message telephone service,"[9] a description CMS fits.

(f) Anticompetitive Rates. Charisma and MRTS-Poe challenge CMS' proposed rates as unrealistically low and anticompetitive. This issue was raised against AMPS in the Buffalo market, and we rejected the argument on two grounds. First, the objection was premature, as the rates are only proposed, and could well change significantly upon inception of service. Second, service rates are properly the concern of the state public utilities commission, not of the FCC. *Buffalo Order, supra,* at para. 4;[10] *Miami Order, supra,* at para. 48. In addition, proposed rates are a comparative factor, to be considered in the hearing portion of this proceeding.

8. *Expansion Plan.* Charisma objects to CMS' expansion plan as vague and generalized. A careful review of CMS' application, specifically Exhibits III and IV, reveals that CMS has met the minimum standard, having presented a plan covering the first five years of its system's operation. Further consideration may be given to the CMS plan in the comparative portion of the proceeding.

9. *Site Availability.* Westel and MRTS–Poe petition for denial of CMS' application because the letters regarding site availability are neither leases nor options to purchase. Our longstanding requirement for site availability is one of reasonable assurance rather than legal certainty; 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 Marvin C. Harry.* 21 FCC 2d 420, 423 (Rev. Bd. 1970); *Advanced Mobile Phone Service, Inc. (Pittsburgh Order),* CC Mimeo 1169, released December 6, 1982, at para. 8. CMS has met this standard.

10. *Demographics, Need Survey, Profile Sketches, and Miscellaneous Technical Matters.* CMS proposes the use of sidemounted antennas at sites 2, 3, 5 and 7, and has given omnidirectional patterns for these sites. While it is possible that this is correct, CMS has failed to provide sufficient information regarding these antennas [11] to allow us to conclude that they will provide omnidirectional patterns. CMS will therefore be required to file with the ALJ, within 15 days of the publication of this order in the **Federal Register**, an amendment detailing the necessary information, *e.g.* radiaton pattern based on supporting structure dimensions, wavelength, and distance of transmitter from supporting structure. MRTS-Poe petitions to deny CMS' application on a

objections. This practice results in gross inefficiency in the expenditure of time and resources on the part of all applicants as well as Commission staff. See our comments in Cellular Communications of Cincinnati, Inc. (Cincinnati Order), CC Mimeo 3268, released April 1, 1983, at para. 46.

[7] The CMS application was amended on May 13, 1983, to include Unity Telecommunications Systems, Inc., as 30% owner/general partner. The CMS application will be retained and the Unity application dismissed. The partnership of Cellular Mobile Systems of Florida Inc. and Unity Telecommunications Systems, Inc. will be named Cellular Mobile Systems of Tampa. The application remains otherwise unchanged, the partnership having requested no consolidation of finances and virtually no modification of personnel or management proposals. An identical partial settlement was accepted as a minor amendment in Advanced Mobile Phone Service, Inc. (Miami Order), CC Mimeo 5061, released July 1, 1983. We also accept the CMS amendment.

[8] Comments concerning the CMS-Unity merger have objected to the acceptance of this amendment absent a decision regarding Unity's financial qualification, which was designated an issue in Advanced Mobile Phone Service, Inc. (Philadelphia Order), CC Mimeo 1882, released January 21, 1983. We said in Metrocom of St. Louis (St. Louis Order), CC Mimeo 2045, released January 28, 1983, at paras. 15–18, that a shortage of funding from one source could be covered from another source to qualify the applicant. Here, because CMS' financial qualification has been acepted, and is adequate to cover all the proposed costs of construction and first-year operation, we find examination of Unity's financial qualification unnecessary. Comments also objected to CMS' insistence, reiterated in its reply, on a comparative preference based on minority participation. As discussed at para. 22 and note 26, *infra,* the Commission has never suggested that it would grant a comparative preference for minority participation in cellular services. Further, we agree with the Gencom comment that the Commission has distinguished between broadcast and common carrier services in granting of comparative credit for minority participation, and that while such credit may be appropriate in mass media determinations, it is not required and has not been granted in common carrier instances, including the recent lottery proceeding determinations. *See* 47 U.S.C. § 309(i); TV 9, Inc. v FCC, 495 F 2d 929, 938 (D.C. Cir. 1973), *cert. denied* 418 U.S. 986 (1974); Communications Amendments Act of 1982, Pub. L. 97–259 (September 13, 1982).

[9] Xerox Corporation and MCI Communications Corp., 90 FCC 2d 547 (1982), at 554.

[10] Citing Memorandum Opinion and Order on Reconsideration (Reconsideration Order), 89 FCC 2d 58 (1982), para. 84.

[11] Depending upon the tower dimensions and the antenna spacing from the tower, the actual radiation pattern may be affected significantly.

host of trivial grounds.[12] After reviewing the MRTS-Poe arguments and CMS' application, we find no basis for the designation of any issue against CMS.

11. *CGSA Extensions.* Celcom and Metro object to the extension of CMS' cell number 8 (Moriczville) 39 dBu contour into the neighboring secondary SMSA of Lakeland/Winterhaven, covering some 7.5% of that SMSA's georgraphic area, including several miles of Highway 4. In fact, some 26% of CMS' easternmost cell is in the Lakeland SMSA. Although extensions into secondary SMSAs are permissible if *de minimis*, a large extension into a neighboring population center, unless justified by one or more of the established criteria, will not be characterized as *de minimus*. Here, an irregular political boundary offers a partial, but proportionally small, justification for an extension. Accordingly, we agree with petitioners that the 26% incursion of cell no. 8 into the Lakeland SMSA is more than *de minimis*. In addition, CMS' Masaryktown site, cell no. 7, also constitutes an unacceptable extension. Approximately 41% of this cell is outside the Tampa SMSA. Furthermore, the cell, which is widely separated from the rest of the proposed system, was clearly designed to serve not the Tampa SMSA but this neighboring area with its much-traveled highways. Accordingly, CMS will be required to submit a conforming amendment to the Administrative Law Judge (ALJ) within 15 days of the publication of this order in the Federal Register. This amendment will modify the 39 dBu contours of cells 7 and 8 so that will comply with the cellular rules; the amended contours shall not cover any area not previously covered by the 39 dBu contours of these cells. The amendment should consider the effects, if any, of these cells. The amendment should consider the effects if any, of these changes on other parts of the application. Due to this circumstance, a brief extension of time may be granted at the discretion of the ALJ.

CTFC

12. *Financial.* CTFC estimates its construction and first-year operating expenses at $5,570,000, and has shown availability of this amount from its parent, Metromedia. CTFC is a Florida corporation which, when organized, was owned 50% by Beep Communications Systems, Inc., and 50% by Metromedia, Inc. In *Beep Communications Systems, Inc.*, FCC 82T-26, released November 8, 1982, the Commission approved Metromedia's acquisition of Beep, leaving Metromedia sole owner of CTFC.[13] Petitions from Charisma, CMS, Metro, MRTS-Poe and Westel challenge the CTFC financial showing, but in the *Boston Order, supra*, at para. 13, we found that Metromedia has provided reasonable assurance that it has sufficient funds available to cover $133 million committed to its nine cellular applications in the top 30 markets.[14] Accordingly, we concluded that no financial issue would be designated for hearing against any Metromedia subsidiary based on Metromedia's ability to finance its commitments for nine cellular applications. That determination will be followed here. Because no new financial issues specific to the Tampa application have been raised, we conclude that CTFC has provided reasonable assurance of the availability of $5,570,000 for its construction and first-year operating costs as proposed.[15]

13. *Other Objections.* Metro objects to CTFC's proposal because the 39 dBu contours extend beyond the SMSA boundaries in four places, but we find these extensions to be *de minimis*. MRTS-Poe objects to the CTFC application on grounds of inadequate demographics and need showings, unspecified and unsubstantiated errors in coverage calculations, various minor technical complaints,[16] and vague channelization plan, among others. The determinations made on these arguments at note 5 and para. 6, *supra*, are dispositive here.

Charisma

14. *Estimated Costs.* CMS, Metro and Westel state that Charisma has underestimated and/or understated its costs in various ways, but as the Commission has previously held, *Chicago Order, supra*, at para. 13, the general allegation that one applicant's estimated costs are lower than another's is insufficient to warrant the addition of an issue in hearing. Because Charisma's cost estimate does not on its face appear unreasonable, we will not designate a costs issue. *See Advanced Mobile Phone Service, Inc. (New York Order)*, CC Mimeo 2418, released February 18, 1983, at para. 6.

15. *Financial Qualification.* MRTS-Poe, Metro, CMS and Westel petition to deny Charisma's application for want of financial qualification. Charisma estimates its construction and first-year costs at $11,076,065, and relies on a loan of $9 million from Commerce Union Bank and on revenues of $2,287,000 to finance that amount. Various objections are made to the bank loan arrangements, but we find that the details and terms given are sufficient to give reasonable assurance of the availability of $9 million. Petitioners also object to Charisma's reliance on revenues. For the purpose of determining whether cellular applicants are financially qualified, we do not rely on revenue projections which have not been tested in the hearing process. *New York Order, supra*, at para. 34. It is not necessary to rely on projected revenues here because Charisma has overstated its costs. Section 22.917 does not require that the cost of mobile equipment be included in cost projections. *GTE Mobilnet of San Jose, Inc.* (San Jose Order), CC Mimeo 3974, released May 6, 1983, at para. 10. We recalculate Charisma's costs as follows:

Licensing costs	$161,500	(unchanged) =	161,500
Construction	7,842,300	less mobiles =	5,566,300
Operating	3,072,265	less mobiles =	2,937,165
Adjusted total			8,664,965

Charisma's projected construction and first-year operating costs therefore total $8,664,965, not, as initially stated, $11,076,065. The $9 million loan, together with cash assets of $100,000, adequately covers these expenses and allows a cushion of nearly $450,000 without reliance on operating revenues.

16. *CGSA Extensions.* MRTS-Poe states that 5 of Charisma's 6 cells extend impermissibly beyond the SMSA boundaries, and Celcom calculates that Charisma's proposed service contours include a total of 8.6% of the neighboring Lakeland-Winterhaven SMSA. Charisma replies that it intends to coordinate service with applicants in the neighboring area, but does not attempt

[12] MRTS-Poe's objections are similar to those it raised against Celcomm. For example, it criticizes the absence of polar diagrams, but in practice we do not ordinarily require them for antennas using omnidirectional signals. It attacks the adequacy of applicant's profile sketches and channelization plan, both of which clearly meet our requirements. And it insists on need surveys, as requirement which was abolished early in the cellular proceedings. Report and Order, *supra*, at para. 73.

[13] In addition to CTFC's February 1983 amendment reflecting this ownership change, we have accepted amendments from CTFC clarifying bank letters and making minor technical corrections.

[14] Metromedia has cellular commitments in New York, Los Angeles, Philadelphia, Washington, Baltimore, Chicago, Boston and Miami in addition to Tampa.

[15] Because the question of Metromedia's finances, and those of Metromedia subsidiaries, were resolved in the *Boston Order*, we do not reach here the question of the acceptability of the two bank letters appended to CTFC's reply.

[16] MRTS-Poe objects, for example, to CTFC's line loss figures, which MRTS-Poe alleges should be .84 db, not the .7 db CTFC has stated. Because CTFC's actual ERP is slightly lower, not higher, such a variation in line loss figures would be inconsequential. *See* para. 22, *infra*.

to justify its extensions by any of the established factors. *See Public Notice—Cellular Application Filing Procedures*, Mimeo 2973, released March 24, 1982. We find the extensions of cells 11 and 13 to be so small as to be *de minimis*. *Cincinnati Order, supra*, at para. 19. Cells 6 and 8 extend into non-SMSA areas by approximately 32% and 9%, respectively. The cell 8 extension, which covers a corner created by a jagged political boundary, is justifiable as *de minimis*. The cell 6 extension, however, is a large proportion of the cell's service area, and does not appear justified by any irregularity of boundary or terrain, or by any other factor. This extension is therefore not acceptable. Cells 9 and 12 extend into the neighboring secondary SMSA by 19.8% and 20.9% respectively. Charisma does not attempt to justify these large extensions of 20% and 21%, respectively, into a populous area which includes a significant stretch of Highway 4, a rich source of potential roamer subscribers. Based on our analysis, it appears that the extensions into the Lakeland area are not based solely on the applicant's effort to serve the Tampa market. *Philadelphia Order, supra*, at para. 33. Charisma will accordingly be directed to submit a conforming amendment, under the terms applied to CMS, above, modifying the CGSA and the 39 dBu contours of cells 6, 9 and 12 so that they comply with the Commission's rules.

17. *Impermissible Tariff.* CMS raises an objection to Charisma's alleged inclusion of a tariff for mobile equipment, noting that the Commission has determined that mobile units would be made available on an unbundled and detariffed basis. *Report and Order*, at para. 59; *Reconsideration Order*, at para. 57. We find that Charisma's application lists proposed charges for the optional rental of mobile equipment, but does not include these charges in a tariff. Furthermore, Charisma states unequivocally in its reply to CMS that mobile equipment will be made available on a detariffed basis. *See Buffalo Order, supra*, at para. 23.

18. *Technical.* MRTS-Poe states that the Charisma application is unacceptable for a variety of technical reasons. MRTS-Poe argues that Charisma incorrectly interchanged the cellular transmit and receive frequencies, resulting in an erroneous frequency plan. Charisma has acknowledged the error, which it characterizes as typographical, and has filed a minor amendment to correct it. MRTS-Poe challenges Charisma's vertical profiles as omitting information or crating inconsistencies with information provided elsewhere in the application. Charisma has submitted minor amendments correcting and supplementing its profile sketches to bring them into compliance with the Commission's requirements. MRTS-Poe further argues that the 39 dBu contours for cells 1, 9, 10, 11 and 12 are incorrect because Charisma used an omnidirectional pattern when, because the antennas are side-mounted, a directional pattern should have been used. Charisma replies that its proposed side-mounted antennas would produce omnidirectional coverage within ± 3 db. Upon review of the pleadings we find that the omnidirectional patterns submitted by Charisma may be incorrect.[17] Furthermore, at those sites where the proposed effective radiated power (ERP) is at the maximum allowable level of 100 watts, the use of side mounted omnidirectional antennas may result in the exceeding of this power limit, in violation of Section 22.904 of the Commission's rules. Charisma will thus be directed to file, within 15 days of the publication of this order in the **Federal Register**, an amendment containing additional data and/or corrected antenna patterns if needed, and any corresponding changes to the ERP calculations. This amendment should not cause any 39 dBu contour to cover any area not previously covered.

19. *Other Objections.* MRTS-Poe lodges other objections against the Charisma application, which we find to be without merit. MRTS-Poe states that Charisma's technical problems make accurate calculation of the CGSA coverage impossible. We find that, in view of the § 22.903(a) requirement of 75% coverage, Charisma's 94.9% coverage proposal leaves room for such minor inaccuracies without disqualifying this applicant. MRTS-Poe objects to Charisma's congestion and cell-splitting plans, its site availability showing, its need showing, its demographic studies, and its channelization plan. Identical arguments against another applicant were dealt with above, at para. 4, and will not be further discussed here.

Florida Cellular Group (FCG)

20. *Financial Qualification.* Petitions to deny the application of FCG [18] on the basis of financial qualification were filed by Westel, CMS, and MRTS-Poe. FCG has estimated its construction costs at $3,909,400, [19] and its first-year operating costs at $2,065,000, for a total of $5,974,400. To meet these costs, FCG relies on a $7.5 million loan from Maryland National Bank. Westel objects that Maryland National Bank's decision to grant an unsecured $7.5 million loan is unwise, but the bank's business judgment is irrelevant as long as there is reasonable assurance that the loan will be available. Westel further objects to the bank letter's inclusion of "reasonable and ordinary credit criteria," including terms and covenants yet to be settled. It is well settled that this type of condition is acceptable, as long as the letter includes enough detail [20] to meet the *Multi-State* test of reasonable assurance of funding. CMS objects to the absence of the Maryland National Bank letter and the joint venture agreement, but the former is included in FCG's application, Volume I, exhibit op-5, and the latter is in FCG's Form 430, which if filed with its application and incorporated therein by reference. CMS further objects that joint venturer Florida Cellular Associates' balance sheet is not included. Section 22.917 requires that the applicant provide a current balance sheet, and FCG has done so. The rules do not require that each joint venturer provide a balance sheet, as long as the applicant's financial showing is not dependent thereon. FCG replies, and we agree, that this information is not needed in view of a bank letter showing availability of $1,890,000 to FCA for this venture.[21]

We agree, and would note further that the showing of $7.5 million available to

[17] See discussion at para. 10 and note 11, *supra*.

[18] Florida Cellular Group is a Florida joint venture composed of the Maryland corporation, American Radio Telephone Service of Florida, Inc. (ARTS), and the Florida limited partnership, Florida Cellular Associates, Ltd.

[19] CMS objects to this construction estimate as including only the initial 6 cells, stating that expenses for all 9 cells of the mature system must be included in the construction costs figure. The Commission has determined that financial qualification will concern only information about costs to be incurred during the construction and first-year operation period. Report and Order, at para. 77; Reconsideration Order at n. 43. It may often occur that an applicant's total system, which will be the basis of comparative evaluation, will include facilities and services to be added after the first year of service, which thus may be excluded from projected costs. *See Miami Order, supra*, at para. 77. CMS further states that FCG has failed to include pre-operating expenses, but FCG replies that these are indeed a part of its total.

[20] The Maryland National Bank letter includes a specific amount ($7.5 million), a schedule (5 years revolving credit, convertible to a two-year amortizing term loan), and interest rate (1½% below the bank's floating prime rate or 2% above the Federal Funds rate, at FCG's option).

[21] Letter from Maryland National Bank, in FCG application at volume IV, affidavit of Bruce S. Danzer, attachment 3.

FCG is more than adequate to its projected costs.[22]

21. *Identity of Applicant.* MRTS-Poe objects to FCG's failure to identify itself and its component parts adequately; MRTS-Poe also states that the ARTS balance sheet should not be included in this application because ARTS is not a party to the joint venture.[23] These objections by MRTS-Poe are readily answered in FCG's 430 Form, filed with (and incorporated by reference in) its application.

22. *Other Objections:* MRTS-Poe has filed several miscellaneous objections which can be dispensed with briefly. MRTS-Poe charges lack of availability of site 3 due to a discrepancy in antenna height information. This objection has been adequately dealt with by FCG's reply and attachment F thereto. MRTS-Poe cites inadequacies in FCG's demographic survey/need analysis, but, as discussed above, this requirement has been abolished for cellular applications. *Report and Order* at para. 73. MRTS-Poe charges FCG with misstatement of its cable line losses by .08 db per 100 feet; as FCG notes in its reply, calculation of line loss beyond 1/10 db per 100 feet is virtually impossible. Furthermore, if the actual line loss does exceed FCG's figure of 1.30 db per 100 feet, a simple adjustment of transmitter output power will rectify this problem, and the ERP and 39 dBu contour will not be affected.[24] MRTS-Poe objects to the absence of polar diagrams, but, as FCG notes, all 9 of the proposed sites use topmounted, omnidirectional antennas, so no polar diagrams are needed.[25] MRTS-Poe asks that an issue be designated regarding rates and charges, because its proposed rates and charges are significantly lower than FCG's. We agree with FCG that MRTS-Poe's allegations are improperly pleaded here, as rates/charges is not a qualifying issue. Finally, MRTS-Poe uses its petition to deny FCG's application, as it has used its petitions to deny other applications in the Tampa/St. Petersburg market, to demand comparative consideration with respect to minority participation. Minority participation is not a qualifying factor for cellular applicants, and MRTS-Poe has improperly pleaded it here.[26]

Gencom

23. *Financial Qualification.* The Gencom financial ability to meet estimated construction and first-year costs of $5,548,900 is challenged by MRTS-Poe, Metro, Charisma, Celcom, Maxicom and Westel. In *Celcom Communications Corp. of Georgia, (Atlanta Order),* CC Mimeo 1988, released January 26, 1983, at para. 13, we concluded that Gencom is financially qualified to meet its commitments for six top-30 cellular proposals, including Tampa.[27] No new considerations have been introduced here, so that determination will control.

24. *Lawsuits Pending.* Gencom is defendant in an antitrust suit presently pending before the Florida Circuit Court;[28] its parent, Communications Industries, is one of several defendants in another.[29] As discussed in the *Atlanta Order, supra,* at para. 16, the Commission has been reluctant, especially with regard to cellular proceedings, to inquire into allegations pending in another forum, but it is the Commission's usual practice to condition any award to take into account the pending litigation. *Peoples Broadcasting Corporation, et al.,* 68 FCC 2d 1569, 1573–74 (1978). We will include a condition here,[30] but we emphasize that it would be premature to examine this matter in a cellular comparative hearing.

25. *Site Availability.* Westel challenges Gencom's showing of site availability as failing to provide reasonable assurance. We find that even without the supporting documentation which Gencom has provided with its reply (also submitted as an amendment on September 13, 1982, and accepted as minor), its showing of site availability is adequate to provide reasonable assurance of its five sites, as the applicant states that it either owns or has made arrangements to rent or purchase each site. *See* para. 9, *supra.*

26. *Costs Estimate.* Metro challenges Gencom's costs estimate as unreasonably low, but, as we have stated before,[31] differences in the cost projections among the applicants will not warrant the designation of an issue.

27. *Technical.* We find no merit to the several technical issues raised, and will dispose of them summarily. MRTS-Poe objects on several bases;[32] these MRTS-Poe objections were discussed at para. 6 and note 6, *supra,* and will not be discussed further here. MRTS-Poe also challenges Gencom's 39 dBu coverage of its CGSA as being less than the 75% required by § 22.903. Gencom replies that it has doublechecked its measurements and calculations and is assured of more than 75% coverage. MRTS-Poe submits no measurements or calculations, but badly alleges that coverage is 73.06%. Our review of Gencom's maps and proposed service area supports Gencom's finding of more than 75% coverage. This review also reveals, however, that Gencom has failed to provide the 1:250,000 scaled map required by Section 22.903(a). Accordingly, Gencom will be required to submit to the ALJ, within 15 days of the publication of this order in the **Federal Register**, a map of its Tampa proposal to meet the Commission's requirements. CMS objects to Gencom's failure to assure availability of the microwave links it proposes. We stated in the *St. Louis Order, supra,* at para. 5, that applicants need not include in their applications microwave applications and/or authorizations to connect the cell sites with the system control station in order to meet the required basic qualifications.[33] *See* Common Carrier Public Notice, Mimeo 567, November 1, 1982, at page 3.

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[22] FCG's July 15, 1982 amendment to include increased capital contributions is returned as major. Such additional funding is, in view of the above analysis, superfluous.

[23] MRTS-Poe states that FCG has failed to provide information regarding the recipient of accounts receivable, the characterization (*i.e.*, as corporation or other entity) of FCG, the identity of the debtors owing accounts receivable, the percentage contributions of the parties to FCG, and details of the loan repayment. Insofar as these data are germane to our consideration, they are available in FCG's 430 Form, mentioned above.

[24] *See also* para. 10 and note 11, *supra.*

[25] See item 18 of FCC Form 401.

[26] Not only has the Commission declined to make minority participation a qualifying issue, *see, e.g.*, 86 FCC 2d 469 at 502–503, 89 FCC 2d 58 at 66, but the Commission has never suggested that it would assign comparative credit for minority participation in the context of cellular service. *See* note 8, *supra.*

[27] Gencom is an applicant in Atlanta, Phoenix, and San Diego in addition to Tampa; it is also a participant in joint ventures in Dallas-Fort Worth and St. Louis.

[28] Westside Communications of Tampa, Inc. v. Gencom Incorporated, Fla. Circuit Court (Hillsborough County), filed September 16, 1981.

[29] Radio Relay Corporation—Texas v. D/FW Signal, Inc., *et al.*, No. CA3 82-0677 G (N.D. Tex., filed June 7, 1982).

[30] *See* para. 63, *infra.*

[31] Chicago Order, *supra,* at para. 13.

[32] MRTS-Poe challenges Gencom's application for the absence of polar diagrams for omnidirectional antennas; for vagueness regarding antenna mounts, which are clearly portrayed in exhibit 7.4; for antenna sketches which, while complying with Section 22.15(c), do not portray other antennas; for the calculation of 39 dBu contours in miles rather than kilometers; for vagueness in channelization methodology description, discussed in exhibit 5.3 and 5.2. MRTS-Poe also raises additional non-technical issues which we similarly find to be without merit; these include a challenge to Gencom's site letters, objections to Gencom's need surveys, and a statement on minority ownership and participation. These issues, too, have been dealt with adequately, *supra.*

[33] We further stated in the *St. Louis Order* that no comparative preference would be accorded the applicant who did submit such interconnection information.

Maxicom

28. *System Expansion and Congestion.* CMS and MRTS-Poe raise objections to Maxicom's responses to the requirements of Sections 22.913(a) (4) and (5) regarding the determination of system congestion and proposals for system expansion and cell-splitting. Petitioners state that Maxicom's showing is vague and inadequate. We have reviewed Maxicom's application and the associated pleadings, and we conclude that the applicant has provided sufficient information concerning its proposed method of system expansion, but not concerning system congestion and cell-splitting. Although Maxicom describes in passing its proposed grade of service, it offers no explanation of the basis of its determination of congestion. Maxicom's cell-splitting proposal is consequently inadequate.[34] Technical issues regarding congestion determination and cell splitting will therefore be designated against Maxicom. If either or both of these issues are decided against the applicant, the effect on Maxicom's technical qualification must be considered. The ALJ may use our summary procedures to resolve these issues.

29. *Financial Qualifications.* Maxicom states that it plans to fund its Tampa cellular system from three sources—revenue, shareholders' contributions[35] and third-party financing—but that the latter alone is sufficient to meet its projected costs. Maxicom's proposed costs total $9,582,000. Pittsburgh National Bank has made $25 million available in a letter including such details as interest rate and payback schedule.[36] Charisma, Westel and MRTS-Poe object to the Pittsburgh National Bank letter as establishing a security arrangement without including the 10-day notice provision mandated by Section 22.917(f). Maxicom replies that the provision need not be included in this letter, as this is merely a letter of commitment and not an actual credit agreement. Section 22.917 deals with the showing required of an applicant, in its application, to establish financial qualification. Any proposed credit arrangement which includes a security interest in any proposed radio station facility *must* include the 10-day notice provision. Maxicom will therefore be ordered to amend its financial showing in order to bring it into conformity with the rules.[37]

30. *Site Availability.* Maxicom has proposed an 8-cell system and has presented documentation of the availability of each cell site. MRTS-Poe objects to the showing regarding site 6 at the Clearwater Bank building.[38] Upon inspection we find that this letter gives reasonable assurance of site availability. The only reservation in the letter provides that the site is subject to prior lease to a tenant other than Maxicom. We have not required applicants to pay to reserve site locations in order to demonstrate reasonable assurance. The site was clearly available at the time Maxicom prepared its application; no more is required.

31. *Technical.* MRTS-Poe alleges discrepancies in antenna heights in Maxicom's vertical profile sketches. Maxicom replies that these are due to changes in Phelps-Dodge equipment specifications, and it corrects the discrepancies. MRTS-Poe states that ERP figures on 5 radials of site 8 are incorrectly calculated because of erroneous antenna gain figures, but Maxicom replies that it relies on Phelps Dodge drawing S–32658, according to which its calculations are correct. Our review confirms that Maxicom's calculations here are reliable.

32. *Other.* Various objections are lodged which concern comparative rather than qualifying issues,[39] which are not properly supported,[40] or which are inconsistent with the Commission's prevailing requirements and standards.[41] These and similar objections have been adequately dealt with above, and will not be discussed further here. MRTS-Poe objects to the omission of addresses for cell sites 2, 3, 4 and 7, and for the stockholders named in response to FCC Form 401 item 33. Maxicom adequately meets these objections by supplying the site addresses in its reply, and by giving as the stockholders' business addresses its own address. MRTS-Poe also objects to Maxicom's erroneous reference to its Atlanta, rather than its Tampa, system; this typographical error has been corrected by amendment.

MCI

33. *Site Availability.* Charisma,[42] Westel and MRTS-Poe petition to deny the MCI application for failure to show site availability.[43] We find that MCI's showing, with site letters, does provide reasonable assurance of the availability of its proposed antenna sites. MRTS-Poe has not supported its allegation that the letter writers were ignorant of the type and extent of facilities proposed, and we decline to designate a site issue against MCI.

34. *Previously Resolved Issues.* Because MCI applications have been evaluated in other markets where designation orders have already been issued, certain common issues can be

[34] On July 30, 1982, Maxicom submitted a proposal which included a detailed description of its cell-splitting plan, but the amendment was returned as major. The amendment also contained other additions and corrections to Mexicom's application, some of which appeared to be minor. Maxicom resubmitted the bulk of this amendment on October 6, 1982, but it is herewith returned as unacceptable. The addition of sentences and whole pages, and the reassignment of channels to create a new and possibly preferable channelization plan, cannot be viewed as minor. Because of the Bureau's established policy of not separating out those parts of amendments which are in fact minor, we are returning the entire packet to Maxicom. Upon issuance of this order, Maxicom may submit its amendment, or any parts of it, to the ALJ, who has discretion to accept even major amendments for good cause.

[35] By amendment of June 2, 1983, Maxicom proposes an ownership charge which results in no change of control of Maxicom, and which involves a small, indirect, non-voting alien ownership interest of at most 12%. Such interest does not contravene the Commission's rules or policies. *See* 47 U.S.C. 310(b)(4) and 22.918(d); Advanced Mobile Phone Service, Inc. (Denver Order), CC Mimeo 4779, released June 17, 1983, at paras. 6 and 7. An identical amendment was accepted by the ALJ in the Atlanta proceeding. Order, FCC 83M–1986, released June 17, 1983.

[36] Maxicom includes a letter from First Chicago Bank which also discusses a $25 million loan but gives no terms or specifics. Because this financing is superfluous in view of the Pittsburgh National Bank loan, we will not consider it further.

[37] Objections are also made regarding stockholders' contribution of $300,000, the Posner guarantee of the Pittsburgh loan, and the Pittsburgh Bank's reservation of the right to review the loan terms at the time of closing. We find that the stockholders' contribution is superfluous in view of the sufficiency of the Pittsburgh Bank funding; Posner's guarantee is acceptable; the bank's reservation is within the normal course of business and does not detract from the reasonable assurance of availability of this funding.

[38] MRTS-Poe and Westel object to the entire site showing as failing to provide binding, legally enforceable contracts for sites, but we reject these arguments. Maxicom complies with our settled standard of reasonable assurance.

[39] MRTS-Poe again seeks to discuss such issues as the demographics showing, proposed rates and charges, and the possibility of preferences for minority ownership/participation.

[40] MRTS-Poe charges that Maxicom's figure for maximum modulating frequency is off by 30 cycles/second, but offers no support for this allegation. Maxicom responds that it relies on Motorola equipment specifications. MRTS-Poe states that the cell 6 ERP is miscalculated, and is actually 97.77 watts, not 100. Maxicom accepts this correction and amends its cell 6 ERP.

[41] MRTS-Poe again insists on polar diagrams for omnidirectional antennas, on identification in the vertical antenna sketches of all neighboring antennas, and on a full need showing. It further states (without citing any authority) that conformed but unexecuted Forms 714 (FAA study reports) are cause for disqualification. We reject MRTS-Poe's arguments.

[42] Charisma's petition was filed one day late due to word processor failure. We will accept the petition.

[43] Westel insists on a standard of legal certainty; our established standard is reasonable assurance, and we reject Westel's demand.

disposed of here by reference to those earlier determinations.

(a) Financial Qualification of the applicant was established in the *Pittsburgh Order, supra,* at para. 5. This determination applies to MCI as applicant in 12 top-30 markets, including Tampa. Because no new issues have been raised here, the Pittsburgh determination is controlling.

(b) Item 45, applicant's relation to station. Charisma objects that MCI's response to this item is inadequate because of the ownership changes discussed in the *Miami Order, supra,* at para. 44 and n. 44. MCI has made the same showing for item 45 here as it made in Miami, so our determination, in the *Miami Order* at n. 42, that the MCI showing was adequate, controls here.

(c) MCI as wireline carrier. This argument, too, was dismissed in the *Miami Order, supra,* at para. 40, and that resolution controls here.

(d) Real party in interest. The Charisma objection was discussed and resolved in the *Miami Order, supra,* at para. 44, and is accordingly dismissed here.

(e) Anticompetitive rates. The argument raised here by Charisma and MRTS-Poe was also raised in the Miami proceedings. Because the MCI rates proposal for Tampa, and the argument raised against it, are identical to the coverage of this issue in Miami, our determination in the *Miami Order, supra,* at para. 41, that no issue should be added, will also control here.

(f) Congestion determination. CMS objects here, as it did in Miami, that MCI's congestion determination is a "general, textbook discussion" and is inadequate. The MCI showing here is identical to its showing in Miami, so our finding of adequacy there, in the *Miami Order, supra,* at para. 42, is determinative here.

35. *Other Issues.* [44] MRTS-Poe charges that cell site 6 uses a sidemounted antenna and that the pattern will therefore not be omnidirectional. Cell 6 does show a sidemounted antenna, and absent further information from MCI, it is impossible to state whether the pattern will be omnidirectional. MCI will therefore be required to file with the ALJ, within 15 days of the publication of this order in the **Federal Register**, an amendment containing the necessary information regarding the antenna at cell site 6. *See* para. 10, *supra.*

36. MRTS-Poe also raises arguments regarding polar diagrams, coaxial cable loss, [45] and terrain values.[46] Because MRTS-Poe has submitted no calculations and no factual substantiations of its charges, we decline to consider them. The MCI application, including the areas criticized by MRTS-Poe, has been reviewed by the staff, and has been found acceptable.

Metro Mobile CTS (Metro)

37. *Previously Resolved Issues.* Because Metro applications have been evaluated in other markets where designation orders have already been released, certain common issues can be disposed of here by reference to those earlier determinations.

(a) Site availability. Westel, Charisma, CMS and MRTS-Poe object to the absence of documentation of site availability in Metro's application. The identical question arose in the Miami proceedings; there, as here, Metro amended to include its site commitment letters. For the reasons stated in the *Miami Order, supra,* at para. 71, we find that Metro has demonstrated reasonable assurance of the availability of its proposes sites.[47]

(b) Costs estimate. MRTS-Poe charges that Metro has omitted major expenses from its cost projection. We have stated that discrepancies in costs among applicants, as long as each projection falls short of appearing unreasonable on its face, will not warrant designation of an issue. *Chicago Order, supra,* at para. 13.

(c) Financial qualification. Westel, Charisma, CMS, Celcom, and MRTS-Poe challenge Metro's financial showing. Metro estimates its construction and first-year costs at $10,528,281 for Tampa, and at $99,264,429 for its nine top-30 applications.[48] To meet these expenses Metro shows availability of $115 million. We considered the same objections[49] to Metro's overall financial showing in the Miami and Minneapolis markets, and concluded that the applicant has demonstrated reasonable assurance of the availability of funds to finance its nine cellular applications. *Minneapolis Order, supra,* at para. 16; *Miami Order, supra,* at para. 69.

(d) Continuity of service. As it did in Miami, CMS objects to Metro's proposed system as providing inadequate redundancy to assure continuous and reliable service. The rules do not require reduncancy, and we find this to be a comparative, not a qualifying, issue. *Miami Order, supra,* at para. 72.

38. *System Congestion Determination.* CMS charges that Metro has failed to provide detailed information on its proposed determination of system congestion and its standards for expansion. We find that Metro's proposals to monitor and analyze system use, and to expand as necessary to maintain a grade of service of .02, adequately meet our requirements in this regard.

39. *Technical Issues.* MRTS-Poe raises the same technical issues it raised against other applicants. These have been addressed and rejected.[50] MRTS-Poe also charges that Metro is using a sidemounted antenna at sites 3, 5, 6 and 14, and that Metro has improperly shown omnidirectional patterns for these sites. In accordance with our discussion at para. 10, *supra,* we will require Metro to submit to the ALJ, within 15 days of the publication of this order in the **Federal Register**, an amendment detailing the required information on these sites. Finally, MRTS-Poe states that it has found multiple errors and miscalculations which result in an inadequate presentation by Metro, and in less than 75 percent coverage by Metro of its proposed CGSA. Nowhere has MRTS-Poe provided calculations or documentation to support these broad allegations, and we reject them. Our review of the Metro application shows it to be acceptable, and MRTS-Poe's charges, without more, do not change that conclusion.

MRTS-Poe

40. *Previously Resolved Issues.* Several of the issues raised against

[44] No further discussion will be undertaken regarding the standard MRTS-Poe objections, made against virtually every applicant in the Tampa market, except to note that they were made here. These include need survey, channelization methodology, and minority ownership/participation, all of which have already been discussed and disposed of, *supra.*

[45] MRTS-Poe alleges the MCI's line loss figures are incorrect by .02 db. Even if this allegation were supported, which it is not, and proved to be true, such a minute variation is of no consequence.

[46] MRTS-Poe offers generally no facts and no figures to substantiate its charges; in the case of its allegations regarding terrain values, MRTS-Poe has failed even to specify which site(s) it finds incorrectly portrayed.

[47] Westel objects here, as it has previously, that the site letters are inadequate because they do not constitute binding, enforceable commitments. We reiterate that our standard is not legal certainty but reasonable assurance.

[48] Metro has applied in Cincinnati, Denver, Houston, Kansas City, Miami, Minneapolis, Phoenix and San Diego in addition to Tampa.

[49] Objections include the absence of a specific clause meeting Section 22.917(f) requirements, questions about the banks syndicated with The First National Bank of Chicago, the separation of specific sums to each market applied for, and partners' capital contributions.

[50] MRTS-Poe raises many other inconsequential issues which we decline to discuss further, including demographic and need showings, the absence of separate 401 forms for each site, minority participation, and requirements of polar diagrams for omnidirectional antennas.

MRTS-Poe in this proceeding have been raised and dealt with in the Miami designation order. These include the following:

(a) Financial qualification. A financial issue was designated against MRTS-Poe in the *Miami Order, supra,* at paras. 75–76. That proceeding is to consider the applicant's financial qualification for both Miami and Tampa, and will thus be binding upon the applicant in this proceeding.

(b) Management structure. Charisma raises questions here, as it did in Miami, regarding the identity and management plans of the applicant. We find that MRTS-Poe has adequately identified itself and its proposed operations. *Miami Order, supra,* n. 64.

(c) Certification. We reject here, as we did in the *Miami Order, supra,* at para. 79, challenges regarding certification of the application,[51] allegations of possible trafficking, a charge that MRTS-Poe's proposed system cannot provide its stated grade of service, and allegations of improper tariffing of mobile equipment.

(d) System congestion and expansion. Despite CMS' charges of inadequate description, we affirm our finding in the *Miami Order, supra,* at para. 78, that MRTS-Poe has adequately outlined its system proposals.

(e) Cost estimates. As stated in the *Chicago Order, supra,* at para. 13, differences in cost projections will not warrant the designation of an issue, as long as the challenged projection is not unreasonable on its face. We find MRTS-Poe's cost estimate acceptable.

41. *CGSA Coverage.* Metro charges that MRTS-Poe has miscalculated the 39 dBu contours for 6 of its 8 proposed cells, and that this has resulted in erroneous inflation of its coverage. Furthermore, charges Metro, even using MRTS-Poe's inflated calculations, only 64.2% of the CGSA is covered. MRTS-Poe reconfirms its initial calculations, and we agree that at least 75% of MRTS-Poe's proposed CGSA is covered by its 39 dBu contour.

42. *Site Availability.* Charisma challenges the availability of cell site C, but we find Charisma's allegations meritless. First, Charisma challenges MRTS-Poe's failure to acquire a variance to the area's free-fall zoning requirement.[52] Absent a showing by petitioner that granting of such a variance is improbable, this challenge is groundless. No such showing has been made here. Second, Charisma states that the square footage available at site C is less than will be required when MRTS-Poe, at an unspecified future time, expands its system.[53] MRTS-Poe need not show the availability of future expansion sites, but only of the sites needed to establish its initial system. It has given reasonable assurance of such availability.

Unity

43. Because Unity has withdrawn its Tampa application pursuant to a partial settlement agreement with CMS,[54] we need not discuss this applicant.

Westel-Tampa

44. *Financial Qualification.* Charisma, CMS and Celcom petition to deny Westel's application on financial grounds. Westel projects construction costs of $5,711,623 and first-year cost of $1,269,800, for a total of $6,981,423.[55] To cover these expenses Westel shows availability of $10 million in the form of an established line of credit from American Financial Corporation (AFC) to FMI Financial Corporation. FMI Financial Corporation is the parent of FMI Communications Corporation (FMI), a 20% shareholder of Westel and its major source of funding. FMI makes this $10 million line of credit[56] available to Westel-Tampa for this cellular system. The letter from AFC to FMI assuring availability of these funds (Application Vol. IV, Ex. 24, Att. 3) sets forth only reasonable and customary conditions, an interest rate, and a payback period, thereby meeting the *Multi-State* test and giving reasonable assurance. Various objections to FMI's financial showing, including questions about its balance sheets, its projected revenues, and the liquidity of its assets, are superfluous in view of the availability of funds from AFC to meet projected costs and provide a $3 million cushion.

45. Celcom argues that construction costs scheduled to be incurred during the first year of operation (see note 55, *supra*) must be included in the cost estimate given for purposes of this showing of financial qualification. Westel replies that these additional construction costs will be incurred only if subscriber revenues justify system expansion, and will therefore be covered by said increased revenues. Although we agree that any construction to be undertaken before or during the first year of operation of a system is to be included in the applicant's required financial showing, we find Celcom's argument in this context to be meritless because Westel's excess of funds, or cushion ($3,018,577) is more than adequate to cover its additional proposed construction ($937,815). Although Charisma further objects to the AFC letter as failing to include the 10-day notice provision of § 22.917(f), that requirement applies only to funding secured by the cellular system assets, which is not the case here.

46. *Westel as Wireline Carrier.* MRTS-Poe and Charisma argue that Westel applies improperly for authorization in frequency Block A, in that it is a wireline carrier and therefore ineligible. This matter has been resolved, and Westel's eligibility to apply as a radio common carrier is established. Para. 7(e), *supra; Miami Order, supra,* para. 45.

47. *Technical and Other Objections.* The Commission staff's review of Westel's application reveals that Westel has failed to provide the 1:250,000 scaled map required by Section 22.903(a). Westel will therefore be ordered to submit to the ALJ, within 15 days of the publication of this order in the **Federal Register**, a map complying with the Commission's requirements. MRTS-Poe raises many arguments against Westel, but only a few of them will be dealt with here.[57] Regarding the requirement of polar diagrams for directional antennas, which MRTS-Poe says Westel has failed to meet, the only two directional antennas proposed in this application are at cells C and L. Polar diagrams for these two cells are given in vol. II, ex. 5 of the application. MRTS-Poe's arguments regarding microwave connection and transmission lines are adequately answered in the application itself, and in Westel's reply. Charisma states that Westel proposes inadequate voice channels to achieve its proposed

[51] Charisma objects that the sponsoring affidavits in MRTS-Poe's engineering exhibits were executed two days before the completion of some of the exhibits. MRTS-Poe has provided adequate explanation of this occurrence, together with a properly executed and timely certification of the exhibits in question.

[52] This requirement provides that the site of a structure such as an antenna tower must include land in all directions to a distance equal to the height of the structure.

[53] It is noteworthy that the Mullaney engineering attachment to Charisma's petition states that the exact amount of space available at this site cannot be determined.

[54] See note 7, *supra.*

[55] Construction costs, like operating costs, are broken down into three one-year periods in the Westel application. The applicant notes that construction year 1 is pre-operation, and that construction year 2 is expected to be contemporaneous with operating year 1. Construction year 1 costs are projected at $5,711,623, and construction year 2 at $937,815.

[56] The $10 million dollar line of credit actually consists of the remaining quarter of a $40 million line of credit established in 1980.

[57] Among the arguments not discussed are MRTS-Poe's petitions regarding minority ownership, need surveys, polar diagrams for omnidirectional antennas, comparison of rates and charges, and other issues of that ilk.

.01 grade of service, but we find that Charisma has failed to demonstrate any shortcoming in this regard. MRTS-Poe objects to Westel's figures for average terrain elevations and average antenna radiation center heights of cells B, F, E and G. This objection is unsubstantiated. Westel's figures appear to be correct, and even if MRTS-Poe's allegations were accurate, the differences alleged are insignificant. The same response holds true for other MRTS-Poe objections regarding calculation of 39 dBu contours, frequency stability, multiplexed transmission, frequency measuring devices, mobile output powers, wireline connection of control point with cell sites, line losses, and ERPs. Three of Westels proposed sites, A, B and H, were found by the Commission staff to entail antenna proposals which would constitute major actions. No environmental statements were submitted by Westel, and in fact the applicant states that none of its antenna proposals are major. Section 1.1305(a)(2) of the Commission's rules states that antenna heights in excess of 300 feet constitute major actions requiring an environmental statement pursuant to Section 1.1311. Westel's three towers were listed on Public Notice, Report No. CL-17, on June 10, 1983. Westel will be required to file with the ALJ, within 15 days of the publication of this order in the **Federal Register**, an amendment supplying the required environmental statements regarding its cell sites A, B and H.

GTE Mobilnet

48. Petitions to deny GTE's application were submitted by Gencom, CTFC, MCI and Metro.[58] The Petitioners requested deferral of Commission action on the construction permit application and raised arguments regarding head start. For the reasons stated by the Commission in the *Chicago Order, supra*, at para. 16, we find that it is premature to rule on these petitions at this time. Gencom has also filed a "Motion to Address and Rule Upon Headstart Petitions Prior to Action Upon the GTE Construction Permit Authorization." This motion requests that a formal pleading cycle for deferral petitions be initiated before the grant of the GTE construction permit. We find that the Commission's decision in its *Chicago Order*, which concluded that deferral petitions will not be considered until the covering license stage, is controlling here. See *Chicago Order, supra*, at para. 16. Accordingly, we deny this motion.

49. *Interconnection.* GTE's interconnection proposal is attacked as vague, inadequate and cursory by petitioners CTFC and MCI. GTE's application, at exhibit 23, provides a full discussion of its interconnection proposal; for technical details the exhibit references both AT&T and GTE publications. Further, as we stated in the *Buffalo Order, supra*, at para. 5, the interconnection question should be settled by intercarrier agreement subject to the wireline carrier's duty to provide reasonable and technically suitable interconnection. We therefore conclude, as in the *Buffalo Order*, that the wireline carrier has met our requirements regarding interconnection policy, and that the petition to deny on this basis is without merit. As an additional assurance, the Commission has made clear that "if reasonable interconnection agreements have not been formulated by the time [the wireline carrier] files an application for a license to operate its cellular system, any grant to the [WCC] will be conditioned upon its providing reasonable interconnection." *Advanced Mobile Phone Service, Inc. (Los Angeles Wireline Order)*, FCC 83-124, released April 26, 1983, at para. 40, citing 89 FCC 2d at 81-82.

50. *Site Availability.* CTFC petitions to deny on the basis that GTE has failed to show the availability of its proposed sites. GTE has stated that all its proposed sites are under the control of its local affiliate, General Telephone Company of Florida, and that documentation of the availability of each site is available to the Commission upon request. We find that this showing meets our standard of reasonable assurance.

Conclusions

51. Based on our analysis of the applications and our resolution of the contested issues in this order, we find the applicants, except for MRTS-Poe and Maxicom,[59] to be legally, technically, financially and otherwise qualified [60] to construct and operate their proposed cellular systems, except to the extent discussed here. As indicated in our previous discussions, the captioned CMS, Charisma, MCI, Metro, Gencom, Westel and Maxicom applications do not comply with one or more of the cellular rules. In the *Chicago Order, supra*, at para. 17, the Commission determined that the inflexible application of the cellular rules to applications in the top 30 markets would not be in the public interest. Accordingly, we are requiring CMS, Charisma, MCI, Metro, Gencom, Westel and Maxicom to bring their applications into conformance with the rules as specified in this order. We emphasize that the amendments ordered here may not be used to give any applicant a comparative advantage in the hearing proceeding. We further find that the granting of the GTE application, as conditioned below, will serve the public interest, convenience and necessity.

52. Accordingly, it is ordered that the application of GTE Mobilnet of Tampa, Inc., is granted, conditioned upon GTE's obtaining the appropriate antenna structure clearances.[61]

53. It is further ordered, that the partial settlement agreement between Unity and CMS, filed on May 13, 1983 as an amendment to the CMS application, is accepted, and that the application of Unity Telecommunications Systems, Inc., is dismissed pursuant to that agreement.

54. It is further ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of Celcom Communications Corporation of Florida, Cellular Mobile Systems of Tampa,[62] Cellular Telephone of Florida Corporation, Charisma Communications Corporation of Florida, Florida Cellular Group, Gencom Incorporated, Maxicom, Incorporated, MCI Cellular Telephone Corporation, Metro Mobile CTS, MRTS-Poe of Tampa, and Westel-Tampa Company are designated for hearing in a consolidated proceeding upon the following issues:[63]

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[58] Gencom submitted a Petition to Defer Grant of Construction Permit; CTFC and Metro submitted Petitions to Defer Action; MCI submitted a Petition to Dismiss or Deny. CMS also submitted a Petition to Defer Agency Action, but withdrew it by letter of August 11, 1982.

[59] Two technical issues have been designated here against Maxicom. *See* para. 54, *infra*. A financial issue was designated against MRTS-Poe in the *Miami Order*, and the determination in that proceeding will control here also.

[60] We recognize that the qualifications of Graphic Scanning, CMS' parent, may be in issue in CC Docket Nos. 82-587 *et al. See* note 63, *infra*.

[61] GTE 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. GTE's authorization (FCC Form 463) will reflect these conditions.

[62] Pursuant to the partial settlement agreement discussed at note 6, *supra*, the CMS-Unity partnership takes this new name and retains the original CMS application, with slight informational additions from the Unity application.

[63] 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, 501-02 (1981). Except for MRTS-Poe, whose financial qualification is being determined in a different proceeding, we have found all of the

(a) To determine whether Maxicom, Inc. has provided criteria for cell-splitting as required by § 22.913(a)(5) and, if not, the effect on Maxicom's technical qualification;

(b) To determine whether Maxicom's application provides sufficient information regarding the determination of system congestion as required by § 22.913(a)(4) and, if not, the effect on Maxicom's technical qualification;

(c) To determine on a comparative basis the geographic are and population that each applicant proposes to serve; [64] to determine and compare the relative demand for the services proposed in said area; and to determine and compare the ability of each applicant's cellular system to accommodate the anticipated demand for both local and roamer service; [65]

(d) 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;

(e) To determine on a comparative basis the nature and exent of the service proposed by each applicant, including each applicant's proposed rates, charges, maintenance, personnel, practices, classifications, regulations and facilities (including switching capabilities); [66]

(f) 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.

55. It is further ordered that the burden of proceedings with the introduction of evidence upon the technical qualification issues of cell-splitting and congestion determination, and the burden of proof thereon, shall be on Maxicom, Inc.

56. 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.[67]

57. 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.**

58. 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.

59. 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.

60. It is further ordered that CMS, Charisma, MCI, Metro, Gencom, Westel and Maxicom 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 the date for filing rebuttal cases under § 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 Maxicom shall be determined by the Judge in the Judge's discretion.

61. 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.

62. 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 quailfications 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.

63. It is further ordered that any authorization granted to Gencom 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 final disposition of the antitrust litigation cited in para. 24, *supra*, and shall be specifically conditioned on the outcome of those proceedings.

64. It is further ordered that any authorization granted as a result of this proceeding shall be conditioned upon obtaining the appropriate antenna structure clearances.

65. This order is issued under § 0.291 of the Commission's rules and *Order Delegating Authority*, FCC 82-435, released October 6, 1982, and is effective on it release date. Petitions for reconsideration under § 1.106 or applications for review under § 1.115 of the rules of this order, insofar as it grants the GTE Mobilnet application, may be filed within 30 days of the date of public notice of this order (see Section 1.4(b)(2)).

66. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

Jack D. Smith,

Chief, Common Carrier Bureau.

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applicants included in the comparative hearing to be financially qualified. The second issue not to be considered is the qualification of Cellular Mobile Systems of Florida, Inc. or its parent Graphic, to the extent that such qualification 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. 62, *infra*, the Commission reserves the right to reexamine and reconsider the qualifications of Cellular Mobile Systems of Florida 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, supra*, at n. 19. The Commission also reserves the right to reexamine and reconsider the qualifications of Gencom Incorporated to hold a license should the pending litigations in which it is involved be resolved adversely to the applicant. *See* para. 24, *supra*, and para. 63, *infra*.

[64] For purposes of comparison, the geographic area that an aplicant 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, 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.

[65] In making this comparison, reference 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.

[66] *See* 86 FCC 2d at 503 for a discussion of the relative importance of the evidence submitted under this issue.

[67] 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, Section 554(d) (5 U.S.C. 554(d)); Section 1.1221 of the Commission's rules (47 U.S.C. 1.1221).

[MM Docket No. 83-781; File No. BPCT-830201IKG et al.]

Local Majority Television et al; Hearing

Hearing Designation Order

In re Applications of LOCAL MAJORITY TELEVISION, Odessa, Texas, MM Docket No. 83-781, File No. BPCT-830201KG; GEORGE E. GUNTER, Odessa, Texas, MM

Docket No. 83-782, File No. BPCT-830314KJ; For Construction Permit.

Adopted: July 20, 1983.
Released: August 9, 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 mutually exclusive applications of Local Majority Television and George E. Gunter for a new commercial television station to operate on Channel 30, Odessa, Texas.

2. Local Majority Television and George E. Gunter each proposes to mount its antenna on the existing tower of AM radio station KRIG, Odessa, Texas. Any grant of a construction permit to either applicant will be conditioned to ensure that KRIG's radiation pattern is not adversely affected by the construction of the proposed television station.

3. Section 73.682(a)(15) of the Commission's Rules states that the effective radiated power of the aural transmitter shall not be less than 10 percent nor more than 20 percent of the peak radiated power of the visual transmitter. Local Majority Television's aural power is 1 percent of the visual. The applicant will be required to correct this situation by appropriate amendment.

4. The applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, before an Administrative Law Judge 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.

6. It is further ordered, That in the event of a grant of either application, the construction permit shall contain the following condition:

During the installation of the antenna authorized herein, AM station KRIG shall determine operating power by the indirect method and, if necessary, request temporary authority from the Commission in Washington to operate with parameters at variance in order to maintain monitoring point values within authorized limits. Upon completion of the installation, common point impedance measurements on the AM array shall be made and a partial proof of performance, as defined by Section 73.154(a) of the Commission's Rules, shall be conducted to establish that the AM array has not been adversely affected and, prior to or simultaneous with the filing of the application for license to cover this permit, the results submitted to the Commission (along with a tower sketch of the installation) in an application for the AM station to return to the direct method of power determination.

7. It is further ordered, That, Local Majority Television shall submit, pursuant to § 73.682(a)(15) of the Commission's Rules, to the presiding Administrative Law Judge within 20 days after the date of release of this Order, an appropriate engineering amendment to correct the aural effective radiated power.

8. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for 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. 83-22435 Filed 8-16-83; 8:45 am]

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[File No. BPH-820506AJ; MM Docket No. 83-774 et al.]

Northlake Audio, Inc., et al.; Hearing Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City and State	File No.	MM Docket No.
A. Northlake Audio, Inc.	Vamado, LA	BPH-820506AJ	83-774
B. Hunter, Matherne & Toney Associates.	Vamado, LA	BPH-820823AE	83-775

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, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-22444 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee)

Task Group A-1 of Working Group A: U.S. Requirements

Chairman: W. Naleszkiewicz, (301) 652-4660
Date: Friday, August 26, 1983
Time: 9:30 a.m.-1 p.m.
Location: Federal Communications Commission, 2025 M Street, NW., Room 7317, Washington, D.C.
Agenda: Review Draft Report

Dated: August 9, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-22437 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee)

Working Group C: Available U.S. Options and Strategies

Chairman: P. G. Ackerman, (213) 648-4134
Date: Wednesday, September 7, 1983
Time: 1:30-4:30 p.m.
Location: Communications Satellite Corporation, 950 L'Enfant Plaza, SW., Room 3282, Washington, D.C.
Agenda: Strategy Development

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-22438 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

Cellular Radio Interconnection Working Groups; Information and Notice of Meetings

A general meeting of all persons interested in cellular interconnection issues was held on June 1, 1983. At the meeting, the reports of the five working groups were presented and there was open discussion of each report. Brief summaries of the discussions and a schedule of future meetings are set forth below.

* * * * *

Group I.A.—Numbering Plan Requirements

The BOCs, through the Central Staff Organization (CSO), proposed to modify the recommendation by imposing a minimum usage requirement over three years. The group did not agree to accept this condition, and the CSO declined to endorse the recommendation. The recommendation was adopted without the CSO's concurrence. The next meeting of the group will consider the operational and economic aspects of the dedicated NPA code option.

Group I.B.—Technical Access and Interface

The report of this group consisted primarily of a list of technical features desired by cellular carriers. The only controversial issue was whether the cellular exchange (MTSO) is entitled to recognition as a Class 5 office. The issue remains unresolved. Both ATTIX and the BOCs' Central Staff Organization (CSO) plan to establish a dialogue with cellular carriers, possibly this Fall. The participants generally accepted the report of the group but desired to add a notation that, with regard to technical matters, cellular carriers may connect directly to Class 4 offices of AT&T's network or tandem offices of the BOCs' network without passing through intervening BOC Class 5 switches. The group will continue to meet on the technical issues with emphasis on the impact of the Commission's *Access Charge* proceeding and the AT&T divestiture.

Group I.C.—Operational Relationships

The group report was accepted, with three minor issues to be considered at a later date. The report contains the information needed to establish interconnection. There was general agreement (with AT&T reserving judgment) that the report of Group I.A. should be appended to the report of Group I.C. There are no further meetings of this group scheduled at this time.

Group II.D—Format and Technical Standards

This group presented a brief report describing methods of roamer access. Ericsson submitted its own study of options for roamer access based on its experience with the Nordic cellular system. Ericsson suggested adopting CCITT Signalling System No. 7 as the standard for roamer access in the U.S. The group will consider this proposal at its next meeting.

Group II.E.—Financial Responsibility for Roamers

The report of this group was accepted with little discussion. There are several issues open for discussion at the next group meeting.

* * * * *

The reports of the working groups are available in the Mobile Services Division, Room 644, 1919 M Street, N.W., Washington, D.C. 20554.

* * * * *

Schedule of Meetings:

Group I.A.—9/28/83—1120-20th Street, N.W., Washington, D.C., Conference Room D, 10th Floor (AT&T Building)
Group I.B.—9/28/83—AT&T Building, Conference Room E, 10th Floor
Group I.D.—9/28/83—AT&T Building, Conference Room E, 10 Floor
Group II.E.—9/28/83—AT&T Building, Conference Room E, 10th Floor

All meetings begin promptly at 10:00 am and will generally run from 10:00 to 12:30 pm, and from 2:00 to 4:30 pm.

For more information, contact Claudia Borthwick, 202-632-6400.

Dated: August 9, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-22443 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

Technical Subgroup of Radio Advisory Committee Resumes Meeting September 15, 1983

The Technical Subgroup of the Advisory Committee on Radio Broadcasting resumes its continuing meeting Thursday, September 15, 1983 at 10 a.m. in the Vincent Wasilewski Room of the National Association of Broadcasters, 1771 N Street NW., Washington, D.C.

The Subgroup will continue its consideration of recommendations to the Federal Communications Commission concerning matters pertinent to the ongoing U.S.-Canadian discussions on the drafting of a new bilateral AM agreement which, it is expected, will replace the North American Regional Broadcasting Agreement (NARBA).

The Subgroup will also discuss similar bilateral discussions which have started with Mexico, looking toward post-Rio revision of the U.S.-Mexican AM Agreement.

The meeting, a continuing one, will be resumed after the September 15, 1983 session at such time and place as is decided at that session. It is open for participation by all interested persons.

For further information, please call the Subgroup Chairman, Mr. Wallace E. Johnson, at (703) 841-0500.

Dated: August 3, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-22440 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group, Plant Accounts Subcommittee Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group (TIAG) Plant Accounts Subcommittee scheduled to meet on Wednesday and Thursday, September 7 and 8, 1983. The meeting will begin on September 7 at 10:00 a.m. in the offices of Michigan Bell Telephone Company, Headquarters

Building, Lobby Conference Room, located at 444 Michigan Avenue, Detroit, Michigan, and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Review of Minutes of Previous Meeting
III. Report of Subcommittee Members
IV. Discussion of Plant Accounts
V. Further Assignments
VI. Other Business
VII. Presentation of Oral Statements
VIII. Adjournment

With prior approval of Subcommittee Chairman Gyles Norwood, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Norwood (703/486-4168) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-22441 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1420]

Petitions for Reconsideration of Actions in Rule Making Proceedings

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR § 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Part 90 of the Commission's Rules to Prescribe Policies and Regulations to Govern the Interconnection of Private Land Mobile Radio Systems with the Public Switched Telephone Network in the Bands 806-821 and 851-866 MHz. (Docket No. 20846)

Filed by: Kenneth E. Hardman, Attorney for Telocator Network of America on 7-28-83.

Subject: Petitions Seeking Amendment of Part 68 of the Commission's Rules Concerning Connection of Telephone Equipment, Systems and Protective Apparatus to the Telephone Network and Notice of Inquiry into Standards for Inclusion of One and Two-Line Business and Residential Premises Wiring and Party Line Service in Part 68 of the Commission's Rules. (CC Docket No. 81-216, RM's 2845, 2930, 3195, 3206, 3227, 3283, 3316, 3329, 3348, 3501, 3528, 3530 and 4054)

Filed by: Kenneth E. Millard & Conrad R. Reddick, Attorneys for American Information Technologies Corporation on 8-5-83.

Dated: August 10, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-22439 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 17624; Gen. Docket 83-805]

Self-Certification of FM Application Technical Data Examined

August 1, 1983.

The Commission is examining the feasibility of adopting a licensing procedure whereby an applicant for an FM station construction permit or station modification would certify that technical data in an application is correct and conforms to FCC rules. The present staff verification of technical data would then be discontinued.

According to a staff report, it would be feasible to accept applicant certification for identification of mutual exclusivity, observance of protected receiving site rules, protection of AM antenna patterns and compliance with international agreements if the public is made aware of changes being negotiated. Comments on these conclusions are requested specifically. While not specifically requested, the Commission said comments would also be accepted regarding self-certification in those radio services in which different protection criteria are used, such as AM Broadcast or Private Fixed Point-to-Point.

The staff report lists several conclusions about specific details of self-certification applied to the FM Broadcast Service, prompting these questions:

—Is self-certification feasible in the sense that an applicant can be expected to file an FM application that is correct in technical detail and satisfies the requirements of FCC rules? If not, could it be made feasible by rule changes?
—Can staff tasks—identification of mutual exclusivity, observance of protected receiving site rules, protection of AM antenna patterns and compliance with international agreements—be made the responsibility of the applicant without major difficulty?
—Does the analysis adequately support the conclusion that widespread interference would not be experienced? If not, what procedural difficulties are envisioned that would lead to the interference?
—Do the expected benefits relative to cost, including risk, justify an experiment with self-certification in the FM Broadcast Service?

Comments are due by November 7, 1983 and replies by December 12, 1983.

Action by the Commission July 28, 1983, by Notice of Inquiry (FCC 83-359). Commissioners Fowler (Chairman), Dawson and Rivera, with Commissioner Quello concurring in the result.

For additional information contact John Robinson, (202) 653-5940.

Note.—The Appendix of this document will not be printed herein due to the continuing effort to minimize publishing costs. However, copies of this document in its entirety are available from International Transcription Services, Inc., 1919 M St. NW., (703) 352-2400.

In addition, a copy is available for public inspection in the FCC Dockets Branch, Rm. 239, and FCC Library, Rm. 639, both located at 1919 M St. NW., Washington, D.C. 20554.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-22442 Filed 8-16-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-251]

Atlantic Financial Federal Bala Cynwyd, Pennsylvania; Final Action; Approval of Conversion Applications

Dated: August 10, 1983.

Notice is hereby given that on July 1, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Atlantic Financial Federal, Bala Cynwyd, Pennsylvania, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Pittsburgh, Eleven Stanwix Street, Fourth Floor, Gateway Center, Pittsburgh, Pennsylvania 15222-1395.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-22550 Filed 8-16-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-257]

Carteret Federal Savings and Loan Association, F.A., Morristown, New Jersey; Final Action Approval of Conversion Applications

Dated: August 10, 1983.

Notice is hereby given that on July 11, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Carteret Federal Savings and Loan Association, F.A., Morristown, New Jersey, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-22556 Filed 8-16-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-258]

First Federal Savings and Loan Association of Fort Myers, Fort Myers, Florida; Final Action; Approval of Conversion Applications

Dated: August 10, 1983.

Notice is hereby given that on July 8, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings and Loan Assocation of Fort Myers, Fort Myers, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-22557 Filed 8-16-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-249]

First Federal Savings and Loan Association of Indianapolis, Indianapolis, Indiana; Final Action Approval of Conversion Applications

Dated: August 10, 1983.

Notice is hereby given that on June 27, 1983 the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings and Loan Association of Indianapolis, Indianapolis, Indiana, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Indianapolis, Indiana, Post Office Box 60, Indianapolis, Indiana, 46206.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-22548 Filed 8-16-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-254]

Eureka Federal Savings and Loan Association, Eureka, Kansas; Final Action Approval of Conversion Applications

Date: August 10, 1983.

Notice is hereby given that on July 14, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Eureka Federal Savings and Loan Association, Eureka, Kansas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, P.O. Box 176, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-22553 Filed 8-16-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-259]

First Federal Savings and Loan Association of Coeur D'Alene, Coeur D'Alene, Idaho; Final Action Approval of Conversion Applications

Dated: August 10, 1983.

Notice is hereby given that on July 28, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings and Loan Association of coeur d'alene, Coeur d'Alene, Idaho, permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Seattle, 600 Stewart Street, Seattle, Washington 98101.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-22558 Filed 8-16-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-248]

First Federal Savings and Loan Association of Austin, Austin, Texas; Final Action Approval of Conversion Applications

Dated: August 10, 1983.

Notice is hereby given that on June 30, 1983 the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings and Loan Association of Austin, Austin, Texas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of Supervisory Agent of said Corporation at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas, Arkansas 72201.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-22547 Filed 8-16-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-253]

First Southern Federal Savings and Loan Association, Mobile, Alabama; Final Action Approval of Conversion Applications

Dated: August 10, 1983.

Notice is hereby given that on July 14, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Southern Federal Savings and Loan Association, Mobile, Alabama, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-22552 Filed 8-16-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-255]

Great American Federal Savings Bank, San Diego, California; Final Action Approval of Conversion Applications

Dated: August, 1983.

Notice is hereby given that on July 8, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Great American Federal Savings Bank, San Diego, California, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of San Francisco, 600 California Street, Room 310, San Francisco, California 94108.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-22554 Filed 8-16-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-256]

Lufkin Federal Savings and Loan Association, Lufkin, Texas; Final Action Approval of Conversion Applications

Dated: August 10, 1983.

Notice is hereby given that on July 22, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Lufkin Federal Savings and Loan Association, Lufkin, Texas, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, N.W., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 77201.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-22555 Filed 8-16-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-260]

North Wilkesboro Federal Savings and Loan Association, North Wilkesboro, North Carolina; Final Action Approval of Conversion Application

Dated: August 10, 1983.

In the matter of North Wilkesboro Federal Savings and Loan Association, North Wilkesboro, North Carolina, Home Federal Savings and Loan Association, Kings Mountain, North Carolina; Community Federal Savings and Loan Association, Hendersonville, North Carolina; Perpetual Savings and Loan Association, High Point, North Carolina; North Carolina Federal Savings and Loan Association, Charlotte, North Carolina.

Notice is hereby given that on June 24, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of North Wilkesboro Federal Savings and Loan Association, North Wilkesboro, North Carolina; Home Federal Savings and Loan Association, Kings Mountain, North Carolina; Community Federal Savings and Loan Association, Hendersonville, North Carolina; Perpetual Savings and Loan Association, High Point, North Carolina; (the "Four Associations") and North Carolina Federal Savings and Loan Association, Charlotte, North Carolina, for permission to convert the Four Associations to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-22559 Filed 8-16-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-252]

St. Petersburg Federal Savings and Loan Association, St. Petersburg, Florida; Final Action, Approval of Conversion Applications

Dated: August 10, 1983.

Notice is hereby given that on June 30, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of St. Petersburg Federal Savings and Loan Association, St. Petersburg, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-22551 Filed 8-16-83; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-250]

Southern Federal Savings and Loan Association of Thomas County, Thomasville, Georgia; Final Action Approval of Conversion Applications

Dated: August 10, 1983.

Notice is hereby given that on June 30, 1983, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Southern Federal Savings and Loan Association of Thomas County, Thomasville, Georgia, for permission to

convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-22549 Filed 8-16-83; 8:45 am]

BILLING CODE 6720-01-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, N.W., 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-4136.

Title: Port of Oakland and South Seas Steamship Company Terminal Use Agreement.

Parties: Port of Oakland (Port) and South Seas Steamship Company (South Seas).

Synopsis: Agreement No. T-4136 provides that South Seas shall have the nonexclusive right to assigned premises at the Port's Outer Harbor Terminal, Berth No. 6, for the handling of its vessels in its South Pacific container service. South Seas agrees that the assigned premises shall be its published, regularly scheduled Northern California Port of Call. Crescent Wharfage and Warehouse Company will manage the premises as provided separately in Agreement No. T-4067. The Port's tariff shall apply to South Sea's use of the premises. South Seas will pay to the Port 90 percent of dockage and wharfage revenue, and if South Seas generates in excess of 31,000 revenue tons per acre in a year, no further wharfage payments to the Port are required. The agreement commences upon the first month after Commmission approval and concludes on August 31, 1986.

Filing party: John E. Nolan, Assistant Port Attorney, Port of Oakland, 66 Jack London Square, P.O. Box 2064, Oakland, California 94604.

Agreement No.: T-4137.

Title: Port of Oakland and Italia S.p.A. di Navigazione Terminal Use Agreement.

Parties: Port of Oakland (Port) and Italia S.p.A. di Navigazione (Italian Line).

Synopsis: Agreement No. T-4137 provides that Italian Line shall have the nonexclusive right to assigned premises at the Port's Outer Harbor Terminal, Berth No. 6, for the handling of its vessels in its North American Pacific Coast-Mediterranean Service. Italian Line agrees that the assigned premises shall be its published, regularly scheduled Northern California Port of Call. Crescent Wharfage and Warehouse Company will manage the premises as provided separately in Agreement No. T-4067. The Port's tariff shall apply to Italian Line's use of the premises. Italian Line will pay to the Port 90 percent of dockage and wharfage revenue, and if Italian Line generates in excess of 31,000 revenue tons per acre in a year, no further wharfage payments to the Port are required. The agreement commences upon the first month after Commmission approval and concludes on August 31, 1986.

Filing party: John E. Nolan, Assistant Port Attorney, Port of Oakland, 66 Jack London Square, P.O. Box 2064, Oakland, California 94604.

Agreement No.: 9938-5.

Title: Companhia de Navegacao Lloyd Brasileiro/Companhia de Navegacao Maritima Netumar Association Agreement.

Parties: Companhia de Navegacao Lloyd Brasileiro, Companhia de Navegacao Maritima Netumar.

Synopsis: Agreement No. 9938-5 would extend the term of the Association Agreement, for an additional three year period, through December 31, 1986.

Filing party: Neal M. Mayer, Esquire, Hoppel, Mayer & Coleman, 1000 Connecticut Avenue NW., Washington, D.C. 20036.

Agreement No.: 10159-12.

Title: American West African Freight Conference, Rationalization Agreement.

Parties: Black Star Line, Ltd., Companhia Nacional De Navegecao, Delta Steamship Lines, Inc., Elder Dempster Lines, Ltd., Farrell Lines Inc., Medafrica Line, Westwind Africa Line.

Synopsis: Agreement No. 10159-12 would extend the term of the Rationalization Agreement, for an additional four year period, through December 31, 1987.

Filing party: Dominick J. Manfredi, Chairman, American West African Freight Conference, 50 Broadway, New York, New York 10004.

Agreement No.: 10266-7.

Title: Gulf Europe Express.

Parties: French Line, Intercontinental Transport (ICT) B. V.

Synopsis: Agreement No.: 10266-7 would modify the agreement to: (1) Extend approval for five yers beyond its scheduled expiration on December 31, 1983; (2) permit one party to terminate the Agreement on one year's notice; (3) specify the trade name under which the service operates; (4) specify the parties' contribution of tonnage and chartered space subject to its own terms; and (5) specify the parties' ability to coordinate on the management and operations of the joint service including the use of offices for such purposes.

Filing party: Edward Schmeltzer, Esquire, Schmeltzer, Aptaker & Sheppard, 1800 Massachusetts Avenue, NW., Washington, D.C. 20036.

Agreement No.: 10484.

Title: Euro-Pacific Service/Totem Ocean Trailer, Express, Inc. Equipment Interchange Agreement.

Parties: Euro-Pacific Service, Totem Ocean Trailer Express, Inc.

Synopsis: Agreement No. 10484 would provide for the interchange of empty and loaded equipment between the parties in the Europe/United States trade.

Filing party: Joseph H. Dettmar, Esquire, Garvey, Schubert, Adams & Barer, 1000 Potomac Street NW., Washington, D.C. 20007.

Agreement No.: 10374-5.

Title: Hapag-Lloyd/ICT/French Line Service Agreement.

Parties: French Line, Hapag-Lloyd A/G, Intercontinental Transport (ICT) B.V.

Synopsis: Agreement No. 10374-5 would modify the agreement to: (1) Extend approval for five years beyond its scheduled expiration date of December 31, 1983; (2) permit an individual party to terminate its

participation in the Agreement on one year's notice; (3) specify more clearly that the scope of the Agreement excludes the Mediterranean; and (4) clarify that the parties may not unilaterally terminate selected portions of the Agreement.

Filing party: Edward Schmeltzer, Esquire, Schmeltzer, Aptaker & Sheppard, 1800 Massachusetts Avenue, NW., Washington, D.C. 20036.

Dated: August 12, 1983.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-22530 Filed 8-16-83; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed; Correction

The publication notice for Federal Maritime Commission Agreement No. 9247-12, an amendment to the India, Pakistan, Bangladesh, Sri Lanka and Burma/West Coast United States and Canada Rate Agreement, which was published on July 18, 1983 (Volume 48, Page 32679) should have read:

"Agreement No. 9247-12 amends the basic agreement to provide for an increase in rate authority by providing for collective determination of forwarder brokerage; a change in administrative rules providing that the security deposit provisions are suspended when membership falls below three members; the setting of 'open' rates, with or without minimum; and the restatement of the agreement in its entirety."

Interested parties may submit protests or comments on the agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20357, within 20 days after the date of the Federal Register in which this notice appears.

Dated: August 12, 1983.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-22532 Filed 8-16-83; 8:45 am]

BILLING CODE 6730-01-M

Filing and Approval of Agreement

The Federal Maritime Commission hereby gives notice that on August 4, 1983, the following agreement was filed with the Commission pursuant to section 15 of the Shipping Act, 1916, as amended by section 4 of the Maritime Labor Agreements Act of 1980, Pub. L. 96-325, 94 Stat. 1021, and was deemed approved that date, to the extent it constitutes an assessment agreement as described in the fifth paragraph of section 15, Shipping Act, 1916.

Agreement No.: LM-71-1.

Title: NYSA/ILA Amendatory Containerization Agreement.

Synopsis: Agreement No. LM-71-1 modifies the collectively-bargained Master Contract Agreement between NYSA and ILA, including the containerization, LASH-SEABEE, and Job Security Program agreements. The purpose of the modification is to strengthen and implement the provisions of Rule Nine of the basic agreement dealing with the interpretation and enforcement of the Rules on Containers.

Filing agent: Peter C. Lambos, Esq., Lambos, Flynn, Nyland & Giardino, 29 Broadway, New York, New York 10006.

Dated: August 12, 1983.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-22531 Filed 8-16-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies; Trust Company of Georgia

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 Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Trust Company of Georgia*, Atlanta, Georgia; to acquire 100 percent of the voting shares or assets of Peachtree Bancshares, Inc., Chamblee, Georgia. Comments on this application must be received not later than August 31, 1983.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Clarke, Inc.*, Papillion, Nebraska; to acquire 100 percent of the nonvoting preferred stock of The Mitch Corporation, Mitchell, Nebraska, a company that has applied to acquire First National Bank in Mitchell, Mitchell, Nebraska. Comments on this application must be received not later than September 12, 1983.

Board of Governors of the Federal Reserve System, August 12, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-22446 Filed 8-16-83; 8:45 am]

BILLING CODE 6210-01-M

APSB Bancorp; Proposed Acquisition of APSB Mortgage Company

APSB Bancorp, North Hollywood, California, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of APSB Mortage Company, North Hollywood, California.

Applicant states that the proposed subsidiary would engage in the activities of making real estate mortgage loans; servicing loans; and acting as an agent in the sale of credit life, accident and health insurance directly related to its extensions of credit. These activities would be performed from offices of Applicant's subsidiary in North Hollywood, California, and the geographic area to be served is California. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a

hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C., not later than September 8, 1983.

Board of Governors of the Federal Reserve System, August 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-22448 Filed 8-16-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Aurora First National Bancorp

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Aurora First National Bancorp,* Aurora, Indiana; to become a bank holding company by acquiring 80 percent of the voting shares of The First National Bank of Aurora, Aurora, Indiana. Comments on this application must be received not later than September 12, 1983.

2. *First Port Byron Bancorp, Inc.,* Port Byron, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Port Byron State Bank, Port Byron, Illinois. Comments on this application must be received not later than September 12, 1983.

3. *Genoa Bancshares, Inc.,* Genoa, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Genoa State Bank, Genoa, Illinois. Comments on this application must be received not later than September 12, 1983.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Exchange Bancorp of Tulsa, Inc.,* Tulsa, Oklahoma; to become a bank holding company by acquiring 80 percent or more of the voting shares of Exchange National Bank, Tulsa, Oklahoma. Comments on this application must be received not later than September 12, 1983.

2. *Leedey Bancorporation, Inc.,* Leedey, Oklahoma; to become a bank holding company by acquiring 52.31 percent of the voting shares of The First National Bank of Leedey, Leedey, Oklahoma. Comments on this application must be received not later than September 7, 1983.

3. *Mountain Bancorporation, Inc.,* Denver, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of Mountain Valley Bank, Conifer, Colorado. Comments on this application must be received not later than September 12, 1983.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Entex Bancshares, Inc.,* Enloe, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of The Enloe State Bank in Enloe, Enloe, Texas. Comments on this application must be received not later than September 12, 1983.

Board of Governors of the Federal Reserve System, August 11, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-22447 Filed 8-16-83; 8:45 am]

BILLING CODE 6210-01-M

SSG, Ltd.; Formation of Bank Holding Company

SSG, Ltd., Miami, Florida, 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 up to 33 percent or more of the voting shares of Southeast Banking Corporation, Miami, Florida. 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)).

SSG, Ltd., Miami, Florida, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire indirectly through the acquisition of shares of Southeast Banking Corporation, an interest in the nonbanking subsidiaries of Southeast Banking Corporation. These nonbanking subsidiaries are engaged in a variety of permissible activities, including mortgage financing; commercial lending; consumer lending; leasing activities; providing data processing services; acting as underwriter or reinsurer for credit life insurance and credit accident and health insurance and as agent or broker for life and disability insurance and property damage insurance, all directly related to an extension of credit or the provision of financial services; and providing services to the bank or bank holding company or holding, on behalf of the bank or bank holding company, certain assets acquired in satisfaction of debts previously contracted. In addition to the factors considered under section 3 of the Act, the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions of section 4 of the Act (12 U.S.C. 1843) and section 225.4(a) of the Board's Regulation Y (12 CFR 225.4(a)).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. not later than September 9, 1983.

Board of Governors of the Federal Reserve System, August 10, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-22449 Filed 8-16-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Drug Abuse Prevention Research Grants

AGENCY: National Institute on Drug Abuse, ADAMHA, PHS, DHHS.

ACTION: Issuance of Program Announcement for Drug Abuse Prevention Research Grants.

SUMMARY: The National Institute on Drug Abuse announces the availability of a program announcement for Drug Abuse Prevention Research Grants. These awards will support research to develop and refine prevention intervention techniques and to explore risk factors related to drug abuse, as a basis for improving preventive interventions. Support may be requested for up to five years. In Fiscal Year 1984, approximately $1–1.5 million will be available for these awards.

RECEIPT DATE OF APPLICATIONS FOR FY 1984 FUNDING: November 1, 1983.

FOR FURTHER INFORMATION OR A COPY OF THE ANNOUNCEMENT CONTACT: Robert J. Battjes, D.S.W., Chief, Prevention Research Branch, Division of Clinical Research Branch, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–A–16, Rockville, MD 20857, (301) 443–1514.

William Mayer, M.D.,

Administrator, Alcohol, Drug Abuse and Mental Health Administration.

[FR Doc. 83-22533 Filed 8-16-83; 8:45 am]

BILLING CODE 4160-20-M

Health Resources and Services Administration

National Advisory Council on Nurse Training; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National advisory body scheduled to meet during the month of September 1983:

Name: National Advisory Council on Nurse Training.

Date and Time: September 12–14, 1983, 9:00 a.m.

Place: September 12, Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open September 12, 9:00 a.m.–1:00 p.m.

Closed September 12, 1:00 p.m. for remainder of meeting.

Purpose: The Council advises the Secretary and Administrator, Health Resources and Services Administration, concerning general regulations and policy matters arising in the administration, of the Nurse Training Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). The Council also performs final review of grant applications for Federal assistance, and makes recommendations to the Administrator, HRSA.

Agenda: Agenda items for open portion of meeting will cover announcements; consideration of minutes of previous meeting; reports by the Administrator, the Director, Bureau of Health Professions (BHPr), the Financial Management Officer, BHPr, the Director, Division of Nursing, and staff reports. The meeting will be closed to the public on September 12, 1983 at 1:00 p.m., for the remainder of the meeting for the review of grant applications for advanced nurse training grants, nurse practitioner grants, special project grants, and research project grants. The closing is in accordance with the provision set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Administrator, Health Resources and Services Administration, pursuant to section 10(d) of Pub. L. 92–463.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should write to or contact Dr. Mary S. Hill, Bureau of Health Professions, Health Resources and Services Administration, Room 5C–04, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6193.

Agenda items are subject to change as priorities dictate.

Dated: August 12, 1983.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 83-22519 Filed 8-16-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974; Revision and Deletion of Systems of Records Notices

This notice updates and revises the information which the Department of the Interior has published describing systems of records which are subject to the requirements of Section 3 of the Privacy Act of 1974, 5 U.S.C. 552a. The records described in this notice are maintained by the Department's Office of Aircraft Services. Except as noted below, all changes are editorial in nature, or reflect address changes which have occurred since the publication of the material in the Federal Register on April 11, 1977 (42 FR 19016).

Two system of records notices, which describe similar records, are being combined into one consolidated notice. The notice titled "Aircraft Crew/Mechanic Information File (Commercial Operators)—Interior, Office of the Secretary–6" is combined into the notice titled "Aircraft Crew/Mechanic Information File-Interior, Office of the Secretary–7", and a compatible routine disclosure to Members of Congress is added. A revised system notice for OS–7 is published in its entirely below. The notice for OS–6 (formerly AAS–6) is deleted from the inventory of the Department's system of records notices.

The system notice titled "Aircraft Services Administrative Management and Fiscal Records—Interior, Office of the Secretary–8" (formerly AAS–8) is revised to update the address for the Office of Aircraft Services' regional office in Alaska, and to add a compatible routine disclosure to Members of Congress. A complete system notice for OS–8 is published below.

One system notice titled "Aircraft Instructor Qualification File-Interior, Office of the Secretary–5" is deleted from the Department's systems of records inventory. Such records are not maintained by the Office of Aircraft Services.

These changes are effective upon publication in the Federal Register. Additional information regarding this notice may be obtained from the Departmental Privacy Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240.

Dated: August 3, 1983.

Joseph E. Doddridge, Jr.,

Acting Deputy Assistant Secretary of the Interior.

INTERIOR/OS–7

SYSTEM NAME:

Aircraft Crew/Mechanic Information File—Interior, Office of the Secretary—7.

SYSTEM LOCATION:

(1) National Headquarters—Office of Aircraft Services, Division of Technical Services, 3905 Vista Avenue, Boise, Idaho 83705; (2) Alaska Regional Office, Office of Aircraft Services, 4343 Aircraft Drive, Anchorage, Alaska 99503; (3) Atlanta Field Office, 75 Spring Street, S.W., Atlanta, GA 30303.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Professional, dual-function, & incidental function pilots, aircrew members, & mechanics employed by Interior bureaus/offices; (2) Aircraft crew/mechanic employees of commercial operators utilized by Department of the Interior (DOI) bureaus/offices.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains information relative to certificates, qualifications, experience levels, training and proficiency, performance information, and accident experience data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Reorganization Plan 3 of 1950.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the record is to determine aircraft crew/mechanic qualifications to comply with OAS procedures and directives. Disclosure outside the Department of the Interior may be made, (1) to the U.S. Department of Justice when related to litigation or anticipated litigation, (2) of information indicating a violation or potential violation of a statute, regualtion, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule regulation, order of license, (3) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, pilot qualification card, grant or other benefit, (4) to Federal, State, local agencies or commercial business where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, pilot qualification card, grant or other benefit, (5) to a Member of Congress from the record of an individual in response to an inquiry made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in manual form.

RETRIEVABILITY:

Records for DOI employees are indexed by agency, location, & name; records for commercial operators are indexed by name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are maintained on a current basis and disposed of when superseded.

SYSTEM MANAGER(S) AND ADDRESS:

(1) National Headquarters—Chief, Technical Services Division, Office of Aircraft Services, 3905 Vista Avenue, Boise, Idaho 83705; (2) Alaska Regional Office, Regional Director, Office of Aircraft Services, 4343 Aircraft Drive, Anchorage, AK 99503; (3) Atlanta Field Office, Area Director, 75 Spring Street, S.W., Atlanta, GA 30303.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records shall be addressed to the appropriate System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access shall be addressed to the appropriate System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Information in this system comes from individual to whom it applies and Technical Representatives, Office of Aircraft Services.

INTERIOR/OS-8

SYSTEM NAME:

Aircraft Services Administrative Management and Fiscal Records—Interior, Office of the Secretary—8.

SYSTEM LOCATION:

(1) Office of Aircraft Services, U.S. Department of the Interior, 3905 Vista Avenue, Boise, Idaho 83705. (2) Office of Aircraft Services, U.S. Department of the Interior, 4343 Aircraft Drive, Anchorage, AK 99503.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees and some former employees of the Office of Aircraft Services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Payroll records, including pay, leave and cost distribution records, including deductions for bonds, insurance, income taxes, allotments to financial institutions, overtime authorizations, and related documents. Travel records, including administrative approvals, travel expenses claimed and/or paid, receipts for expenditures claims. Government transportation requests, travel advance accounts and related records. Records of accountability for Government-owned property. Safety records, including claims under the Military Personnel and Civil Employees Claims Act. Records of issuance of Government identification cards and Government driver's licenses. Related records concerning administrative and fiscal management.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 3101, 5101–5115, 5501–5596, 5701–5709, 31 U.S.C. 66a, 240–243, 40 U.S.C. 483(b), 43 U.S.C. 1467, 44 U.S.C. 3101, Executive Order No. 11807.

ROUTINE USES OF RECORDS MAINTANINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the records are (a) for administrative and fiscal management. Disclosure outside the Department of the Interior may be made, (1) to the Department of the Treasury for preparation of (a) payroll checks, (b) payroll deduction and other checks to Federal, State and local and (c) checks for reimbursement of employees and others, (2) to the Internal Revenue Service and to the State, Commonwealth, Territorial and local governments for tax purposes, (3) to the Civil Service Retirement System and other contributions, (4) to another Federal agency to which an employee has transferred, (5) to another Federal agency having a subject matter interest in the records, (6) to the U.S. Department of Justice when related to litigation or anticipated litigation, (7) of information indicating a violation or potential violation of a statute, regulation, rule, order, license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (8) to Federal, State, local agencies or commerical business where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, pilot qualification card, grant or other benefit; (9) to a Member of

Congress from the record of an individual in response to an inquiry made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual and automated.

RETRIEVABILITY:

May be retrieved by individual name or social security number.

SAFEGUARDS:

Records are maintained in accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

According to approved records disposal schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Aircraft Services, U.S. Department of the Interior, 3905 Vista Avenue, Boise, Idaho 83705.

NOTIFICATION PROCEDURE:

Inquires regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Employees, supervisors, timekeepers.

[FR Doc. 83-22479 Filed 8-16-83; 8:45 am]
BILLING CODE 4310-10-M

Bureau of Land Management

[OR 35885, 35886]

Realty Action; Sale of Public Land in Douglas County, Oregon

The following described land has been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 2750, 43 U.S.C. 1713), at no less than the appraised fair market value shown:

WILLAMETTE MERIDIAN, OREGON

Parcel No.	Legal description	Acreage	Value
(1) OR 35885	T. 22 S., R. 6 W., Sec. 8, Lot 7.	0.68	$265.00
(2) OR 35886	T. 25 S., R. 6 W., Sec. 12, Lot 2.	1.03	

The sale will be held on October 19, 1983 at the Bureau of Land Management's Roseburg District Office, 777 N.W. Garden Valley Blvd., Roseburg, Oregon. Registration of bidders will begin at 9:45 a.m. and the sale will start at 10:00 a.m.

These parcels are difficult and uneconomic to manage as part of the public lands and are not suitable for management by another federal agency. There are no significant resource values which will be affected by this disposal. There is no legal access to these parcels. The sale is consistent with the BLM's planning for the land involved and the public interest would be served by offering this land for sale.

Patent reservations applicable to both tracts are:

1. A reservation to the United States for ditches and canals (43 U.S.C. 945).

2. All mineral rights will be reserved to the United States (43 U.S.C. 1719).

Additional patent reservations applicable to Parcel No. 1, BLM Serial No. OR 35885:

3. A reservation to Woolley Enterprises, Inc. for road construction purposes pursuant to road use agreement R-645.

4. Buildings will not be allowed on this parcel because it is within the Elk Creek flood plain.

The above described lands will be offered for sale by sealed and oral bids using modified competitive bidding procedures (43 CFR 2711.3-2). Contiguous landowners have the right to meet the high bid as designated bidders. If more than one designated bidder exercises the option to meet the high bid, bidding will commence to determine highest bidder of those so designated. Designated bidders include:

Parcel No. 1, Serial No. OR 35885

(1) Ronald J. and Rosanna Hicks, (2) John E. and Margaret A. Kasunich and (3) Woolley Enterprises, Inc.

Parcel No. 2, Serial No. OR 35886

(1) Harold L. and Grace L. Crouch, and (2) a joint venture under the names of Ronald L. Smithhisler, Joe B. Cole and Jodi Keller.

No bid will be accepted for less than the appraised value, and bids for a parcel must include all the land in the parcel. Federal law requires that individuals be 18 years of age or over and U.S. citizens, and corporations be subject to the laws of any State of the United States.

Bids must be made by the principal or his duly qualified agent, by either: (1) sealed bids mailed or delivered to the Roseburg District Office, or (2) oral bids made at the sale. Bids delivered or sent by mail must be received at the Bureau of Land Management, Roseburg District Office, 777 N.W. Garden Valley Blvd., Roseburg, OR 97470, before 9:00 a.m., October 19, 1983 to be considered. Each sealed bid must be accompanied by certified check, postal money order, bank draft, or cashier's check, made payable to the Bureau of Land Management for not less than one-fifth of the amount of each bid. The sealed envelope must be marked in the lower left-hand corner as follows: "Public Sale Bid Parcel No. 1, Serial No. OR 35885 or Parcel No. 2, Serial No. OR 35886. Sale held October 19, 1983."

If two or more envelopes are received containing valid bids of the same amount for the same parcel the highest sealed bid shall be determined by drawing. The highest qualifying sealed bid on each parcel will determine the base of the oral bidding conducted the day of the sale. The highest bid price, either sealed, oral, or designated bidder will be the sale price. The successful bidder will be required to pay one-fifth the full sale price immediately at the close of the sale and the remainder within 30 days. If final payment is not received within 30 days, the high bid is rejected, the deposit is forfeited and the land will be offered to the second highest bidder, subject to the same terms and conditions. All successful sealed bids will be returned within 30 days of the sale. Parcels not sold on the day of the sale will remain available for sale until sold or withdrawn. Bids will be solicited on these parcels at the Roseburg District Office during regular business hours. Interested parties bidding on Parcel No. 2 shall be informed of the appraised value only when an acceptable bid, appraised value or higher, has been received.

Detailed information concerning the sale, including the planning documents, land report, environmental assessment, and fair market appraisal (for Parcel No. 1) is available for review at the Bureau of Land Management, Roseburg District Office, at the above address. Bids are being solicited for Parcel No. 2. The appraised value is not being published in this NORA. The value will be disclosed only at the conclusion of the sale and only if an acceptable bid, appraised value or higher, is received.

For a period of 45 days after the date of issuance of this notice, the public and interested parties may submit comments to the Roseburg District Manager, at the above address. Any adverse comments received as a result of this Notice of Realty Actions or Notification to Congressional Committees and delegations pursuant to Pub. L. 97–394 will be evaluated by the District Manager who may vacate or modify this realty action and issue final decision. In the absence of any action by the District Manager, the realty action will become the final determination of the Department of the Interior.

Date of issue: August 8, 1983.

James E. Hart,

District Manager.

[FR Doc. 83-22496 Filed 8-16-83; 8:45 am]

BILLING CODE 4310-84-M

San Juan River Basin Coal Production Region, New Mexico; Environmental Impacts

AGENCY: Bureau of Land Management (BLM), Interior.

MEETING: Announcement.

SUMMARY: The San Juan River Regional Coal Team (RCT) directed BLM to consider the environmental impacts of exchanging Preference Right Leases in the Ah-shi-sle-pah Wilderness Study Area, located in San Juan County, New Mexico. A subgroup of the RCT was formed and the subgroup will discuss comments on the draft report at a meeting which the public invited to attend. A public comment period will be included on the agenda.

DATE: The meeting is scheduled for September 30, 1983, at 1 p.m.

ADDRESS: The Ah-shi-sle-pah subgroup meeting will take place in the conference room at the New Mexico Energy and Minerals Department, 525 Camino de los Marquez, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Joseph Sovcik, Subgroup Chairman, BLM, Santa Fe, New Mexico 87501, telephone number (505) 988–6565.

Persons planning to attend this meeting should verify the time and location by calling Mr. Sovcik on the day before the scheduled meeting.

Charles W. Luscher,

State Director.

[FR Doc. 83-22494 Filed 8-16-83; 8:45 am]

BILLING CODE 4310-84-M

Butte District, Montana Grazing Advisory Board Meeting

The Butte District Grazing Advisory Board will meet on Tuesday, September 13, 1983, in the conference room of the Butte District Office at 106 North Parkmont (Industrial Park), Butte, Montana. The meeting will begin at 9:00 a.m.

The agenda for the meeting will include (1) the Cooperative Management Agreement (CMA) program; (2) Range Improvement funding for 1984; (3) FY84 range improvement projects; (4) the Headwaters Resource Management Plan; and (5) the Dillon land adjustment program, including exchanges with the State of Montana.

The meeting is open to the public. Interested persons may make oral statements to the board or file written statements for the board's consideration. Persons wishing to make oral statements should make prior arrangements with the District Manager, Bureau of Land Management, P.O. Box 3388, Butte, Montana 59702.

Summary minutes of the meeting will be maintained in the district office and will be available for public inspection and reproduction within 30 days following the meeting.

Dated: August 9, 1983.

Jack A. McIntosh,

District Manager.

[FR Doc. 83-22498 Filed 8-16-83; 8:45 am]

BILLING CODE 4310-84-M

Arizona, Safford District Advisory Council; Meeting

Notice is hereby given, in accordance with Pub. L. 94–579 and 43 CFR Part 1780, that the Safford District Advisory Council will meet Friday, September 23, 1983 at Safford, Arizona at 10:00 a.m., at the Safford District Office, 425 E. 4th Street, Safford, Arizona 85546.

Agenda for the meeting will include:

1. Analyze public input and make wilderness recommendation to the District Manager;
2. Discussion with private property owners adjacent to Aravaipa Canyon Primitive Area;
3. BLM management update;
4. Business from the floor.

The meeting is open to the public. Interested persons may make oral statements to the Council between 2:00 p.m. and 3:00 p.m., or may file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the above address by September 22, 1983. Depending upon the number of people wishing to make an oral statement, a per person time limit may be considered.

If necessary, on the following day, Saturday, September 24, 1983, an on-the-ground tour of controversial wilderness areas will be conducted. Members of the public may accompany the tour, but must provide their own transportation. The tour will begin at the District Office at 8:30 a.m.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: August 8, 1983.

Fritz U. Rennebaum,

Acting District Manager.

[FR Doc. 83-22495 Filed 8-16-83; 8:45 am]

BILLING CODE 4310-84-M

[M 51414, M 52639]

Montana; Proposed Reinstatement of Terminated Oil and Gas Leases

Under the provisions of Pub. L. 97–451, petitions for reinstatement of the following oil and gas leases were timely filed and were accompanied by all the required rentals and royalties accruing from the dates of termination shown below:

M 51414, Richland County, MT (March 1, 1983)

M 52639, Custer County, MT (June 1, 1983)

No valid leases have been issued affecting the lands. The lessees have agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent respectively. Payments of $500 administration fees have been made.

Having met all the requirements for reinstatement of the leases as set out in Sec. 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the leases, effective as of their dates of termination, subject to the original terms and conditions of the leases, the increased rental and royalty rates cited above, and reimbursement for cost of publication of this Notice.

Dated: August 8, 1983.

Cynthia L. Embretson,

Chief, Fluids Adjudication Section.

[FR Doc. 83-22497 Filed 8-16-83; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT 2-10843

Applicant: Zoological Society of San Diego, San Diego, CA.

The applicant requests a permit to import two male and two female mandrills (*Papio sphinx*) from the General Delegation for Tourism, Cameroon, for enhancement of propagation

PRT 2-10844

Applicant: Zoological Society of San Diego, San Diego, CA.

The applicant requests a permit to import one male yellow-footed rock wallaby (*Petrogale xanthopus*), and two male and four female parma wallabies (*Macropus parma*) from the Adelaide Zoo, Adelaide, Australia, for enhancement of propagation. All animals are captive bred.

PRT 2-10885

Applicant: Sacramento Zoo, Sacramento, CA.

The applicant requests a permit to import three male and three female golden-bellied mangabeys (*Cerocebus galeritus chrysogaster*) from John Hop, Netherlands, for enhancement of propagation.

PRT 2-8325

Applicant: Gatti Productions, Inc., Orange, CA.

The applicant requests a permit to export and reimport three female Asian elephants (*Elephas maximas*) for enhancement of propagation by conservation exhibition.

PRT 2-10786

Applicant: International Animal Exchange, Ferndale, MI.

The applicant requests a permit to purchase in foreign commerce and import two male and two female captive-born white-naped cranes (*Grus vipio*) from Fa. P. Kooy & Sons Waterfowl, the Netherlands, for enhancement of propagation.

PRT 2-10900

Applicant: Charles Sivelle, Dix Hills, NY.

The applicant requests a permit to import 30 captive-bred Cabat tragopans (*Tragopan caboti*) from Glen Howe, Ontario, Canada, for enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) in Room 601, 1000 North Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: August 12, 1983.

Larry LaRochelle,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83-22528 Filed 8-16-83; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Alaska Outer Continental Shelf; Availability of a Draft Supplement to the Final Environmental Impact Statement for the April 1983 Offshore Oil and Gas Lease Offering in the St. George Basin of the Bering Sea

Pursuant to § 1502.9(c)(4) of the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, the Minerals Management Service (MMS) has prepared a draft supplement to the final environmental impact statement (EIS) for the April 1983 Outer Continental Shelf (OCS) oil and gas lease offering in the St. George Basin (OCS Sale No. 70).

Single copies of the draft supplement can be obtained from the Regional Manager, Alaska OCS Region, Minerals Management Service, P.O. Box 10-1159, Anchorage, Alaska 99510.

Copies of the draft supplement will also be available for inspection in the following public libraries: Alaska Federation of Natives, Suite 304, 1577 O Street, Anchorage, AK 99501; Anchor Point Public Library, Anchor Point, AK 99556; Department of the Interior Resources Library, Box 36, 701 C Street, Anchorage, AK 99513; Cordova Public Library, Box 472, Cordova, AK 99574; Kenai Community Library, Box 157, Kenai, AK 99611; Elim Learning Center, Elim, AK 99739; Haines Public Library, P.O. Box 36, Haines, AK 99827; North Star Borough Library, Fairbanks, Fairbanks, AK 99701; University of Alaska, Institute of Social and Economic Research Library, Fairbanks, AK 99801; Homer Public Library, Box 356, Homer, AK 99603; Z. J. Loussac Public Library, 427 F Street, Anchorage, AK 99801; Juneau Memorial Library, 114 W. 4th Street, Juneau, AK 99824; Alaska State Library, Documents Librarian, Pouch G, Juneau, AK 99811; Ketchikan Public Library, 629 Dock Street, Ketchikan, AK 99901; Department of Defense, Army Corps of Engineers Library, P.O. Box 7002, Anchorage, AK 99501; Kodiak Public Library, P.O. Box 985, Kodiak, AK 99615; Metlakatla Extension Center, Metlakatla, AK 99926; Department of the Interior, Bureau of Mines Library, AF-F.O. Center, P.O. Box 550, Juneau, AK 99802; Petersburg Extension Center, Box 289, Petersburg, AK 99833; Seldovia Public Library, Drawer D, Seldovia, AK 99663; Seward Community Library, Box 537, Seward, AK 99664; University of Alaska Juneau Library, P.O. Box 1447, Juneau, AK 91447; Sitka Community Library, Box 1090, Sitka, AK 99835; Douglas Public Library, Box 469, Douglas, AK 99824; University of Alaska Anchorage Library, 3211 Providence Drive, Anchorage, AK 99504; University of Alaska Elmer E. Rasmusson Library, Fairbanks, AK 99701; Wrangell Extension Center, Box 651, Wrangell, AK 99929.

The MMS expects to hold a public hearing during the week of September 26, 1983, in order to receive comments and suggestions relating to the draft supplement. The exact time, date, and location of this hearing will be announced in the near future. Comments concerning the draft supplement will be accepted until the close of business, October 3, 1983, and should be addressed to the Regional Manager, Alaska OCS Region, at the address above.

Dated: August 12, 1983.

Gary Bennethum,

Acting Director, Minerals Management Service.

Approved.

Bruce Blanchard,

Director, Environmental Project Review.

[FR Doc. 83-22506 Filed 8-16-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Kerr Mc-Gee Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Kerr Mc-Gee Corporation, Unit Operator of the Ship Shoal Block 28 Federal Unit Agreement No. 14-08-001-2942, submitted on August 3, 1983, a proposed supplemental plan of development describing the activities it proposes to

conduct on the Ship Shoal Block 28 Federal Unit.

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 offices of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9:00 a.m., to 3:30 p.m., 3301 N. 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 on 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: August 8, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-22487 Filed 8-16-83; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-158]

Certain Plastic Light Duty Screw Anchors; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a compliant was filed with the U.S. International Trade Commission on July 12, 1983, under section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, on behalf of Mechanical Plastics Corp., Castleton Street, Pleasantville, New York 10570. The complaint alleges unfair methods of competition and unfair acts in the importation of certain plastic light duty screw anchors into the United States, or in their sale, by reason of alleged: (1) Infringement of complainant's federally registered Toggler trademark; (2) passing off with respect to complainant's Toggler product; (3) false designation of origin with respect to complainant's Toggler product; (4) misappropriation of trade secrets with respect to complainant's Toggler and Diamond products; and (5) false representation. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially unjure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of investigation: Having considered the complaint, the U.S. International Trade Commission, on August 9, 1983, ordered that:

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930 an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain plastic light duty screw anchors into the United States, or in their sale, by reason of alleged (1) Infringement of complainant's federally registered Toggler trademark; (2) passing off with respect to complianant's toggler product; (3) false designation of origin with respect to complainant's Toggler product; (4) misappropriation of trade secrets with respect to complainant's Toggler and Diamond products; and (5) false representation, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Mechanical Plastics Corp., Castleton Street, Pleasantville, New York 10570.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Hilti Aktiengesellschaft, 9494 Schaan, Lichtenstein

Hilti, Inc., 4115 South 100th East Avenue, Tulsa, Oklahoma 74145

(c) Arthur Wineburg, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 120, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding officer.

Response must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to § 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (10:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202-523-0471.

FOR FURTHER INFORMATION CONTACT: Arthur Wineburg, Esq., Unfair Import Investigations Division, U.S. Intenational Trade Commission, telephone 202-523-4460.

Issued: August 11, 1983.

Kenneth, R. Mason,

Secretary.

[FR Doc. 83-22536 Filed 8-16-83; 8:45 am]

BILLING CODE 7020-02-M

[332-168]

China's Economic Development Strategies and Their Effects on U.S. Trade

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of section 332(b) of the Tariff Act of 1930 [19 U.S.C. 1332(b)], the Commission has instituted on its own motion investigation No. 332-168 for the purpose of assessing China's development plans and their effects on

U.S.-China trade. In its investigation, the Commission will examine China's 5th and 6th five-year plans and evaluate China's foreign investment and other international economic policies that will affect trade flows between the two countries. The effects to be investigated include those on the levels of U.S. exports to China and U.S. imports from China. The U.S. industries that will be most favorably or adversely affected by China's development strategies will be identified.

EFFECTIVE DATE: July 21, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. James Tsao, Principal Analyst (202) 523–1938, or Dr. Donald Rousslang, Chief, Research Division (202) 523–1846, U.S. International Trade Commission, Washington, D.C. 20436.

Written submission.—While there is no public hearing scheduled for this study, written submissions from interested parties are invited. Commercial or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested parties. To be ensured of consideration by the Commission, written statements should be received by the close of business on December 5, 1983. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

By order of the Commission.

Issued: August 10, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-22537 Filed 8-16-83; 8:45 am]

BILLING CODE 7020-02-M

[332-167]

Quarterly and Annual Surveys on Certain Stainless Steel and Alloy Tool Steel

AGENCY: International Trade Commission.

ACTION: Institution of an investigation under the authority of section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)) to establish a permanent docket for the quarterly and annual reports concerning certain stainless steel and alloy tool steel products required by Presidential Proclamation 5074 of July 19, 1983.

EFFECTIVE DATE: August 9, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Magrath or Mr. Peter Avery, Minerals and Metals Division, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436 (telephone: 202–523–0341, 202–523–0342, respectively).

SUPPLEMENTARY INFORMATION: Presidential Proclamation 5074, issued July 19, 1983 (48 FR 33233), following receipt by the President of an affirmative determination and recommendation of import relief by the Commission under section 201 of the Trade Act of 1974 (19 U.S.C. 2251), provides import relief for a 4-year period through the temporary imposition of increased tariffs and quantitative restrictions on stainless steel and alloy tool steel provided for in items 926.00, 926.05, 926.10, 926.11, 926.12, 926.13, 926.15, 926.16, 926.17, 926.18, 926.20, 926.21, 926.22, and 926.23 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202).

The Annex to Proclamation 5074 modified subpart A, part 2 of the Appendix to the Tariff Schedules of the United States in pertinent part as follows:

10(f) *United States International Trade Commission (USITC) surveys.*—The USITC shall conduct mandatory surveys with respect to the products subject to import relief under each item involved as follows:

(i) *Quarterly.*—Surveys by calendar quarter to obtain from domestic producers monthly data on production, shipments, prices, employment, and man-hours; and to obtain from importers data by calendar quarter on prices, orders, and inventories. The initial surveys shall cover the fourth quarter of 1982 and the first two quarters of 1983; subsequent surveys will cover individual quarters; the last such survey shall cover the quarter which ends not less than 60 days prior to the termination of the import restraints. The USITC shall publish the results of the initial surveys by October 1, 1983 and the results of later surveys within 45 days of the end of the surveyed quarter. Such surveys will be conducted monthly, upon written request of the USTR to the USITC, if the USTR determines that monthly reporting is necessary.

(ii) *Annually.*—Annual surveys to obtain from domestic producers data by calendar quarter on profits, orders, and inventories, and annual data on capital expenditures, capacity, and research and development expenditures. The initial surveys shall cover the fourth quarter of 1982 and calendar year 1982, as appropriate, and calendar year 1983, and the results shall be published by March 31, 1984. The results of subsequent surveys shall be published by March 31 of each year thereafter so long as the import restraints in this subpart are in effect. With each annual survey, the USITC shall also report the production, capacity, and capacity utilization, to the extent the information can be obtained, for each country which is a major supplier of imports, and any projected changes in production, capacity, and capacity utilization for those countries.

Issued: August 9, 1983.

By the order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-22538 Filed 8-16-83; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Application; 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 pubication. Replies must be filed withing 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.

By the Commission.

Agatha L. Mergenovich,

Secretary.

For the following, please direct status inquiries to Team 4 at (202) 275–7669.

Volume, No. OP 4–FC–535

MC–FC–81644. By decision of August 11, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1181, the Review Board, MEMBERS WILLIAMS, CARLETON, and FORTIER, approved the transfer/to ARROW TRANSPORTATION (INT.), of Seattle, WA, of Certificate No. MC–115667 Sub-Nos. 16 and 19, issued September 13, 1981 and January 24, 1983, respectively, to ARROW TRANSPORTATION SYSTEMS, INC., of North Vancouver, British Columbia, Canada, authorizing the transportation of (I) in Sub 16, *general commodities* (except classes A and B explosives), between Seattle, WA, and Portland, OR, restricted to traffic having a prior or subsequent movement by water; (II) in Sub–19 (A)(1) *lumber and wood products,* (2) *forest products,* (3) *chemicals and related products,* (4) *metal products,* (5) *machinery,* (6) *commodities which because of their size or weight require the use of special equipment,* (7) *building materials,* and (8) *Mercer commodities,* between ports of entry on the International Boundary line between the U.S. and Canada at points in WA, ID, and MT, on the one hand, and, on the other, points, in WA, OR, CA, ID, MT, WY, NV, UT, CO, AZ, NM, TX, OK, KS, NE, SD, ND, MN, LA, IL, and IA; and (B)(1) *metal products and mechinery,* between points in CA, OR, and WA, on the one hand, and, on the other, points in the 21 states listed in (A) above, (2) *lumber and wood products,* between points in CA, OR, WA, ID, and MT, on the one hand, and, on the other, points in the 21 states listed in (A) above; (3) *building materials, (a)* between points in Contra Costa County, CA, on the one hand, and, on the other, points in WA and OR, and (b) between points in Pierce County, WA, on the one hand, and, on the other, points in ID; (4) *mining vehicles and parts,* between Portland, OR, on the one hand, and, on the other, points in the 21 states listed in (A) above; and (5) *glass,* between points in Fresno County, CA, on the one hand, and, on the other, points in CO, MT, ID, WY, NM, NV, UT, WA, and OR. Representative: Clyde H. MacIver, 1700 Peoples National Bank Bldg., Seattle, WA 98171, (206) 624–1940.

Volume No. OP4–FC–534

MC–FC–81552. By decision of August 10, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1181, the Review Board, Members Joyce, Fortier, and Dowell approved the transfer to ADMIRAL TRANSPORT, INC., Worland, WY, of Permit No. MC–163517, issued June 1, 1983, to CROWN TRANSFER, INC., Worland, WY, authorizing the transportation of non-alcoholic beverages, between points in Washakie County, WY and Weber County, UT, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NE, NV, SD, UT, and WY, under continuing contract(s) with Admiral Beverage Corporation, of Worland, WY and Crown Cork and Seal Company, Inc., of Philadelphia, PA. Transferee is a carrier holding authority under Permit No. MC–143787 and Subs thereto. Representative: James A. Beckwith, 770 Grant St., Suite 228, Denver, CO 80203, (303) 861–4273, for applicants.

[FR Doc. 83–22460 Filed 8–16–83; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to confrom 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 appliants 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 applicants 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 in for a named shipper "under contract."

Please direct status inquiries to Team 1, (202) 275–7030.

Volume No. OP–1–330(F)

Decided: August 5, 1983.

By the Commission, Review Board Members Parker, Joyce, and Carleton.

MC 149030 (Sub-3), filed July 27, 1983. Applicant: COUSINS LEASING CORPORATION, Arnold Dr., Huntington, NY 11743. Representative: George Carl Pezold, 120 Main St., Huntington, NY 11743, (516) 427–0100. As a *broker*, of *general commodities* (except household goods), between points in the U.S.

Volume No. OP1–332

Decided: August 10, 1983.

By the Commission, Review Board Members Joyce, Fortier, and Krock.

MC 169521, filed July 28, 1983. Applicant: JET TRANSPORTATION, INC., P.O. Box 264, Wyoming, PA 18644. Representative: Nick Acacio, P.O. Box 264, 445 Roosevelt St., Exeter, PA 18643, (717) 693–1484. As a *broker*, of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 169560, filed July 29, 1983. Applicant: METRO EXPRESS, INC., 11545 Encore Circle, Minnetonka, MN 55343. Representative: Larry M. Sandberg, 8041 Idaho Circle North, Brooklyn Park, MN 55445, (612) 561–7422. Transporting *shipments weighing 100 pounds or less* is transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 169660, filed August 4, 1983. Applicant: CIUFO BUS SERVICE, 427 Rogers St., Aberdeen, MD 21001. Representative: Leonard L. Ciufo, (same address as applicant), (301) 272–9364. 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.

[FR Doc. 83-22461 Filed 8-16-83; 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 4 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Finding

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 singificantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 Days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intraste commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquires about the following to Team Four at (202) 275–7669.

Volume No. OP4–533

Decided: July 17, 1983.

By the Commission, Review Board, Members: Joyce, Carleton, and Parker.

MC 169177, filed July 11, 1983. Applicant: NOR-CAL TRANSPORT, INC., d.b.a. NOCE TRANSPORT, INC., IN CALIFORNIA, 2790 Crater Lake Hwy., Medford, OR 97504. Representative: Gibb W. Mitchell (same address as applicant), (503) 773–5234. Transporting (1) *lumber and wood products*, between points in the U.S. (except AK and HI); (2) *metal products*, and *machinery*, between points in WA, OR, CA, NV, ID, MT, WY, UT, CO, AZ, and NM; and (3) *such commodities* as are dealt in or used by manufacturers and distributors of farm and garden materials, between Del Norte County, CA, on the one hand, and, on the other, points in CA, OR, WA, NV, MT, and UT.

Please direct status inquiries to Team 1, (202) 275–7030.

Volume No. OP1–331 (N)

Decided: August 5, 1983.

By the Commission, Review Board Members Parker, Joyce, and Carleton.

MC 135170, (Sub-63), filed July 25, 1983. Applicant: DEWLINE, INC., P.O. Box 450, Federalsburg, MD 21632. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, Il 60602 (312) 236–5944. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of containers and related products, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers and distributors of containers and related products.

MC 139760, (Sub-8), filed July 18, 1983. Applicant: WILLIAM ULBRICH TRUCKING CO., INC., 128 Vreeland Ave., Leonia, NJ 07605. Representative: William Ulbrich (same address as applicant), (201) 945–6340. Transporting *containers and container ends*, between points in the U.S., under continuing contract(s) with Continental Can Company, Inc., of Stanford, CT.

MC 144750 (Sub-2), filed July 15, 1983. Applicant: MOAB TRUCK CENTER, INC., 90 N 200 Box 116, Moab, UT 84532. Representative: Ralph Dunn (same address as applicant) (801) 259–5403. Transporting (1) *ores and minerals*, between points in MT, ID, NV, UT, CO, AZ, NM, and TX (2) *materials, equipment, and supplies* used in mining, road building, and milling operations, between points in MT, ID, WY, NV, UT, CO, CA, AZ, NM, VA, PA, and SD (3) *coal and coal products*, between points in CO and UT, and (4) *salt and salt products, and potash*, between points in NM, AZ, UT, and CO.

MC 150951 (Sub-23), filed July 22, 1983. Applicant: CRANSTON TRUCKING COMPANY (DIVISION OF CRANSTON PRINT WORKS COMPANY), 1381 Cranston St., Cranston, RI 02920. Representative: Paul M. Overton (same address as applicant), (401) 943–4800. Transporting (1) *textile mill products*, (2) *metal products, and* (3) *chemicals and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Charles D. Owen Mfg. Co., Inc., of Swannanoa, NC, in (1) above, Bell Fasteners, of Pawtucket, RI, in (2) above, and Lonza, Inc., of Fairlawn, NJ, and Blackman Uhler—Division of Snalloy Corporation, of Spartanburg, SC, in (3) above.

MC 16260 (Sub-1), filed July 25, 1983. Applicant: PICKENS-KANE MOVING & STORAGE CO., 410 N. Milwaukee Ave., Chicago, IL 60610. Representative: Robert J. Gallaher, 1435 G. St., NW, Suite 848, Washington, D.C. 20005, (202) 628–1642. Transporting *electronic equipment*, between points in MN, WI, IA, MO, KY, IL, IN, MI, and OH.

MC 162690 (Sub-1), filed July 27, 1983. Applicant: W & R TRUCKING COMPANY, INC., 1305 Carlton Dr., Springdale, AR 72764. Representative: Don Garrison, 416 Hay Drive, SW–FL, Decatur, AL 35603, (205) 355–0221. Transporting *food and related products*, between points in Los Angeles, Orange and Stanislaus Counties, CA, Dallas, Muscatine, and Scott Counties, IA, Cass, Cook, and McHenry Counties, IL, Philadelphia County, PA, Newberry County, SC, Grayson County, TX, and Dane County, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP–1–333

Decided: August 10, 1983.

By the Commission, Review Board Members Joyce, Fortier, and Krock.

MC 115841 (Sub-787), filed July 28, 1983. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Rudolph L. Ennis, 2021 Plaza Tower, P.O. Box 550, Knoxville, TN 37901, (615) 637–1440. 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 Kraft, Inc., of Glenview, IL.

MC 140501 (Sub-4), filed July 29, 1983. Applicant: EDWARD CRAMBLETT, d.b.a. ED CRAMBLETT TRUCKING, College St., P.O. Box 477, Scio, OH 43988. Representative: Richard H. Brandon, P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Carroll and Harrison Counties, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 158651 (Sub-20), filed July 29, 1983. Applicant: GRAEBEL VAN LINES, INC., 719 North Third Ave., Wausau, WI 54401. Representative: John E. Koci (same address as applicant), (751) 675–9481. Transporting *household goods*, between points in the U.S., under continuing contract(s) with S. C. Johnson & Son, Inc., of Racine, WI.

MC 166040 (Sub-1), filed August 4, 1983. Applicant: VALLERY FREIGHT LINES, INC., P.O. Box 26736, Fort Worth, TX 76126. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, (817) 332–4718. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 168030, filed August 1, 1983. Applicant: APOLLO TRANSPORT, INC., P.O. Box 2297, Berkeley, CA 94702. Representative: Eugene Q. Carmody, 15523 Sedgeman St., San Leandro, CA 94579, (415) 357–6236. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AZ, CA, CO, ID, NM, NV, MT, OR, TX, UT, WA and WY.

MC 169021, filed July 13, 1983. Applicant: SPEEDY DELIVERY SERVICE, INC., 4014½ N. Barnes, Oklahoma City, OK 73112. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK, (405) 262–1322. Transporting *communications equipment*, between points in OK, under continuing contract(s) with Western Electric Company, Inc., of New York, NY.

[FR Doc. 83-22462 Filed 8-16-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier; Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two

(2) copies of protests to an application may be filed with the Regional Office named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinance 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-285

The following applications were filed in region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 20992 (Sub-4-5 TA), filed July 28, 1983. Applicant: DOTSETH TRUCK LINE, INC., Knapp, WI 54749. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Facebrick*, from the commercial zones of Monroe, Pleasant Garden and Roseboro, NC; Blacksbury, SC; Salem, VA; and Emigsville, PA to the facilities of Appleton Concrete Products Company, Inc., at or near Appleton, WI. Supporting shipper: Appleton Concrete Products Company, Inc., 1132 East Wisconsin Ave., Appleton, WI 54911.

MC 15735 (Sub-4-134 TA), filed July 29, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods*, between points in the U.S. (Except AK & HI) under continuing contract(s) with Bucyrus-Erie Company and its subsidiaries. Supporting Shipper: Bucyrus-Erie Company, 1100 Milwaukee Avenue, So. Milwaukee, WI 53172.

MC 74681 (Sub-4-2TA), filed July 28, 1983. Applicant: STEVENS VAN LINES, INC., 121 South Niagara St., Saginaw, MI 48602. Representative: ROBERT J. GALLAGHER, ESQ., 1435 G Street NW., Suite 848, Washington, D.C. 20005. Contract: Irregular; *Business and Office Machines and Electronic Manufacturing Systems and parts thereof*, between points in Kansas City, KS and its commercial zone, on the one hand, and, on the other, points in IA, KS, MO, NE, and OK. Supporting shippers: International Business Machines Corp., P.O. Box 10, Princeton, NJ 08540.

MC 74681 (Sub-4-3TA), filed July 28, 1983. Applicant: STEVENS VAN LINES, INC., 121 South Niagara St., Saginaw, MI 48602. Representative: ROBERT J. GALLAGHER, ESQ., 1435 G Street NW., Suite 848, Washington, D.C. 20005. Contract: Irregular; *Business and Office Machines and Electronic Manufacturing Systems and parts thereof*, between points in Detroit, MI, and its commercial zone, on the one hand, and, on the other, points in MI and OH. Supporting shipper: International Business Machines Corp., P.O. Box 10, Princeton, NJ 08540.

MC 87113 (Sub-4-9TA), filed July 27, 1983. Applicant: WHEATON VAN LINES, INC., 8010 Castleton Rd., Indianapolis, IN 46250. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, D.C. 20006. *Contract; irregular: Household goods*, between points in the U.S. under continuing contracts(s) with Martin Marietta Corporation of Bethesda, MD. Supporting shipper: Martin Marietta Corporation, 6801 Rockledge Drive, Bethesda, MD 20817.

MC 1402767 (Sub-4-8TA), filed July 26, 1983. Applicant: LARRY H. SCHEFUS TRUCKING, INC., Route 1, Box 202, Redwood Falls, MN 56283. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. *Contract;* irregular: *Lumber, wood products, and building materials*, between points in the U.S. in and west of MN, NE, KS, OK, and TX (except AK and HI), under continuing contract(s) with Lampert Lumber Company. Supporting shipper: Lampert Lumber Company, 36 South Snelling, St. Paul, MN 55105.

MC 152388 (Sub-4-2TA), filed July 26, 1983. Applicant: DOUGLAS BROS. TRUCKING, INC., 7530 Pulaski Road, Concord, MI 49237. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933, (517) 482-2400. (1) *mineral wool insulation and mineral wool products*, and (2) *fiberglass insulation and fiberglass products*, between Calhoun County, MI, on the one hand, and, on the other, points in ND, SD, NE, KS, OK and TX. An underlying ETA seeks 120-day authority. Supporting Shipper: Guardian Insulation, a Division of Guardian Industries, Inc., 1000 E. North Street, Albion, MI 49224.

MC 158651 (Sub-4-12TA), filed July 28, 1983. Applicant: GRAEBEL VAN LINES, INC., 719 North Third Avenue, Wausau, WI 54401. Representative: John E. Koci (address same as Applicant). Contract, irregular, *Household Goods*, as defined by the Commission, Between all points in the U.S., under continuing contract(s) with S. C. Johnson & Son, Inc., Racine, WI. Supporting shipper: S. C. Johnson & Son, Inc., 1525 Howe Street, Racine, WI 53403.

MC 168305 (Sub-4-1TA), filed July 27, 1983. Applicant: ATLANTIC WEST CORPORATION OF ILLINOIS; 9944 Bryn Mawr, Rosemont, IL 60018. Representative: Victor M. Pilolla, 5423 W. North Ave., Chicago, IL 60639, (312) 622-5044. *General Commodities* (except Class A & B Explosives, Household Goods, and commodities in bulk, in tank vehicles) Between points in the U.S. (except AK and HI). Supporting shipper: There are seven supporting shippers.

MC 169516 (Sub-4-1TA), filed July 28, 1983. Applicant: AMERICAN TRANSIT CORP., HUSKIE LINE DIVISION, 407 Industrial Dr., DeKalb, IL 60115. Representative: James L. Pierson, American Transit Corp., 120 S. Central, St. Louis, MO 63105. Authority sought: *Passengers*, in charter and special operations, beginning and ending at points in IL and extending to points in the U.S. (excluding HI). Supporting shipper: Family Service Agency, 330 Grove St., DeKalb, IL 60005.

MC 169517 (Sub-4-1TA), filed July 28, 1983. Applicant: R-EXPRESS, INC., 100 East Green Bay Road, Saukville, WI 53080. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Contract;* irregular; *petroleum, natural gas, and related products* between points in WI, on the one hand and on the other hand, points in IL, IA, IN, MN and MI. Restriction: restricted to transportation performed under continuing contract(s) with Tri-Par Oil Co., Inc. Supporting shipper: Tri-Par Oil Co., Inc., 100 East Green Bay Road, Saukville, WI 53080.

MC 169539 (Sub-4-1TA), filed July 29, 1983. Applicant: NORM'S TOWING, 781 Old Trail Rd., Highland, Park, IL 60035. Representative: Gregory Blackford

(same as above). *Wrecked or Disabled Vehicles and Storage Trailers* between points in IL, WI, IN, IA, OH, MI, MO, KY, and TN. Supporting shippers: Motor Activities, 860 Skokie Hwy., Lake Bluff, IL 60044, Road Rail, Inc., 2300 Commonwealth, North Chicago, IL 60064, F. E. Moran, 2265 Carlson Dr., Northbrook, 60062, Certain Leasing Service, Inc., 860 Skokie, Hwy., Lake Bluff, IL 60044.

MC 154645 (Sub-4–3 TA), (republication), filed July 21, 1983. Applicant: JOHN FINK TRUCKING, INC., Route 1, Darlington, WI 53530. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Common;* irregular: *Petroleum products in bulk in tank vehicles;* between Rockford, IL on the one hand and on the other hand points in Lafayette County, WI. Supporting shipper: Johnson & Barnard Oil Co., Inc., P.O. Box 86, Darlington, WI 53530.

MC 15735 (Sub-4–135 TA), filed August 1, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods,* between points in the U.S. (Except AK and HI), under continuing contract(s) with PPG Industries, Inc., and its subsidiaries, of Pittsburgh, PA. Supporting Shipper: PPG Industries, Inc., 1 Gateway Center, Pittsburgh, PA 15222.

MC 15735 (Sub-4–136 TA), filed August 1, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Automotive testing and servicing equipment* and *such commodities as are dealt in and utilized by manufacturers and distributors thereof,* between points in the U.S. (Except AK and HI) under continuing contract(s) with The Allen Group, Inc., and its subsidiaries, of Kalamazoo, MI. Supporting shipper: The Allen Group, Inc., 2102 No. Pitcher St., Kalamazoo, MI 49007.

MC 15735 (Sub-4–137 TA), filed August 1, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods,* between points in the U.S. (Except AK and HI), under continuing contract(s) with Wilson Foods Corporation and its subsidiaries, of Oklahoma City, OK. Supporting shipper: Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105.

MC 15735 (Sub-4–138 TA), filed August 1, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods,* between points in the U.S. (Except AK and HI), under continuing contract(s) with Archer Daniels Midland Co., and its subsidiaries, of Decatur, IL. Supporting shipper: Archer Daniels Midland Co., 4666 Faries Pkwy, Decatur, IL 62526.

MC 15735 (Sub-4–139 TA), filed August 1, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods,* between points in the U.S. (Except AK & HI), under continuing contract(s) with Brown Group, Inc., and its subsidiaries, of St. Louis, MO. Supporting shipper: Brown Group, Inc., 8400 Maryland Avenue, St. Louis, MO 63105.

MC 15735 (Sub-4–140 TA), filed August 1, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods,* between points in the U.S. (Except AK & HI), under continuing contract(s) with AMF Incorporated, and its subsidiaries, of White Plains, N.Y. Supporting shipper: AMF Incorporated 777 Westchester Ave., White Plains, NY 10604.

MC 15735 (Sub-4–141 TA), filed August 1, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods,* between points in the U.S. (Except AK & HI), under continuing contract(s) with Balcor/American Express, Inc. and its subsidiaries, of Skokie, IL. Supporting shipper: Balcor/American Express, Inc., 10024 Skokie Blvd., Skokie, IL 60077.

MC 15735 (Sub-4–142 TA), filed August 1, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Joseph P. Tuohy, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household Goods,* between points in the U.S. (Except AK & HI), under continuing contract(s) with Household International, Inc., and its subsidiaries, of Propsect Heights, IL. Supporting shipper: Household International, Inc., 2700 Sanders Road, Propect Heights, IL 60070.

MC 145807 (Sub-4–9 TA), filed August 1, 1983. Applicant: DERBY TRANSPORT, INC, Box 965, Weyburn, Sask, Canada S4H 2L2. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. *Silica sand,* between points in CO and WI, on the one hand, and, on the other, ports of entry on the International Boundary Line between the U.S. and Canada located in ND and MT. Shippers: Dowell of Canada, Division of Dow Chemical Canada, Inc., 3200, 250–6th Ave., S.W., Calgary, Alberta, Canada T2P 3H7; Badger Mining Corporation, P.O.B. 97, Fair Water, WI 53931.

MC 155021 (Sub-4–4 TA), filed August 1, 1983. Applicant: ECONEXPRESS INCORPORATED, 618 South West St., Wheaton, IL 60187. Representative: James W. Muldoon, 50 West Broad St., Columbus, OH 43215. *General commodities,* between points in OH, IN, IL, MI, MO and FL, on the one hand, and, on the other, points in the U.S. (except AK and HI). An underlying ETA seeks authority for 120 days. Supporting shipper(s): Econex 618 South West St., Wheaton, IL 60187; American Cyanamid Company, One Cyanamid Plaza, Wayne, NJ 07470.

MC 157926 (Sub-4–3 TA), filed August 1, 1983. Applicant: SPARHAWK TRUCKING, INC., 130 25th Avenue South, Wisconsin Rapids, WI 54494. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703. *Pulp, paper and related products, and materials, equipment and supplies used in the manufacture and distribution of pulp, paper and related products,* between points in Little River County, AR, on the one hand, and, on the other hand, points in the U.S. (except AK and HI). Supporting shipper: Nekoosa Papers Inc., Port Edwards, WI 54469.

MC 158651 (Sub-4–13 TA), filed July 28, 1983. Applicant: GRAEBEL VAN LINES, INC., 719 North Third Avenue, Wausau, WI 54401. Representative: John E. Koci (address same as Applicant). Contract, irregular, *Household Goods,* as defined by the Commission, Between all points in the U.S., under continuing contract(s) with the Martin Marietta Corporation, Bethesda, MD. Supporting shipper: Martin Marietta Corporation, 6801 Rockledge Drive Bethesda, MD 20817.

MC 167414 (Sub-4–1 TA), filed August 1, 1983. Applicant: KARL HEEREN, d.b.a. KARL HEEREN FERTILIZER SERVICE, 1616 Hoisington Road, Winnebago, IL 61088. Representative: Martin J. Kennedy, 120 West Madison St., Suite 1306, Chicago, IL 60602. *Soda* from points in the Rockford, IL Commercial Zone to points in IA, MN, MO, NE and WI. Supporting shipper: All American Bottling Co., Royal Crown

Cola, 2700 North Main St., Rockford, IL 61103.

MC 168858 (Sub-4-1 TA), filed August 1, 1983. Applicant: COLUMBUS AREA CHAMBER OF COMMERCE FOUNDATION, INC./VISITORS CENTER 506 Fifth Street; Post Office Box 29, Columbus, IN 47202. Representative: Ed Wolking, Jr. (same address are applicant, (812) 379 4457. Passengers in Charter and special operations beginning and ending in the state of IN. and extending to points in the U.S. (Except AK & HI). There are four (4) supporting shippers.

MC 169279 (Sub-4-1TA), filed August 2, 1983. Applicant: FINK BROTHERS, INC., Route 2, Box 127, Woodruff, WI 54568. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. *Materials, equipment or supplies used or useful in the operation of a retail grocery store* from Rhinelander, WI to Wickenburg, AZ. Underlying ETA seeks 120 days authority. Supporting shipper: McKeever's of Eagle River, Inc., 76 Tegner Street, Wickenburg, AZ 85358.

MC 169585 (Sub-4-1TA), filed August 1, 1983. Applicant: SCOTT G. HOFFMAN, TERRY K. HOFFMAN and KYLE J. HOFFMAN, d.b.a. HOFFMAN TRUCKING R.R. No. 1, Maroa, IL 61756. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. (1) *Metal products*, between Clinton, IL and Rome, NY and (2) *Steel*, from Leechburg, PA to Clinton, IL. An underlying E/T/A seeks 120 days authority. Supporting Shipper: Revere Copper and Brass, Inc., Clinton, IL 61727.

MC 169589 (Sub-4-1TA), filed August 2, 1983. Applicant: DRIVER POOL, INC., P.O. Box 627, 109 East Kesco, Bristol, IN 46507. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638-1301. *Contract*, irregular: *Motor vehicles, and equipment, materials and supplies utilized in the manufacture thereof*, between Sturgis, MI, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, IA, KY, MD, MI, MN, MO, NC, NY, OH, OK, PA, SC, TN, TX, VA, WI and WV. Restricted to continuing contract(s) with Universal Motor Coach, P.O. Box 797, Sturgis, MI 49091. An underlying ETA seeks 120 days authority.

MC 169627 (Sub-4-1TA), filed August 3, 1983. Applicant: STOKELY-VAN CAMP, INC., 941 N. Meridian St., Indianapolis, IN 46204. Representative: C. Thomas Everhart, 1200 W. Troy Ave., Indianapolis, IN 46225. Contract; Irregular: *Food and related products* between Appleton, WI, Hart, MI, Hoopeston, IL, Newport, TN, Norwalk, OH, Pauling, OH, Scottville, MI, Tipton, IN, Lawrence, KS, Winchester, IN to points in the U.S. Supporting shipper: Oconomowoc Canning Company, Oconomowoc, WI 54452.

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 128449 (Sub-5-4TA), filed August 1, 1983. Applicant: JIMMIE TUCKER TRUCKING, INC., P.O. Box 428, Broken Bow, OK 74728. Representative: William P. Parker, 4400 N. Lincoln, Suite 10, Oklahoma City, OK 73105. *Such commodities as are dealt in by home improvement stores*, between points in the U.S. restricted to transportation of traffic moving for the account of Payless Cashways, Inc. Supporting shipper: Payless Cashways, Inc. Kansas City, MO.

MC 142857 (Sub-5-6TA), filed August 1, 1983. Applicant: MCC TRANSPORTATION CO., INC., Route 2, Box 107-B, Hope, AR 71801. Representative: Mark J. Andrews, Suite 1100, 1660 L Street, NW., Washington, D.C. 20036. *Contract* irregular *bakery products*, between Birmingham, AL and Atlanta, GA, on one hand, and Lakeland, FL on the other hand. Supporting shipper: Butter Krust Bakeries Division, Beatrice Foods Co., Lakeland, FL.

MC 145810 (Sub-5-2TA), filed August 1, 1983. Applicant: Three L Corporation, 2nd & Siegel, Tama, IA 52339. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. Contract irregular: *Paper, paper products, and materials and supplies used in the manufacture and distribution thereof* between Tama, IA on the one hand, and on the other, points in the U.S. (except AK and HI). Supporting shipper(s): Packaging Corporation of America, Evanston, IL.

MC 150093 (Sub-5-6Ta), filed August 1, 1983. Applicant: THE TOM DAVIS COPR., d.b.a. DAVIS LINES, 5335 N.W. 111th Drive, Grimes, IA 50111. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Machinery and metal products*, between Des Moines, IA; Pittsburgh, PA; Birmingham, AL; and Chicago, IL., on the one hand, and, on the other, points in the U.S. (except HI). Supporting shipper(s): Hydro Storage, Franklin, TN.

MC 153764 (Sub-5-4TA), filed August 1, 1983. Applicant: Turner Truck Service, Inc., Route 1, Box 520K-45, Blanchard, OK 73010. Representative: William P. Parker, 4400 N. Lincoln, Suite 10, Oklahoma City, OK 73105. *Packaged sugar*, from the facilities of Imperial Sugar Company, Inc. at or near Sugar Land, TX to points in OK. Supporting shipper: Imperial Sugar Company, Inc., Sugar Land, TX.

MC 161957 (Sub-5-5 TA), filed August 1, 1983. Applicant: EXPRESS TRANSPORTATION COMPANY, INC., 1230 West 17th Street, Houston, TX 77270. Representative: Mick Graeber, POB 70611, Houston, TX 77270. Contract, irregular; *carpet and related materials and supplies* between points in the U.S. (except AK and HI) under continuing contract(s) with Armstrong World Industries, Inc. of Lancaster, PA.

MC 168906 (Sub-5-4 TA), filed August 1, 1983. Applicant: FAMILY TRADITION TRANSPORTATION COMPANY, INC., P.O. Box 138, Archie, MO 64725. Representative: Arthur J. Cerra, 2100 CharterBank Center, P.O. Box 19251, Kansas City, MO 64141. *Machinery*, from the Commercial Zones of Hesston, KS, and Dallas and Garland, TX, to the Commecial Zone of Russellville, AR. Supporting shipper: Homestead Tractor & Implement Co., Inc., Russellville, AR.

MC 169574 (Sub-5-1TA), filed August 1, 1983. Applicant: ACE TRUCKING & CONTAINER SERVICE, INC., 5926 Fourth St., Marrero, LA 70073. Representative: Edward A. Winter, 235 Rosewood Dr., Metaire, LA 70005. *General Commodities (except Classes A & B explosives and HHG's)* between points in AL, AR, FL, LA, MS, and TX. Supporting shippers: Metal Service Corp., New Orleans, LA, Harper Robinson & Co., New Orleans, LA, Avondale Shipyards, Inc., New Orleans, LA.

Agatha Mergenovich,

Secretary.

[FR Doc. 83-22463 Filed 8-16-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30231]

Rail Carriers; the Pittsburgh and Lake Erie Railroad Company and Consolidated Rail Corporation—Control Exemption—the Lake Erie and Eastern Railroad Company

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 11343 *et seq.*, the acquisition of control of The Lake Erie and Eastern Railroad Company (L&EE) by the Pittsburgh and Lake Erie Railroad Company through purchase of

the stock interest held by Consolidated Rail Corporation in LE&E.

DATES: This exemption will be effective September 16, 1983. Petitions to stay the effectiveness of this decision must be filed by August 29, 1983 and petitions for reconsideration must be filed by September 6, 1983.

ADDRESSES: Send pleadings to:
(1) Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioners' representatives:
Richard R. Wilson, Attorney for the Pittsburgh and Lake Erie Railroad Company, 780 Commerce Court, Four Station Square, Pittsburgh, PA 15219
John B. Rossi, Attorney for Consolidated Rail Corporation, Six Penn Center Plaza, Philadelphia, PA 19104

Pleadings should refer to Finance Docket No. 30231.

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

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decisions. 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 (D.C. Metropolitan area) or toll free (800) 424–5403.

Dated: August 8, 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. 83-22459 Filed 8-16-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 76]

Rail Carriers; Seaboard System Railroad, Inc.—Abandonment—In Decatur County, GA, and Gadsden County, FL; Findings

The Commission has issued a certificate authorizing the Seaboard System Railroad, Inc., to abandon a 29.29-mile line of railroad between milepost ANE-719.10 near Climax, GA, Decatur County, GA, and milepost ANE-748.39 near Chattahoochee, FL, Gadsden County, FL. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower lefthand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 C.F.R. 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-22458 Filed 8-16-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Agency Information Collection; Activities Under OMB Review

August 12, 1983.

OMB has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Ch. 35) since the last list was published. The list contains all the entries grouped into new forms, revisions, or extensions. Each entry contains the following information:

(1) The name and telephone number of the Agency Clearance Officer from whom a copy of the form and supporting documents is available; (2) The office of the agency issuing this form; (3) The title of the form; (4) The agency form number, if applicable; (5) How often the form must be filled out; (6) Who will be required or asked to report; (7) An estimate of the number of responses; (8) An estimate of the total number of hours needed to fill out the form; (9) An indication of whether Section 3504(h) of Pub. L. 96–511 applies; and, (10) The name and telephone number of the person or office responsible for OMB review.

Copies of the proposed forms and supporting documents may be obtained from the Agency Clearance Officer whose name and telephone number appear under the Agency name. Comments and questions about the items on this list should be directed to the reviewer listed at the end of each entry and to the Agency Clearance Officer. If you anticipate commenting on a form, but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible.

Department of Justice

Agency Clearance Officer—Larry E. Miesse—(202) 633–4312.

New Forms

In anticipation of passage of current legislation, the following five forms will be used should such legislation be enacted:

• Immigration and Naturalization Service.

Application for Status as Permanent/Temporary Resident Under Pub. L. ——.

One time only.

Individuals or households.

Form is required to collect information needed to determine if an applicant is eligible to adjust illegal immigration status to legal status: 2,300,000 respondents; 2,300,000 hours; not applicable under 3504(h).

Rob Veeder—395–4814.

• Immigration and Naturalization Service.

Application for Waiver of Grounds of Excludability Pursuant to Section 245A(C)(2) of Pub. L. ——.

One time.

Individuals or households.

Form is need as a means for applicants to apply for a waiver of the grounds of excludability in cases where the applicant is found to be inadmissable to the United States due to a criminal conviction, mental disorder or contagious disease: 46,000 respondents; 23,000 hours; not applicable under 3504(h).

Rob Veeder—395–4814.

• Immigration and Naturalization Service.

Notice of Appeal.

One time.

Individuals or households.

Required to notify denied applicants of their right of appeal, to ensure correct fee is collected, and that information is collected on which an equitable appellate decision may be reached: 46,000 respondents; 23,000 hours; not applicable under 3504(h).

Rob Veeder—395–4814.

• Immigration and Naturalization Service.

Application for Applicant for Legal Residence Under Pub. L. —— .(Immigration Reform and Control Act of 1983) for Replacement of Form I–688 Work Permit Receipt got Legalized Application and Travel Document.

On occasion.

Individuals or households.

Required to obtain information needed to issue a replacement "receipt," a document to be used as evidence of

authorization to work and reenter the United States from abroad. The data collected will be used to identify the original application and to control fraudulent requests for replacement: 200,000 respondents; 50,000 hours; not applicable under 3504(h).

Rob Veeder—395–4814.

• Immigration and Naturalization Service.

Legalization—Change of Address.

On occasion.

Individuals or households.

Required to maintain the INS address list necessary so that applicants may be notified of the final decision reached on their request for adjustment of status: 200,000 respondents; 16,666 hours; not applicable under 3504(h).

Rob Veeder—395–4814.

Extension

• Criminal Division, Department of Justice.

Registration Statement of Individuals (Foreign Agents).

On occasion.

Individuals or households, businesses or other for-profit, non-profit institutions, small businesses or organizations.

Registration statement and information used for registering foreign agents under 22 U.S.C. 611 *et seq.*: 100 respondents; 150 hours; not applicable under 3504(h).

Rob Veeder—395–4814.

• Criminal Division, Department of Justice.

Supplemental Registration Statement of Individuals (Foreign Agents).

Semi-annually, see purpose above.

Individuals or households, businesses or other for profit, non-profit institutions, small businesses or organizations: 1,200 respondents; 3,300 hours; not applicable under 3504(h).

Rob Veeder—395–4814.

• Criminal Division, Department of Justice.

Exhibit A To Registration Statement (Foreign Agents).

On occasion.

Individuals or households, businesses or other for-profit, non-profit institutions, small businesses or organizations:

Used to register foreign agents and must be utilized within ten days of contact or when initial activity occurs, whichever is first: 75 respondents; 38 hours; not applicable under 3504(h).

Rob Veeder—395–4814.

• Criminal Division, Department of Justice.

Amendment to Registration or Supplemental Registration Reports (Foreign Agents).

On occasion.

Same as above affected public.

Used to register foreign agents when changes are required: 200 respondents; 300 hours; not applicable under 3504(h).

Rob Veeder—395–4814.

• Criminal Division, Department of Justice.

Dissemination Report (Transmittal of Political Propaganda).

On occasion.

Same as above affected public.

Used by registrant to record dissemination of political propaganda within 48 hours of initial dissemination under the provisions of 22 U.S.C. 611 *et seq.*: 3,600 respondents; 1,800 hours; not applicable under 3504(H).

Rob Veeder—395–4814.

• Criminal Division, Department of Justice.

Exhibit B to Registration Statement (Foreign Agents).

On occasion.

Same as above affected public.

Used to augment the registration statement of foreign agents as required by 22 U.S.C. 611 *et seq.*, within ten days of the date a contract is made or when initial activity occurs, whichever is first: 75 respondents; 25 hours; not applicable under 3504(h).

Rob Veeder—395–4814.

• Criminal Division, Department of Justice.

Short Form Registration Statements of Individuals (Foreign Agents).

On occasion.

Same as above affected public.

Used to register foreign agents as required by 22 U.S.C. 611 *et seq.*: 350 respondents; 150 hours; not applicable under 3504(h).

Rob Veeder—395–4814.

• Bureau of Justice Statistics, Department of Justice.

D.C. Crime Victimization Survey.

One time.

Individuals or households, federal agencies or employees.

To measure the nature and extent of criminal victimization among residents of the District of Columbia, adjacent counties, and employees of congressional offices on Capitol Hill. This survey is Congressionally mandated: 8,545 respondents; 4,614 hours; not applicable under 3504(h).

Rob Veeder—395–4814.

• Immigration and Naturalization Service.

Petition to Classify Nonimmigrant as Temporary Worker or Trainee.

On occasion.

Businesses or other for-profit.

To determine eligibility for importation of aliens as set forth in Section 214(c) of the Immigration and Nationality Act: 44,000 respondents; 33,000 hours; not applicable under 3504(h).

Rob Veeder—395–4814.

• Immigration and Naturalization Service.

Request for Recognition as a Non-profit Religious, Charitable, Social Service, or Similar Organization.

On occasion.

Non-profit institutions.

Used to determine the qualifications of persons or organizations desiring to represent aliens for immigration proceedings as provided in Section 292 of the Immigration and Nationality Act: 50 respondents; 4 hours; not applicable under 3504(h).

Rob Veeder—395–4814.

• Immigration and Naturalization Service.

Application for Waiver of Grounds of Excludability.

On occasion.

Individuals or households.

To determine an applicant's eligibility for waiver of excludability from the United States under the provisions of sections 212(g), (h), or (i) of the Immigration and Nationality Act: 2,300 respondents; 1,150 hours; not applicable under 3504(h).

Rob Veeder—395–4814.

• Immigration and Naturalization Service.

Request for Information from Selective Service File.

On occasion.

Individuals or households.

Needed to obtain information from Selective Service to determine eligibility for naturalization as provided in the Immigration and Nationality Act: 2,000 respondents; 333 hours; not applicable under 3504(h).

Rob Veeder—395–4814.

• Immigration and Naturalization Service.

Report of Status by Treaty Trader or Investor.

On occasion.

Individuals or households.

To determine whether an alien admitted to the United States as a treaty trader or investor under section 3(6) of the act of 1924 or section 101(a)(15)(e) of the Immigration and Nationality Act is maintaining such status: 35,000 respondents; 17,500 hours; not applicable under 3504(h).

Rob Veeder—395–4814.

• Immigration and Naturalization Service.

Civilian Complaint Form.

On occasion.

Individuals or households.

Method of submitting complaints provided to the public. Information

obtained is used to locate improprieties in the conduct of Service employees: 1,000 respondents; 250 hours; not applicable under 3504(h).

Rob Veeder—395–4814.

• Immigration and Naturalization Service.

Request for Determination that Prospective Immigrant is Investor.

On occasion.

Individuals or households.

Alien desiring to become a permanent resident of the United States who intends to invest $40,000(+) in enterprise in the United States may request exception to labor certification provisions of section 212(2) (14) of the Immigration and Nationality Act. Information provided is used to determine eligibility for investor status: 0 respondents; 0 hours (use of this form is based on availability of non-preference visas, since no non-preference visas are currently available and are not expected to be available for some time, the burden associated with this form is currently 0, but form will be maintained: not applicable under 3504(h).

Rob Veeder—395–4814.

• Immigration and Naturalization Service.

Waiver of Rights, Privileges, Exemptions and Immunities.

On occasion.

Individuals or households.

Used to determine eligibility of an alien applicant to retain the status of an alien lawfully admitted to the United States for permanent residence as provided in section 247 of the Immigration and Nationality Act: 1,800 respondents; 150 hours, not applicable under 3504(h).

Rob Veeder—395–4814.

• Immigration and Naturalization Service.

Application for a New Naturalization or Citizenship Paper.

On occasion.

Individuals or households.

Provides for the issuance of a replacement certificate or declaration to a citizen or declarant whose paper has become lost, mutilated or destroyed under section 343(b) of the Immigration and Nationality Act: 8,000 respondents; 2,000 hours; not applicable under 3504(h).

Rob Veeder—395–4814.

Larry E. Miesse

Department Clearance Officer, Systems Policy Staff, Office of Information Technology, Justice Management Division, Department of Justice, 202/633–4312.

[FR Doc. 83–22516 Filed 8–16–83; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on July 25, 1983 a proposed consent decree in *United States* v. *Noel Water Company Inc.*, Civil Action No. 83–5110–CV–SW–0 was lodged with the United States District Court for the Western District of Missouri. The proposed consent decree concerns the discharge of pollutants from outfall 001 of the Noel Missouri facility in excess of the final effluent limitations for the pollutants biochemical oxygen demand (BOD), total suspended solids (TSS), and fecal coliform organisms in violation of the terms and provisions of defendant's National Pollutant Discharge Elimination System (NPDES) Permit No. MO–0002500 and Section 301(a) of the Clean Water Act, 33 U.S.C. 1311(a).

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Acting Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C., 20530, and should refer to *United States* v. *Noel Water Company, Inc.*, D.J. Ref. 90–5–1–1–1562.

The proposed consent decree may be examined at the Office of the United States Attorney, 549 United States Courthouse, 811 Grand Avenue, Kansas City, Missouri, 64106 and at the Region VII Office of the Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri, 64106. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht, II,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83–22511 Filed 8–16–83; 8:45 am]

BILLING CODE 4410–01–M

Proposed Consent Decree in Action To Enforce the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on August 2, 1983, a proposed consent decree in *United States* v. *Union Carbide Corporation*, was lodged with the United States District Court for the District of New Jersey.

The proposed consent decree provides for compliance with the National Emission Standards for Hazardous Air Pollutants for vinyl chloride at Union Carbide's Somerset, New Jersey plant.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Union Carbide Corporation*, D.J. No. 90–5–2–1–415.

The proposed consent decree may be examined at the Office of the United States Attorney, Federal Building, 970 Broad Street, Newark, New Jersey 07102; the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278; and the Envrionmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1521, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting the proposed consent decree please send a check or money order in the amount of $3.90 (10 cents per page reproduction charge) made payable to the Treasurer of the United States.

F. Henry Habicht, II,

Assistant Attorney General Land and Natural Resources Division.

[FR Doc. 83–22510 Filed 8–16–83; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Stipulation and Consent Decree Pursuant to Safe Drinking Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on July 28, 1983, a proposed Stipulation and Consent Decree in *United States* v. *Tivoli Mobile Home Park, an unincorporated association; Donald Short, individually*, Civil Action No. 82–6364–E was lodged with the United States District Court for the District of Oregon. The proposed Stipulation and Consent Decree concerns violations of the Safe Drinking Water Act and national interim primary drinking water regulations by a public water system.

The Department of Justice will receive for a period of thirty (30) days from the

date of this publication comments relating to the proposed consent decee. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Tivoli Mobile Home Park, et al.*, D.J. Ref 90-5-1-1-1871.

The proposed Stipulation and Consent Decree may be examined at the office of the United States Attorney, District of Oregon, 312 U.S. Courthouse, Portland, Oregon, 97205 and at the Region X Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101. Copies of the Stipulation and Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed Stipulation and Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.20 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht, II,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-22509 Filed 8-16-83; 8:45 am]

BILLING CODE 4410-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-334]

Duquesne Light Company, et al.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-66, issued to Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company (the licensee), for operation of the Beaver Valley Power Station, Unit 1 located in Shippingport, Pennsylvania.

The amendment would revise the provisions in the Technical Specifications to permit operation of the Unit with only two of the three primary coolant loops, when needed, in accordance with the licensee's application for amendment dated October 27, 1978.

Prior to 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.

By September 16, 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 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.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States 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 or representative for 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 Steven A. Varga, Chief, Operating Reactors Branch No. 1, Division of Licensing: 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 Gerald Charnoff, Esquire, Shaw, Pittman, Potts and 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 requests for hearing will not be entertained absent a determination by the Commission, the presiding officer of 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 dated October 27, 1978,

which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Dated at Bethesda, Maryland, this 10th day of August 1983.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 83-22502 Filed 8-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-537]

Department of Energy, et al. (Clinch River Breeder Reactor Plant); Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of August 9, 1983, oral argument on the appeal of the Natural Resources Defense Council and the Sierra Club (Intervenors) from the February 28, 1983 partial initial decision of the Licensing Board in this proceeding will be held at 9:30 a.m. on Thursday, September 29, 1983, in the NRC Public Hearing Room, Fifth Floor, East-West Highway, Bethesda, Maryland.

For the Appeal Board.

Dated: August 11, 1983.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-22504 Filed 8-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-275 OL; 50-323 OL]

Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2); Prehearing Conference

Notice is hereby given that, in accordance with the Appeal Board's order of July 28, 1983, a prehearing conference will be held Tuesday, August 23, 1983 at 9:30 a.m. in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

For the Appeal Board.

Dated: August 11, 1983.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-22503 Filed 8-16-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-192]

University of Texas TRIGA Research Reactor; Consideration of Extension of License Expiration Date

The U.S. Nuclear Regulatory Commission (the Commission) is considering a request for an extension of the expiration date of the license of the University of Texas TRIGA Research Reactor. On July 29, 1983, the Commission issued Amendment 10 which renewed the subject license authorization until February 12, 1990, in response to licensee's request dated January 3, 1980. On January 27, 1983, before Amendment 10 was issued, the licensee requested that the renewal period be extended for 20 years instead of 10 years. The Safety Evaluation and the Environmental Impact Appraisal prepared in connection with Amendment 10 addressed the safety of the operation and the environmental impacts associated with the operation of the facility for a 20 year period.

The additional period of operation that would be authorized by the amendment covered by this Notice, if granted, is the period from February 12, 1990 to twenty years from date of issuance of Amendment 10, i.e., July 29, 2003.

By September 16, 1983, the licensee may file a request for a hearing with respect to extension of time of the subject facility 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. Requests 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 petition'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 schedule 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 basis for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the renewal action 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.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, at 1717 H Street, N.W., Washington, D.C. by the above date. Where petitons are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for 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 Cecil O. Thomas: (petitioner's name and telephone number); (date petition was mailed); (University of Texas); 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.

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)(i)–(v) and § 2.715(d).

For further details with respect to this action, see (1) the application for license renewal dated January 3, 1980, as supplemented; (2) Amendment No. 10 to License No. R–92; and (3) the Commission's related Safety Evaluation Report and Environmental Impact Appraisal. These items are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C.

The Safety Evaluation Report (NUREG–0983) can also be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 10th day of August 1983.

For the Nuclear Regulatory Commission.

Cecil O. Thomas,

Chief, Standardization & Special Projects Branch, Division of Licensing.

[FR Doc. 83–22505 Filed 8–16–83; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Proposed Policy Letter on Noncompetitive Procurement

AGENCY: Office of Management and Budget.

ACTION: Notice for comment.

SUMMARY: The purpose of this notice is to solicit the views of Federal agencies and the private sector on a proposed policy letter on noncompetitive procurement.

DATES: Comments are due on or before October 21, 1983.

FOR FURTHER INFORMATION CONTACT: William Maraist, Office of Federal Procurement Policy, Office of Management and Budget, (202–395–3300).

SUPPLEMENTARY INFORMATION: The proposed policy letter: (a) Establishes specific circumstances under which noncompetitive procurement must be justified; (b) requires agency procurement executives to establish approval procedures for noncompetitive procurement; (c) requires special control procedures regarding noncompetitive awards resulting from unsolicited proposals; and (d) requires publicizing in the *Commerce Business Daily* certain noncompetitive procurement actions including the reason for no competition. The proposed policy letter will not effect such congressionally-mandated programs as those dealing with small, minority and disadvantaged businesses.

COMMENTS: Agencies and interested parties are invited to comment on this proposed policy. Comments should be forwarded to William Maraist, Office of Federal Procurement Policy, OMB, 726 Jackson Place, NW., Washington, D.C. 20503 on or before October 21, 1983. Mr. Maraist may be contacted by phone on (202) 395–3300.

Dated: August 12, 1983.

Donald E. Sowle,

Administrator.

OFPP Policy Letter No. 83–

To the Heads of Executive Departments and Establishments

Subject: Noncompetitive Procurement

1. *Purpose.* The purpose of this Policy Letter is to establish restrictions on noncompetitive procurement.

2. *Background.* Both the Armed Services Procurement Act (ASPA) and the Federal Property and Administrative Services Act (FPASA) require formal advertising as the preferred method of procurement. They provide for procurement by negotiation under various exceptions (17 in the ASPA–15 in the FPASA). Regulations implementing these Acts only require that negotiated procurement be competitive to the maximum practicable extent.

Notwithstanding the present statutory and regulatory requirements, approximately one-third of procurement dollars today are awarded without obtaining competition. This does not include those that are reported in the Federal Procurement Data System as "follow-on after competition". One of the principal features of the Administration's Proposal for a Uniform Federal Procurement System, submitted to Congress on February 26, 1982, is more effective competition. Executive Order 12352, Federal Procurement Reforms, which was signed by President Reagan on March 17, 1982, also highlights competition and limiting noncompetitive procurement as key elements in this reform effort.

In his memorandum of August 11, 1983 to the Heads of Executive Departments and Agencies (attached), President Reagan directed that competition be given preference in agency buying programs. He also directed the Administrator for Federal Procurement Policy to issue a formal policy directive establishing Government-wide restrictions on the use of noncompetitive procurement. This Policy Letter results from that direction.

While competition should not be an end in itself, it is important that we obtain the benefits of competition—economic, technological and managerial—whenever practicable. This Policy Letter will focus existing agency direction more effectively and require us to take greater advantage of competitive opportunities.

3. *Policy.* a. Effective competition shall be obtained in negotiated procurement whenever possible. To ensure this, noncompetitive procurements above the small purchase ceiling will be permitted only under one or more of the following circumstances:

1. The property or service is available from only one source and no competitive alternative is available which will satisfy the minimum needs of the procuring agency;

2. An emergency will not permit the delay inherent in obtaining competition;

3. An award must be directed to a specified source or sources—

(i) in order to create or maintain an essential industrial capability in the U.S. or in the interest of national industrial mobilization—DOD only;

(ii) in order to establish or maintain an alternative source which would be likely to increase or maintain competition and would be likely to result in lower overall cost to the Government;

(iii) because it is impracticable or uneconomical to obtain competition for follow-on procurements;

4. The contract to be awarded results from acceptance of an unsolicited proposal that demonstrates a unique or innovative concept;

5. A specific source is required by international agreement or for directed procurements for foreign governments;

6. A product or service is required by statute to be obtained from or through another Federal agency or from a specified source or where specific products or services are authorized by statute to be procured noncompetitively;

7. Disclosure to more than one source of the identity or nature of the procurement would jeopardize the national security; or

8. It is otherwise impracticable to obtain competition.

b. All noncompetitive procurements under circumstances 1, 2, 3, 7, & 8, above a dollar threshold established by the Agency Procurement Executive, must be approved by the Agency Procurement Executive before issuance of a solicitation. The Agency Procurement Executive may delegate this authority to a formally appointed procurement official in a major subelement of the agency (e.g., in DOD, Military Departments or major buying commands); except that the Agency Procurement Executive shall establish a dollar threshold over which all noncompetitive contracts under circumstance 8 must be approved by

the Agency Procurement Executive without further delegation.

c. The Agency Procurement Executive shall establish procedures to assure that awards under circumstance 4 are not a result of informal requests by Government personnel or information from Government personnel selectively given to a particular contractor.

d. Except as provided in Section 8(e) of the Small Business Act, each proposed noncompetitive procurement (above $5,000 for Civil agencies and $10,000 for Defense) under circumstances 1, 3, & 8 must be publicized in the *Commerce Business Daily* as soon as practical after the requirement becomes known, but in no case later than 30 days prior to the date set for receipt of a proposal. The synopsis shall state that the proposed procurement is noncompetitive and the reason therefor.

e. Proposed noncompetitive procurements must be fully justified in writing. The Agency Procurement Executive shall establish procedures for review of the written justification for procurements above a dollar threshold established by him. Such procedures should, at the discretion of the Procurement Executive, include review by procurement, legal, and program management/engineering representatives.

This additional attention to noncompetitive procurements will further the implementation of Executive Order 12352 as part of the procurement reforms being carried out in accordance with Reform 88 and the Administration's proposal for a Uniform Federal Procurement System. It is important to note that the policies contained in this Policy Letter are not intended to adversely affect such congressionally-mandated programs as those dealing with small, minority and disadvantaged businesses or such Presidential initiatives as those dealing with the establishment of minority business goals.

Effective Date. This policy will be effective 90 days after the date of this policy directive. It will remain effective for two years from that date unless sooner revised.

Implementation. The Department of Defense, the General Services Administration and the National Aeronautics and Space Administration will ensure that this policy is uniformly implemented in regulations.

Donald E. Sowle,

Administrator.

The White House

Washington

August 11, 1983

Memorandum for the Heads of Departments and Agencies

Subject: Competition in Federal Procurement

Competition is fundamental to our free enterprise system. It is the single most important source of innovation, efficiency, and growth in our economy.

Yet, far too often the benefits of competition are excluded from the Federal procurement process—a process which now results in expenditures of over $160 billion annually. Numerous examples of waste and exorbitant costs due to the lack of competition have been detailed by the Congress and the press during recent months.

Although efforts have been initiated by this Administration through the Reform '88 Management Improvement Program to correct this longstanding problem, I am convinced that more needs to be done. Consequently, I have directed Don Sowle, the Administrator for Federal Procurement Policy in the Office of Management and Budget, to issue a policy directive on noncompetitive procurement to all departments and agencies. That policy directive will establish government-wide restrictions on the use of noncompetitive procurement and will be reflected in the government's procurement regulations. While such congressionally mandated programs as contracting with minority firms and handicapped persons will not be affected, the unwarranted use of noncompetitive practices must and will be curtailed.

Pending the formal issuance of this new policy by the Administrator, I call upon each of you to assure that competition is the preferred method of procurement in your department or agency.

Ronald Reagan.

[FR Doc. 83-22512 Filed 8-16-83; 8:45 am]

BILLING CODE 3110-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Ch. 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY:

(1) Collection title: Application/Claim for Benefits Under the Rock Island Act.

(2) Form(s) submitted: UI-120.

(3) Type of request: New collection.

(4) Frequency of use: On occasion.

(5) Respondents: Individuals or households.

(6) Annual responses: 8,000.

(7) Annual reporting hours: 2,000.

(8) Collection description: Section 106 of the Rock Island Railroad Transition and Employee Assistance Act provides benefits for Rock Island employees adversely affected by a reduction in service. This collection obtains the information needed by the Board to determine eligibility for and the amount of benefits due.

Additional information or comments: Copies of the proposed forms and supporting documents can be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Milo Sunderhauf (202-395-6880), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

William A. Oczkowski,

Director of Planning and Information Management.

[FR Doc. 83-22529 Filed 8-16-83; 8:45 am]

BILLING CODE 7905-01-M

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C., Section 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such Section 3221(c) or every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning October 1, 1983, shall be at the rate of 18-½ cents.

In accordance with directions in Section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning October 1, 1983, 25.7 percent of the taxes collected under Sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 74.3 percent of the taxes collected under such Sections 3211(b) and 3221(c) plus one hundred percent of the taxes collected under Section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account

Dated: August 9, 1983.

By Authority of the Board.

James T. Brown,

Executive Director.

Dated: August 9, 1983

[FR Doc. 83-22508 Filed 8-16-83; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

Records; Maintained and Preserved by Registered Investment Advisers

Agency Clearance Officer—Kenneth Fogash (202) 272-2142.

Upon written request, copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549.

Extension.

Rule 204-2 [17 CFR 275.204-2].

SEC File No. 270-215.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of approval rule 204-2 under the Investment Advisers Act of 1940 which concerns the records required to be maintained and preserved by registered investment advisers.

The potential respondents include all investment advisers who make use of the mails or any means or instrumentality of interstate commerce in connection with his or its business as an investment adviser other than one specifically exempted from registration pursuant to Section 203(b) of the Investment Advisers Act.

Submit comments to OMB Desk Officer: Robert Veeder (202) 395-4814, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Dated: August 10, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-22452 Filed 8-16-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13431; 812-5556]

Freedom Income Trust and Tucker, Anthony & R. L. Day, Inc.; Filing of an Application for an Order of the Commission Granting Exemption

August 10, 1983.

Notice is hereby given that Freedom Income Trust ("FIT"), registered under the Investment Company Act of 1940 ("Act") as a series of unit investment trusts, and its sponsor, Tucker, Anthony & R. L. Day, Inc. ("Sponsor", collectively with FIT "Applicants") 120 Broadway, New York, New York 10271, filed an application on June 3, 1983, and an amendment thereto on July 14, 1983, for an order of the Commission, pursuant to Section 11 of the Act, approving the terms of certain offers of exchange of units of series of FIT for units of other FIT series at a reduced sales load; and pursuant to Section 6(c) of the Act exempting such exchange transactions from the provisions of Section 22(d) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act and the rules thereunder for the complete text of the provisions referred to herein and in the application.

According to the application, the Sponsor proposes to be able to offer, subject to certain conditions, a conversion option (the "Plan") to unitholders of the various series of FIT. Applicants indicate that the conversion transaction will operate in a manner essentially identical to any secondary transaction, except that Applicants propose to allow a reduced sales charge in a transaction under the Plan. Applicants propose to sell units in the secondary market under the Plan at a price based on the bid side evaluations of the underlying securities plus a fixed sales charge of $20 per unit except for unitholders of a series with a sales charge less than the sales charge of the series into which they desire their investment converted. Such unitholders must have held their units for a period of at least six months in order to exercise the conversion option or agree to pay a sales charge based on the greater of $20 per unit or an amount which together with the initial sales charge paid in connection with the acquisition of units being exchanged equals the normal sales charge of the series into which the investment is being converted determined as of the date of exchange.

Applicants assert that an exemption is appropriate under the standards set forth in Section 6(c) of the Act. Applicants state that a person desiring to dispose of units of one series and acquire units of another series may wish to do so for a number of reasons, such as changes in his or her particular investment goals or requirements (which might lead to a decision that he prefers higher current return or income exempt from State taxes) or in order to take advantage of possible tax benefits flowing from the exchange. Taking these factors into account, Applicants assert that it is likely that there will be a continuing need to assess an investor's individual financial and tax position and in all probability the account executives of the Sponsor will actively participate in financially counseling the investor as to the proper course of action to follow considering all of the relevant investment factors involved. It is further asserted, however, that the fact that the investor is an existing customer whose essential investment needs have been identified should produce some transaction savings. It is the Applicants' belief that the reduced charge as set forth in the Plan is a reasonable and justifiable expense to be allocated to the broker for his professional assistance in connection with a conversion transaction. Applicants assert that this sales charge compares favorably to the regular sales charges which are currently allocated to broker-dealers in the sale of units in any primary and secondary sales of FIT. Thus, the Sponsor submits that a sales charge of $20 per unit is warranted in that such charges should cover reasonable costs related to the conversion of units under the Plan and yet give participants an opportunity to share in cost savings.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 2, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 22457 Filed 8-16-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13428; 812-5579]

Fund for Tax-Free Investors, Inc.; Filing of Application for an Order Exempting Applicant

August 10, 1983.

Notice is hereby given that Fund for Tax-Free Investors, Inc. ("Applicant"), 1735 K Street, N.W., Suite 1200, Washington, D.C. 20006, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, with three separate and distinct investment portfolios (the "Portfolios"), filed an application on June 14, 1983, and an amendment thereto on July 20, 1983, requesting an order of the Commission,

pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 12(d)(3) of the Act to the extent necessary to permit Applicant to acquire stand-by commitments from brokers or dealers for the purpose of facilitating portfolio liquidity and from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value such stand-by commitments in the manner described in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and rules thereunder for the text of the applicable provisions thereof.

Applicant states that each of its Portfolios will invest primarily in a diversified portfolio of municipal obligations. According to the application, assets of any Portfolio which are not invested in municipal securities may be held in cash or invested in short-term, taxable investment.

Applicant asserts that the investors whom it intends to attract will require the right to receive redemption proceeds in federal funds as soon as practicable after Applicant receives a redemption order. Applicant states that it will therefore have little time to obtain the cash necessary to meet net redemptions. Applicant further states that because of the difficulty of predicting its redemption requirements, the infrequency of maturity dates of municipal securities held in its Portfolios, and the relatively inactive trading markets for municipal securities, it cannot rely on scheduled maturities to meet net redemptions. Therefore, Applicant asserts that a portion of its assets must be retained in cash or very short-term instruments, thereby reducing the investors' yield.

Applicant asserts that it proposes to improve its portfolio liquidity by acquiring stand-by commitments solely to facilitate portfolio liquidity. Applicant represents that each stand-by commitment that it acquires: (1) Will be in writing and will be physically held by Applicant's custodian; (2) will be exercisable by Applicant at an agreed-upon price on certain dates or within a specified period prior to the maturity of the underlying security; (3) will provide Applicant with an unconditional and unqualified right to exercise it; (4) will be entered into only with a broker-dealer or bank which, in the opinion of Applicant's investment adviser, presents a minimal risk of default; and (5) will not be transferable, although any municipal securities purchased subject to such a commitment may be sold to a third party at any time, even though the commitment is outstanding. In addition, Applicant states that the amount payable to it upon exercise of any stand-by commitment will be (a) Applicant's acquisition cost of the municipal securities purchased subject to the commitment (excluding any accrued interest that Applicant paid on its acquisition), less any amortized market or original issue premium or plus any amortized market or original issue discount during the period Applicant owned the securities. Applicant further represents that the total amount "paid" for outstanding stand-by commitments held in its portfolio will not exceed ½ of 1% of the value of its total assets (taken at market value at the time of purchase of any stand-by commitment). According to the application, the acquisition of a stand-by commitment will not affect the valuation or maturity of the underlying municipal obligation, which will be valued in accordance with the applicable provisions of the Act. Applicant also states that stand-by commitments will be paid for in cash or by paying a higher price for portfolio securities which are subject to the commitment.

Applicant asserts that it is difficult to evaluate the likelihood of use or the potential benefit of a stand-by commitment. Therefore, Applicant states that its board of directors has determined that stand-by commitments have a fair value of zero in determining net asset value, regardless of whether any direct or indirect consideration is paid. During the period that Applicant holds a stand-by commitment, Applicant intends to reflect the cost of the commitment as an unrealized loss, and subsequently, to reflect the cost in realized gain or loss when the commitment is exercised or expires. Applicant adds that, for purposes of complying with the provision of Rule 2a–7 under the Act, to the effect that the dollar-weighted average maturity of the Money Market Portfolio may not exceed 120 days, Applicant will not consider the maturity of a portfolio security of the Money Market Portfolio shortened or otherwise affected by any stand-by commitment to which such security is subject.

Applicant submits that the requested relief is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant asserts that its proposed acquisition of stand-by commitments will not pose new investment risks, but rather will improve its liquidity and ability to pay redemption proceeds the next day in federal funds. Applicant states that it intends to acquire stand-by commitments solely to facilitate portfolio liquidity. In addition, Applicant represents that its investment adviser will periodically evaluate the credit of institutions issuing stand-by commitments.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 6, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-22455 Filed 8-16-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13432; 812-5542]

Pfizer Inc.; Application for an Order for Exemption

August 10, 1983.

Notice is hereby given that Pfizer Inc. ("Applicant"), 235 East 42nd Street, New York, New York 10017, on behalf of Pfizer Foreign Investment Fund ("Fund"), a partnership to be organized under the laws of Delaware, filed an application on April 11, 1983, and amendments thereto on May 9 and July 19, 1983, for an order of the Commission, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting the Fund from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and are referred to the Act and rules thereunder for further information as to

the provisions to which the exemption applies.

The Fund's partners will consist of trustees of pension plans maintained for the benefit of employees of foreign companies (or foreign branch operations) affiliated with Applicant. The Fund seeks to provide these pension plans with a managed investment portfolio of securities traded in the United States. The Fund will locate its offices in New York, New York, and will appoint Applicant as its agent. As agent, Pfizer Inc. will hire third parties to act as the Fund's custodian and investment adviser.

Applicant asserts that the Fund would be exempt from the provisions of the Act under Section 3(c)(1) of the Act but for the fact that at least one of its partners will own more than 10% of the issuer's securities. Therefore, pursuant to Section 3(c)(1)(A), at least one partner's interest will be deemed beneficially held by the employees covered by the underlying pension plan, thus exceeding the 100-person limitation of Section 3(c)(1). Applicant states that it cannot structure the Fund so as to avoid having any partner owning more than 10% of the Fund because of the limited number of eligible pension funds (only pension plans connected with Pfizer Inc. are eligible to become partners of the Fund).

Applicant contends that the Fund would be exempted from the Act by Section 3(c)(11) of the Act but for the fact that its partners cannot technically meet the requirements of Section 401 of the Internal Revenue Code ("Section 401"). Applicant states that the Fund's pension plans qualify under their local tax codes and provide tax benefits under the laws of their countries. Applicant concedes that, although the pension plans meet all legal qualifications of their respective jurisdictions, they cannot claim to be qualified plans under Section 401.

Applicant contends that the Fund does not present the problems inherent in other investment companies. The Fund will not charge a sales load, and only one custodial and advisory fee will be charged. Applicant states that costs will be minimal consisting only of the agent's actual expenses in carrying out the Fund's business. Applicant concludes that no layering or duplication of costs will occur. The Fund does not propose to invest in mutual funds, and Applicant therefore asserts that no problem of pyramiding control exists. Applicant asserts that the Fund will prove useful to its pension plan investors because it will make possible investment with a degree of diversification not available to any of the pension funds on an individual basis, as well as with investment management advice not normally available to small funds with limited investment capability. Applicant asserts that the individual beneficiaries of the pension plans are already protected by the laws of their various jurisdictions which regulate pension plans and trustees; furthermore, each prospective investor has sought review and approval of this proposal from their country's appropriate governmental authority.

Applicant submits that exemption from the entire Act under Section 6(c) is appropriate because there exists no significant direct or indirect United States investor interest in the Fund. Applicant states that at no level will the Fund be involved with any United States investor. Only pension plan trustees of foreign companies (or foreign branch operations) affiliated with Pfizer Inc. may invest in the Fund. No trustee is a United States resident, nor are any of the employees for whom the pension plans are maintained. Applicant states that the Fund has made no public offering in the United States (or elsewhere) and will not do so. Applicant asserts that, because of the Fund's restrictive partnership criteria, no United States investor could ever become directly interested in the Fund, and it contends that Section 1(b) of the Act demonstrates Congress' intent that the Act protect American investors.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 6, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-22456 Filed 8-16-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13429; 812-5547]

Prudential-Bache Research Fund, Inc.; Filing of Application for an Order Granting Exemptions

August 10, 1983.

Notice is hereby given that Prudential-Bache Research Fund, Inc. ("Applicant"), 100 Gold Street, New York, NY 10292, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on May 11, 1983, requesting an order pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and Rule 22c-1 thereunder, to the extent necessary to permit Applicant to assess a contingent deferred sales charge on certain redemptions of its initial and any future series of shares, and to permit Applicant to waive the contingent deferred sales charge under certain circumstances. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below and to the Act and the rules thereunder for the text of the application provisions.

Applicant states that it was organized as a corporation under the laws of Maryland on March 21, 1983, and filed with the Commission a notification of registration on Form N-8A under the Act of March 31, 1983. Applicant's manager will be Prudential-Bache Securities Inc. ("Prudential-Bache"), a Delaware corporation that is an indirect, wholly-owned subsidiary of The Prudential Insurance Company of America. Prudential-Bache will also serve as Applicant's distributor, and would receive the proceeds of the contingent deferred sales charges. Although Applciant states that it has no current intention to create and issue any additional series, it intends that its application constitute a request that in addition to the initial series of shares, any additional series or classes of shares that may at any time hereafter be offered on substantially the same basis be similarly exempted from the provisions of the sections of the Act enumerated above.

Applicant proposes to offer its shares without initial sales charge so that investors will have the entire amount of their purchase payments fully invested when made. However, Applicant also proposes to pay to the distributor a contingent deferred sales charge from the proceeds of certain redemptions of Applicant's shares. Applicant states that in no event could the amount of such

charges, in the aggregate, exceed 5 percent of the aggregate purchase payments made by the investor.

Applicant represents that the contingent deferred sales charge would be imposed if an investor redeems an amount which causes the value of the investor's Account with Applicant to fall below the total dollar amount of purchase payments made by the investor during the preceding five years. No contingent sales charge will be imposed to the extent that the net asset value of the shares redeemed does not exceed (i) the current net asset value of shares purchased more than five years prior to the redemption, plus (ii) the current net asset value of shares purchased through reinvestment of dividends or capital gains distributions, plus (iii) increases in the net asset value of the investor's shares above the total amount of payments for the purchase of Applicant's shares made during the preceding five years. Applicant also proposes that the imposition of the contingent deferred sales charge be waived on the following redemptions: (i) redemptions following the death or disability, as defined in Section 72(m)(7) of the Internal Revenue Code (the "Code"), of a shareholder, and (ii) redemptions in connection with certain distributions from Individual Retirement Accounts ("IRAs") or other qualified retirement plans.

Applicant states that in determining the applicability of a contingent deferred sales charge to each redemption, the amount which represents an increase in the net asset value of the investor's shares above the amount of the total payments for the purchase of shares within the last five years will be redeemed first. In the event the redemption amount exceeds that increase in value, the next portion of the amount redeemed will be the amount which represents the net asset value of the investor's shares purchased and/or shares purchased through reinvestment of dividends or distributions will be subject to a contingent deferred sales charge. Where a contingent deferred sales charge is imposed, the amount of the charge will depend on the number of years since the investor made the purchase payment from which an amount is being redeemed. During the first years after purchase, the charge would be 5 percent of the amount redeemed. That amount would drop by 1 percent per year thereafter until after 5 full years, at which time no charge would be imposed upon redemptions.

The amount of the contingent deferred sales charge (if any) is calculated by determining the date on which the purchase payment that is the source of the redemption was made, and applying the appropriate percentage to the amount of the redemption subject to the charge.[1] Applicant states that in determining the rate of any applicable contingent deferred sales charge, it will be assumed that a redemption is made of shares held by the investor for the longest period of time within the applicable five-year period. This will result in any charge being imposed at the lowest possible rate.

Applicant believes that the imposition of the contingent deferred sales charge is fair and is in the best interests of its shareholders. Applicant submits that the proposed transaction permits shareholders to have the advantages of more investment dollars working for them from the time of their purchase of shares of Applicant. Moreover, Applicant states that because the contingent deferred sales charge applies only to redemptions of amounts representing purchase payments (during the first five years after the payments), it does not apply to increases in the value of an investor's Account through increases in net asset value per share, or to amounts representing reinvestment of distributions.

Applicant proposes to finance its own distribution expenses pursuant to a plan adopted under Rule 12b–1 under the Act (the "Plan"). Under the proposed Plan, Applicant will pay an annual fee to its distributor, Prudential-Bache, as reimbursement for expenses incurred by the distributor in connection with the offering of Applicant's shares. Applicant's distribution fee is calculated on the basis of 1.0 percent per annum of aggregate purchase payments (subject to a cap at 1.0 percent of net assets). Thus, under the proposed Plan, the annual distribution fee to be borne by Applicant is equal to 1.0 percent of the lesser of (i) aggregate gross sales of Applicant's shares since Applicant's inception (not including reinvestment of dividends or capital gain distributions), less the aggregate net asset value of Applicant's shares redeemed since Applicant's inception upon which a contingent deferred sales charge has been imposed or upon which such charge has been waived or (ii) Applicant's daily net assets. The Distributor also will receive the proceeds of the contingent deferred sales charge imposed upon any redemption.

Where amounts attributable to purchase payments are redeemed (and thus no longer contribute to the annual distribution charge) Applicant believes that it is fair (1) to impose on the withdrawing shareholder a lump sum payment reflecting approximately the amount of distribution expense and (2) to remove the assets on which the contingent deferred sales charge was imposed from the base amount on which Applicant's distribution fee is calculated. Applicant asserts that the amount, computation and timing of the contingent deferred sales charge thus are designed to promote fair treatment of all shareholders, while permitting Applicant to offer investors the advantage of having purchase payments fully invested on their behalf immediately. Applicant states that, in their review of the Plan pursuant to Rule 12b–1, Applicant's Trustees will also consider the use by the distributor of revenues raised by the contingent deferred sales charges.

Applicant proposes to waive the contingent deferred sales charge with respect to the following redemptions of Applicant's shares: (i) redemptions following the death or disability (as defined in Section 72(m)(7) of the Code) of a shareholder, or (ii) redemptions in connection with certain distributions from IRAs or other qualified retirement plans, as described below. The waiver of the contingent deferred sales charge upon death or disability would apply to a total or partial redemption but only to redemptions of shares held at the time of the death or initial determination of disability. It is proposed that the charge be waived for any redemption in connection with a lump-sum or other distribution following retirement or, in the case of an IRA or Keogh Plan or a custodial account pursuant to Section 403(b)(7) of the Code, after attaining age 59½. The charge also would be waived on any redemption which results from the tax-free return of an excess contribution pursuant to Section 406(d)(4) or (5) of the Code, or from the death or disability of the employee.

Applicant submits that the imposition of the contingent deferred sales charge in the manner described above would not cause shares of Applicant to fall outside the definition of "redeemable securit(ies)" in Section 2(a)(32) of the Act, and Applicant believes, therefore, that it qualifies as an open-end company under Section 5(a)(1) of the Act. Applicant further believes that imposition of the contingent deferred sales charge in no way restricts a shareholder from receiving his proportionate share of the current net

[1] Applicant states that solely for purposes of determining the number of years from the time of any payment for the purchase of shares, all payemnts during a month will be aggregated and deemed to have been made on the last day of the month.

assets of Applicant, but merely defers the deduction of a sales charge and makes it contingent upon an event which may never occur. Although the contingent deferred sales charge is not a redemption charge in the ordinary sense, Applicant submits that the conditions of Section 10(d) of the Act contemplate that an investment company may both be an open-end company and impose a discount from net asset value on redemption of its shares. However, in order to avoid uncertainty in this regard, Applicant requests an exemption from the operation of Section 2(a)(32) of the Act to the extent necessary to permit implementation of the proposed contingent deferred sales charge.

Applicant asserts that the proposed contingent deferred sales charge is consistent with the intent of the Act's definition of "sales load" in Section 2(a)(35). The contingent deferred sales charge is paid to the distributor to reimburse it solely for expenses related to offering Applicant's shares for sale to the public, and, therefore, Applicant submits that this arrangement is within the Section 2(a)(35) definition of sales load, but for the timing of the imposition of the charge. Applicant contends that the deferral of the sales charge, and its contingency upon the occurrence of an event which might not occur, does not change the basic nature of this charge, which is in every other respect a sales charge. However, Applicant requests an exemption from the provisions of Section 2(a)(35), to the extent necessary to implement the proposed charge.

Applicant further asserts that the implementation of the proposed contingent deferred sales charge would not violate Section 22(c) of the Act or Rule 22c-1 thereunder. However, in order to avoid any possibility that questions might be raised as to the potential applicability of Section 22(c) and Rule 22c-1, Applicant requests an exemption from the operation of the provisions of Rule 22c-1 to the extent necessary or appropriate to permit Applicant to implement the proposed contingent deferred sales charge.

Applicant contends that it would be fair and equitable and in the public interest and in the interest of shareholders for the contingent deferred sales charge to be waived on certain types of redemptions as specifically described above. In each situation in which the charge would be waived, the redeeming shareholder would be a member of a class of shareholders which is favored under the tax laws or the securities laws. It is further asserted that the proposed waiver is consistent with the purposes of Applicant. As stated in its prospectus, Applicant is designed for long-term investors, including those who wish to use shares of Applicant as the funding vehicle for IRAs or other tax-deferred retirement plans. The prospectus further states that Applicant is not designed for investors who intend to liquidate their investments after a short period. The application states that in situations in which the contingent deferred sales charge will be waived, the redemption is either unforeseen by the shareholder at the time of purchase (i.e., resulting from the extraordinary circumstances of death or disability) or is fully intended at the time of purchase (i.e., ordinary retirement distribution pursuant to an IRA or other retirement plan). Accordingly, Applicant contends that neither situation would be inconsistent with Applicant's purpose or the investor's initial intention of making a long-term investment in Applicant.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 6, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-22450 Filed 8-16-83; 8:45 am]

BILLING CODE 8010-01-M

Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

August 11, 1983.

The above named national securities exchange has filed applications 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 following stocks:

Circle K Corp.
Common Stock, $1 Par Value (File No. 7-6962)
Conquest Exploration Co.
Common Stock, $.20 Par Value (File No. 7-6963)
Cyprus Corp.
Common Stock, $.30 Par Value (File No. 7-6964)
Digicon, Inc.
Common Stock, $.10 Par Value (File No. 7-6965)
Forest Laboratories, Inc.
Common Stock, $.10 Par Value (File No. 7-6966)
Frontier Holdings, Inc.
Common Stock, $.50 Par Value (File No. 7-6967)
Galexy Oil Co.
Common Stock, $.10 Par Value (File No. 7-6968)
Magic Chef, Inc.
Common Stock, $3 Par Value (File No. 7-6969)
Mark Controls Corp.
Common Stock, $1 Par Value (File No. 7-6970)
McNeil Corporation
Common Stock, No Par Value (File No. 7-6971)
Medtronic, Inc.
Common Stock, $.10 Par Value (File No. 7-6972)
Mercantile Stores Co., Inc.
Common Stock, $.91⅔ Par Value (File No. 7-6973)
Mid-Continent Tel. Corp.
Common Stock, No Par Value (File No. 7-6974)
Minnesota Power & Light Co.
Common Stock, No Par Value (File No. 7-6975)
Missouri Public Service Co.
Common Stock, $1 Par Value (File No. 7-6976)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 1, 1983 written data, views and arguments concerning the above-referenced applications. 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 applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are 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.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-22453 Filed 8-16-83; 8:45 am]

BILLING CODE 8010-01-M

Cincinnati Stock Exchange; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

August 11, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-l thereunder, for unlisted trading privileges in the following stocks:

Crown Industries, Inc.
Common Stock, $.40 Par Value (File No. 7-6977)
Tultex Corp.
Common Stock, $1 Par Value (File No. 7-6978)
Wilcox & Gibbs Inc.
Common Stock, $1 Par Value (File No. 7-6979)
Brock Hotel Corporation
Common Stock, $.10 Par Value (File No. 7-6980)
Carnation Co.
Common Stock, $2 Par Value (File No. 7-6981)
Comdisco, Inc.
Common Stock, $.10 Par Value (File No. 7-6982)
Donaldson, Lufkin & Jenrette, Inc.
Common Stock, $.10 Par Value (File No. 7-6983)
Dr. Pepper Company
Common Stock, No Par Value (File No. 7-6984)
A. G. Edwards Inc. (Holding Co.)
Common Stock, $1 Par Value (File No. 7-6985)
Emery Air Freight Corporation
Common Stock, $.20 Par Value (File No. 7-6986)
Faberge, Inc.
Common Stock, $.40 Par Value (File No. 7-6987)
Fairchild Industries, Inc.
Common Stock, $1 Par Value (File No. 7-6988)
Floating Point Systems, Inc.
Common Stock, No Par Value (File No. 7-6989)
Gearhart Industries, Inc.
Common Stock, $.50 Par Value (File No. 7-6990)
Hecla Mining Company
Common Stock, $.25 Par Value (File No. 7-6991)
Helmerich & Payne, Inc.
Common Stock, $.10 Par Value (File No. 7-6992)
Heublein, Inc.
Common Stock, No Par Value (File No. 7-6993)
ICN Pharmaceuticals, Inc.
Common Stock, $1 Par Value (File No. 7-6994)
InterFirst Corporation
Common Stock, $5 Par Value (File No. 7-6995)
Kaiser Steel Corporation
Common Stock, $.66⅔ Par Value (File No. 7-6996)
Lucky Stores
Common Stock, $1.25 Par Value (File No. 7-6997)
Pyro Energy Corporation
Common Stock, $.10 Par Value (File No. 7-6998)
Quaker State Oil Refining Corp.
Common Stock, $1 Par Value (File No. 7-6999)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 1, 1983 written data, views and arguments concerning the above-referenced applications. 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 applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are 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.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-22434 Filed 8-16-83; 8:45 am]

BILLING CODE 8010-01-M

Pacific Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

August 11, 1983.

The above named national securities exchange has filed applications 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 following stocks:

Comdisco, Incorporated
Common Stock, $.10 Par Value (File NO. 7-7000)
Verbatim Corporationd
Common Stock, No Par Value (File No. 7-7001)
Veeco Instruments, Inc.
Common Stock, $1 Par Value (File No. 7-7002)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 1, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commisison, Washington, D.C. 20549. Following this opportunity for hearing, the Commisison will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are 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.

George A. Fitzsjmmons,

Secretary.

[FR Doc. 83-22451 Filed 8-16-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 20070; SR-CBOE-83-25]

Chicago Board Options Exchange, Inc.; Filing and Order Granting Accelerated Approval of Amendment to Proposed Rule Change

August 11, 1983

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 5, 1983, the Chicago Board Options Exchange, Incorporated ("CBOE") LaSalle at Jackson, Chicago, Illinois 60606, filed with the Securities and Exchange Commission an amendment to a proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the amendment from interested persons.[1]

Under the previously approved portion of the proposed rule change CBOE reduced the multiplier for Standard & Poor's 500 ("S&P 500") stock index options from $500.00 to $100.00. This amendment to the proposed rule

[1] The proposed rule change contained in File No. SR-CBOE-83-25, except for the amendment that is subject of the instant release, was approved by the Commission on August 4, 1983 (Securities Exchange Act Release No. 20055, August 4, 1983). Because this amendment was submitted subsequent to approval of the remainder of File No. SR-CBOE-83-25 it is being noticed and approved separately in this release.

change would correspondingly increase position limits for S&P 500 stock index options from 3,000 to 15,000 contracts, effective as of August 15, 1983. According to CBOE, the statutory basis for the proposed rule change is Section 6(b)(5) of the Act.

Interested persons are invited to submit written data, views and arguments concerning the amendment to the proposed rule change within 21 days from the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Reference should be made to File No. SR–CBOE–83–25.

Copies of the submission, all subsequent amendments, all written statements with respect to the amendment to the proposed rule change which are filed with the Commission, and all written communications relating to the amendment to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be avaialble for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the CBOE.

The Commission finds that the amendment to the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the amendment to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that the increase in position limits for the S&P 500 stock index options proposed by this amendment is a technical, conforming measure that must be in place by August 15, 1983, in order to permit position limits to remain at the level in effect before the reduction in the multiplier for the S&P 500 stock index option to $100.00, which has already been approved by the Commission and, as noted above, is scheduled to take effect on August 15, 1983. Accordingly, the Commission finds that it is in the public interest to approve the proposed rule change prior to the thirtieth day after the date of publication of notice of filing.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the amendment to the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-22526 Filed 8-16-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13427; 811-2832]

National Government Securities Reinvestment Program Inc.; Application

Notice is hereby given that National Government Securities Reinvestment Program Inc. ("Applicant"), First Maryland Building, 25 South Charles Street, Baltimore, Maryland 21201, an open-end, diversified investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on June 16, 1983, for an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and are referred to the Act and the rules thereunder for further information as to the provisions to which the exemption applies.

Pursuant to an Agreement and Articles of Reorganization, Applicant, a Maryland corporation, merged into Lexington GNMA Income Fund, Inc. ("Lexington") on April 11, 1983. On April 13, 1983, Lexington filed a certificate approving the merger with the State of Maryland, and Applicant ceased to legally exist in that state. Applicant's board of directors, on September 24, 1982, determined that the merger was advisable; Applicant's shareholders, at a meeting held on April 5, 1983, voted to approve the merger. Applicant recommended merger for several reasons. Unlike Applicant, Lexington is an actively managed fund, an asset in the increasingly volatile GNMA market. Lexington also offers investment flexibility through its exchange privilege. Furthermore, Applicant believed that merger would achieve economies in operating expenses.

As of April 8, 1983, Applicant had outstanding 303,513 shares of common stock with an aggregate net asset value of $6,422,303. As of the effective date of the merger, Applicant's shareholders received 2.730 shares of Lexington for each share they held of Applicant. Applicant declares that when it filed its application it had no assets, no debts or other liabilities, no securityholders, and was not a party to any litigation or administrative proceeding. Applicant states that it neither engages in nor proposes to engage in any business activities. Applicant bore merger expenses emanating from the printing and mailing of proxy materials; Lexington paid all other merger expenses.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 6, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-22527 Filed 8-16-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13430; 812-5526]

Scientific Advances Corp.; Filing of an Application

August 10, 1983.

Notice is hereby given that Scientific Advances Corporation ("Applicant"), a Delaware corporation that intends to qualify as a business development company, filed an application on April 13, 1983, with an amendment thereto on June 24, 1983, for an order pursuant to Section 6(c) of the Investment Company Act of 1950 ("Act"), exempting Applicant from the provisions of Sections 6(f)(2) and 61(a)(3)(B) of the Act to the extent necessary to organize, and obtain capital in the manner described in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the

Act for the test of the applicable sections of the Act.

Applicant states that it intends to qualify as a business development company concentrating in the area of medical and other scientific research and development. Applicant states that it will seek out, and assist in the development and marketing of, new and promising medical and other scientific discoveries. To accomplish this goal, Applicant intends to rely on the expertise of its management team, to be made up of scientists and financial and marketing experts, and on the guidance of an advisory panel of distinguished scientists.

Applicant states that it plans to make two private placements of its securities prior to a public offering ("Public Offering") of its common stock ("Common Stock"). Applicant represents that initially, 100,000 shares of Common Stock will be issued to seven members of Applicant's management team ("Management Investors") at a price per share that will be equal to the price per share of the Common Stock in the Public Offering ("Initial Offering Price"). Thereafter, Applicant will seek to place privately with certain banks, corporations and university-related institutions ("Institutional Investors") an issue of units ("Units"), consisting in the aggregate of (1) $1,000,000 principal amount of 4% subordinated debentures ("Debentures"), (2) warrants to purchase 500,000 shares of Common Stock ("Warrants"), and (3) 100,000 shares of Common Stock. The aggregate price of the Units will be approximately $2,000,000. The Debentures will have a 10-year maturity and will be redeemable at par at any time at the option of Applicant. The Warrants will have an exercise price per share equal to the Initial Offering Price. Debentures may be surrendered at par to pay a portion of the exercise price of the Warrants. The Warrants will not be exercisable for two years after the closing of the Public Offering and will expire five years after the closing.

Applicant states that prior to the Public Offering, an option plan ("Plan") will be adopted by a "required majority," as defined in Section 57(o) of the Act, of Applicant's board of directors and by appropriate action of its stockholders. Pursuant to the Plan, options ("Options") to purchase up to a fixed percentage of the Common Stock to be outstanding immediately following the Public Offering, which percentage will not exceed the limits prescribed in Section 61 of the Act, may be granted to the Management Investors. Applicant represents that the Plan will provide that Options granted thereunder will be exercisable at a price which is no less than the fair market value of the Common Stock at the time of grant; Options granted prior to the closing of the Public Offering will bear an exercise price of not less than the Initial Offering Price. Applicant states that the Plan will provide that Options granted thereunder will vest at the rate of 25% per annum, resulting in full vesting after four years. No Option will be exercisable until after the close of the Public Offering and each will expire ten years after the date of grant. Applicant states that it is considering the possibility of issuing certain of the Options ("SAR Options") in tandem with stock appreciation rights ("SARs"). The holders thereof would, upon exercise, be entitled to receive either the underlying Common Stock upon payment of the exercise price of the SAR Options or, in lieu thereof, to receive (in cash or Common Stock) the difference between the fair market value of the Common Stock at the time of exercise and the exercise price of the SAR Options. Applicant represents that the Plan will provide that the determination as to whether cash may be received upon exercise of an SAR Option will be made by a body of which at least a majority will not be eligible to receive such Options. In addition, Applicant represents that the Plan will provide that common stock, cash or a combination of both, will be issued or paid by the Applicant upon exercise of SARs, only if and to the extent that such issuance or payment would not result in greater dilution of the interests of the existing stockholders than would result if, instead of the SARs, the SAR Options to which they relate were exercised.

Applicant thereafter proposes to make the Public Offering to physicians and holders of comparable advanced scientific degrees. The public will be offered shares of Common Stock at an offering price per share equal to the price to be paid by the Management Investors. Applicant anticipates that it may take as long as a year from the first offering to the Management Investors until the close of the Public Offering. Applicant represents that, in the event the Public Offering is not closed within approximately one year of the offering to Management Investors, it will be dissolved. Applicant asserts that the effect of this plan of distribution is that the Management Investors and the Institutional Investors will each pay the same price per share as the public (in the Public Offering) for (1) all Common Stock initially received by them and (2) all Common Stock issued upon exercise of Options granted prior to the closing of the Public Offering and upon exercise of the Warrants.

Applicants argues that its plan to organize in four distinct successive stages is dictated by its unique and innovative structure; as a consequence of Applicant's unusual nature, and the different categories of investors whose involvement is to be solicited, each organizational stage will have to be substantially completed before the next can be started. The initial stage is that of forming the management group. Applicant asserts that this is an especially important and time-consuming phase, because Applicant's management will consist of individuals who are, for the most part, scientists or individuals with advanced technological training as well as experienced businessmen. Although certain potential members of the management group have already indicated their willingness to be employed by Applicant, others still remain to be found.

Applicant states that the second stage will consist of the recruitment of the members of the Scientific Advisory Committee. Applicant states that it is not possible at this point to predict how long this second stage will take, since the members of the Scientific Advisory Committee will be recruited from among illustrious scientists and academicians, both in the United States and abroad, and it will require a considerable amount of time to meet with these individuals.

Following the formation of the Scientific Advisory Committee, Applicant will seek to place its securities with the Institutional Investors. Applicant anticipates that a considerable effort will be required to effect this private placement, both because of the assertedly slower speed with which Institutional Investors reach investment decisions and because of Applicant's selectivity in approaching Institutional Investors. The proposed investors will include, in addition to banks and selected foundations and corporate investors, major universities and research institutions. Applicant believes that it is essential to the success of this venture to attract a group of Institutional Investors representing universities and research institutions of the highest academic and scientific reputation, as well as banks and selected foundations and corporate investors, inasmuch as it is expected that these Institutional Investors and their affiliates, together with the Scientific Advisory Committee, will be a major source of research projects for Applicant's various operating divisions

and will also attract projects suitable for investment.

The fourth and final stage in Applicant's organization will be the Public Offering. Applicant expects this phase to take approximately sixty to ninety days. Applicant contends that it is not possible to initiate the Public Offering until the first three organizational phases have been completed and the Management Investors, the Scientific Advisory Committee and the Institutional Investors are all in place, since it is the expertise, experience and prestige of each of these groups which will provide Applicant its strongest selling points.

Applicant requests that it be exempted from the provisions of Section 6(f)(2) of the Act and permitted to file a Notice of Intent to Elect to be Subject to Sections 55 through 65 of the Act on Form N-6F, notwithstanding the fact that Applicant will not be able to organize, file a registration statement and be in a position to file a notification of election to be treated as a business development company within the 90 day period set forth in Section 6(f)(2). Applicant asserts that it is requesting a one-year period in which to organize, rather than the 90 days permitted by Section 6(f)(2), because it reasonably expects to be able to complete its organization in that period of time, and has resolved to proceed with dissolution if this organizational deadline is not met. Applicant agrees that it may be made a condition to the granting of said exemption that it undertake to withdraw its Notice if the consummation of the Public Offering, the registration of its securities under the Securities Exchange Act of 1934 and its contemporaneous election to be treated as a business development company have not occurred within one year of filing.

Applicant requests that it be exempted from the provisions of Section 61(a)(3)(B) of the Act to the extent necessary to enable it to issue the Options and the Warrants, as described below, during the preliminary stages of its organization. Applicant states that the Options will be issued pursuant to an executive compensation plan and will not be transferable except for disposition by gift, will or intestacy. Applicant represents that the Warrants will not be separately transferable unless they and the accompanying Debentures have not been publicly distributed. Applicant further represents that both the Options and the Warrants will expire within ten years from the date of grant, will, if issued prior to the Public Offering, have an exercise price per share which will be no less than the Initial Offering Price and will be authorized by the existing shareholders and the "required majority" of the board of directors. The Options and the Warrants by their terms will not be exercisable until there has been compliance with the percentage requirements of Section 61 of the Act. However, if all the Options as well as the Warrants should be issued prior to the Public Offering, the underlying shares of Common Stock would exceed the percentage limits on outstanding voting securities set forth in Section 61. Applicant asserts that it will be in compliance with those percentage limits upon completion of the Public Offering.

Applicant submits that the exemptions requested are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant asserts that the unusual nature of its proposed business imposes capital formation requirements not ordinarily encountered by business development companies. Applicant submits that the intended plan of sequential, phased organization will afford the investing public the opportunity to make an informed investment decision. Applicant represents that upon consummation of the Public Offering, it will be in full compliance with the Act.

Applicant asserts that but for its present intention to have the Public Offering, it would not be subject to the Act prior to the Public Offering. Applicant represents that it will not be operating, and anticipates that its securities will not be traded, prior to the Public Offering. Applicant represents that the only investors during its organizational stages will be the Management Investors and the limited number of Institutional Investors, all of whom will have access to full material information about Applicant. Applicant asserts that no purpose of the Act is served by preventing a business development company from organizing in stages nor is it reasonable to apply the Act too restrictively in the stages prior to the Public Offering if the public is adequately protected.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 6, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A Fitzsimmons,

Secretary.

[FR Doc. 83-22525 Filed 8-16-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

On August 9, 1983 the Department of Treasury submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634-2179. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 309, 1625 "I" Street NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: New (Existing Regulation).

Form Number: None.

Title: Reopening Closed Cases not Docketed in Tax Court.

OMB Number: New (Existing Regulation).

Form Number: None.

Title: Notice Required of Executor or Receiver.

OMB Number: New (Existing Regulation).

Form Number: None.

Title: Travel, Entertainment and Gift Expenses.

OMB Reviewer: Norman Frumkin (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Rita A. DeNagy,

Departmental Reports, Management Office.

[FR Doc. 83-22597 Filed 8-16-83; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 160
Wednesday, August 17, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

CIVIL AERONAUTICS BOARD

Change of status of Item 18 from open to closed at the August 10, 1983 Meeting

TIME AND DATE: 9:30 a.m., August 10, 1983.

PLACE: Room 1027 (Open); Room 1012 (Closed), 1825 Connecticut Avenue, NW, Washington, D.C. 20428.

SUBJECT: 18. Docket 41221, California-Alberta Service Case; Order on Discretionary Review. (Memo 1645–A, OGC)

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673–5068.

SUPPLEMENTARY INFORMATION: Discussion of Item 18 at the August 10, 1983 Board Meeting concerns strategy and positions that have been or may be taken by the United States regarding Canada. Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies relating to the issues could seriously compromise the ability of the United States Delegation to achieve agreements which would be in the best interest of the United States. Accordingly, the following Members have voted that the meeting on this item would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(i)(2) and that the meeting on this item should be closed: Chairman Dan McKinnon, Member Gloria Schaffer, Member James R. Smith, Member Diane K. Morales.

PERSONS EXPECTED TO ATTEND CLOSED MEETING: See M–386, 8/3/83.

General Counsel Certification

I certify that the discussion of Item 18 at the August 10, 1983 Meeting should be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(i)(2) and that any meeting on this item should be closed:

Ivars V. Mellups,
Acting General Counsel.

[S–1181–83 Filed 8–15–83; 6:45 am]
BILLING CODE 6320–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, August 22, 1983, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Request for rescission and modification of conditions imposed in granting Federal deposit insurance:

Fidelity Management Trust Company, Boston, Massachusetts.

Application for consent to purchase assets and assume liabilities and establish one branch:

Grand Canyon State Bank, Gilbert, Arizona, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in the Fiesta Mall Branch, Mesa, Arizona, of Southwest Savings and Loan Association, Phoenix, Arizona, and to establish the Fiesta Mall office of Southwest Savings and Loan Association as a branch of Grand Canyon State Bank.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: August 15, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[S–1179–83 Filed 8–15–83; 2:58 pm]
BILLING CODE 6717–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, August 22, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from

disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantative discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for consent to merge and establish three branches:

Bank of Western Indiana, Covington, Indiana, an insured State nonmember bank, for consent to merge, under its charter and title, with The Hillsboro State Bank, Hillsboro, Indiana, and to establish the three offices of The Hillsboro State Bank as branches of the resultant bank.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: August 15, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. S-1178-83 Filed 8-15-83; 2:58 pm]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:40 p.m. on Friday, August 12, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in First Commerce Bank of Hawkins County, Rogersville, Tennessee, which was closed by the Tennessee Commissioner of Banking on Friday, August 12, 1983; (2) accept the bid for the transaction submitted by Hamilton Bank of Johnson City, Johnson City, Tennessee, an insured State nonmember bank subsidiary of Third National Corporation, Nashville, Tennessee; (3) approve the application of Hamilton Bank of Johnson City, Johnson City, Tennessee, for consent to purchase the assets of and to assume the liability to pay deposits made in First Commerce Bank of Hawkins County, Rogersville, Tennessee, and for consent to establish the four offices of First Commerce Bank of Hawkins County as branches of Hamilton Bank of Johnson City; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 15, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1177-83 Filed 8-15-83; 2:58 pm]

BILLING CODE 6714-01-M

5

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: August 11, 1983, 48 FR 36560.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:00 a.m., August 17, 1983.

CHANGE IN THE MEETING: Addition of the following item to the open session:

3. Agreement No. 161-40: Modification of the Gulf United Kingdom Conference Agreement to provide for members' right of independent rate action.

[S-1175-83 Filed 8-15-83; 8:47 am]

BILLING CODE 6730-01-M

6

NUCLEAR REGULATORY COMMISSION

DATE: Week of August 15, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open.

Friday, August 19:

3:30 p.m.

Affirmation/Discussion and Vote (public meeting)

a. Motion for Reconsideration of Indian Point Decision

b. Yakima Petition for Rulemaking on Commission Concurrence in DOE Repository Siting Guidelines

c. Certification to Commission from Byron Licensing Board

d. Intervenors' Motion to Delay Ruling on Zimmer ALAB

ADDITIONAL INFORMATION:

On July 29 Affirmation of Review of Director's Denial was held, *postponed* from July 28.

Discussion of Budget scheduled for July 25 *cancelled.*

On August 1 the Commission voted 3-0 (Commissioner Gilinsky not present) to hold Discussion of Investigations, held that day.

On August 1 the Commission voted 3-0 (Commissioner Gilinsky not present) to hold Discussion of Enforcement Matter, held that day.

On August 3 the Commission voted 3-0 (Commissioner Gilinsky not present) to hold Discussion of Management-Organization and Internal Personnel Matters, held that day.

On August 4 the Commission voted 3-0 (Commissioner Gilinsky not present) to hold Affirmation of Commission Statement of Policy on Investigations and Adjudicatory Proceedings, held that day.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Dated: August 12, 1983.

Walter Magee,

Office of the Secretary.

[S-1180-83 Filed 8-15-83; 3:25 pm]

BILLING CODE 7590-01-M

7

POSTAL SERVICE BOARD OF GOVERNORS

Vote to Close Meeting

By telephone vote, the Board of Governors of the United States Postal Service voted to close to public observation its meeting, scheduled for August 29, 1983, in Boston, Massachusetts. The following persons are expected to attend the meeting: Governors, Hardesty, Babcock, Camp, Hughes, McKean, Ryan, Sullivan and

Voss; Postmaster General Bolger; Deputy Postmaster General Finch; Secretary of the Board Harris; General Counsel Cox; and Senior Assistant Postmaster General Coughlin.

The meeting to be closed will consist of discussions of Postal Service strategic planning in connection with (1) possible future rate adjustments and (2) possible changes in E-COM mail classification. As to the first agenda item the vote by the Board to close the meeting to public observation was unanimous; as to the vote by the Board on the second agenda item, Governor Voss was in the minority. The Board is of the opinion that public access to these discussions would be likely to disclose information that will become involved in future rate or classification litigation.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552(b)], because it is likely to disclose information in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code. The Board has determined further, that pursuant to section 552b(c)(10) of title 5, United State Code, and section 7.3(j) of title 39, Code of Federal Regulations, the discussions are exempt, because they are likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the litigation of a particular case involving a determination on the record after opportunity for a hearing.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting to be closed may properly be closed to public observation, pursuant to section 552b(c) (3) and (10) of title 5 United States Code and section 7.3 (c) and (j) of title 39, Code of Federal Regulations.

David F. Harris,

Secretary.

[S-1176-83 Filed 8-15-83; 2:58 pm]

BILLING CODE 7710-12-M

federal register

Wednesday
August 17, 1983

Part II

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Steel Plants; Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels; Proposed Rule and Hearing

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2254-6]

Revision of Standards of Performance for New Stationary Sources; Steel Plants; Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed would amend and revise the existing standards of performance for electric arc furnaces (EAF's) in the steel industry. Argon-oxygen decarburization (AOD) vessels would be regulated under the revised standards and the title of the source category would be changed to "Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels." The proposal would limit emissions of particulate matter and the capacity of visible emissions from new, modified, or reconstructed EAF's, AOD vessels, and their associated dust-handling system.

The proposal would also add Method 5D (determination of particulate matter emissions from positive-pressure fabric filters) to Appendix A of 40 CFR Part 60. This test method identifies appropriate locations and procedures for sampling emissions from positive-pressure fabric filters.

The proposal implements Section 111 of the Clean Air Act and reflects the Administrator's determination that emissions from EAF's and AOD vessels in the steel industry cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The intent of this proposal is to require new, modified, or reconstructed EAF's and AOD vessels in the steel industry to use the best system of continuous emission reduction, considering costs, nonair quality health and environmental impacts, and energy requirements.

A public hearing will be held to provide interested persons an opportunity for oral presentations of data, views, or arguments concerning the proposed standards.

DATES: *Comments.* Comments must be received on or before October 31, 1983.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by September 7, 1983 a public hearing will be held on October 3, 1983 beginning at 10:00 a.m. Persons interested in attending the hearing should call Mrs. Naomi Durkee at (919) 541-5578 to verify that a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact the EPA by September 21, 1983.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Attention: Docket Number A-79-33, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by September 21, 1983, the public hearing will be held at the Environmental Research Center Auditorium, corner of Highway 54 and Alexander Drive, Research Triangle Park, N.C. Persons interested in attending the hearing should call Mrs. Naomi Durkee at (919) 541-5578 to verify that a hearing will occur. Persons wishing to present oral testimony should notify Mrs. Naomi Durkee, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Background Information Document. The background information document (BID) for the proposed standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Electric Arc Furnance and Argon-Oxygen Decarburization Vessels in Steel Industry—Background Information for Proposed Revisions to Standards" (EPA No. 450/3-82-020a).

Docket. Docket No. A-79-33, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Porter, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5624.

SUPPLEMENTARY INFORMATION:

Proposed Standards

The proposed standards would apply to all new, modified, or reconstructed EAF's, AOD vessels, and their associated dust-handling system in the steel industry which commence construction after August 17, 1983.

The proposed standards would limit particular matter emissions from pollution control devices installed on EAF's and AOD vessels to 12 milligrams per dry standard cubic meter (mg/dscm) [0.0052 grains per dry standard cubic foot (gr/dscf)] and visible emissions from these pollution control devices to less than 3 percent opacity. Visible emissions from EAF's and AOD vessels that exit from the shop roof would be limited to an opacity of less than 6 percent during all phases of operation. Visible emissions from the dust-handling system would be limited to an opacity of less than 10 percent.

Periodic monitoring of the pressure inside the free space in an EAF would be required for each EAF using a direct-shell evacuation control (DEC) system. The proposed standards would also require periodic inspections of the EAF and AOD vessel fugitive emission capture systems. The purpose of these inspections would be to determine if the capture systems are being properly operated and maintained to ensure continuous capture of fugitive emissions.

Monitoring of the opacity of the visible emissions discharged from the control devices associated with an EAF or an AOD vessel would be required by a continued opacity monitor unless a positive-pressure fabric filter was used. In the latter case Reference Method 9 visible emissions observations by a certified observer would be required once per day of operation (up to five times per week) while the EAF or AOD vessel is in the meltdown or refining phase of a heat cycle. If any visible emissions are observed from the control device, then three 6-minute periods of observations would be required for each emission source. Semiannual reports of excess control device opacities are required for negative- and positive-pressure fabric filteres. Since Reference Method 9 is the method used to determine compliance with the control device opacity standard, reports from positive-pressure fabric filters may may be used to determine compliance with the control device opacity standard. The purpose of this opacity monitoring requirement is to ensure that the fabric filter is being properly operated and maintained.

Additionally, the proposed standards would amend §§ 60.270, 60.271, 60.272, 60.273, 60.274, and 60.275 of the existing regulations. These amendments would: (1) Limit the applicability of Subpart AA to facilities that commenced construction after October 21, 1974, and before August 17, 1983; (2) clarify those

facilities that are affected by the standards of performance; (3) clarify the definition of an EAF; (4) increase the opacity limit of emissions from EAF's that exit the shop from 0 percent to less than 6 percent; (5) remove the continuous opacity monitoring requirements and allow the daily observation of opacity of the visible emissions by a certified visible emission observer for positive-pressure fabric filters; (6) change some monitoring of operations procedures; and (7) include the use of Reference Method 9 and proposed Reference Method 5D under the test methods and procedures.

Proposed Reference Method 5D (to be added to Appendix A of 40 CFR Part 60) identifies appropriate locations and procedures for sampling emissions from positive-pressure fabric filters. The equipment requirements for the emission sampling train, sample recovery, and analysis are identical to those specified in Reference Method 5.

Reference Methods 1 (sample and velocity traverses for stationary sources), 2 (determination of stack gas velocity and volumetric flow rate), 3 (gas analysis for carbon dioxide, oxygen, excess air, and dry molecular weight), 4 (determination of moisture content in stack gases), and 5 or 5D (determination of particulate emissions from stationary sources) would be used to determine compliance with the proposed particulate matter emission limits. Reference Method 9 (visual determination of the opacity of emissions from stationary sources) would be used to determine compliance with the proposed visible emission opacity limits.

The recommended standard would require the owners or operators of affected facilities to submit the following types of information: (1) Notification of construction, reconstruction or modification, and the anticipated startup date; (2) notification of demonstration of the continuous monitoring system (if one is used) along with the continuous monitoring performance evaluation report; (3) notification of planned performance test and the performance report; and (4) semiannual reports of the instances in which the control device opacity exceeded the allowable level established in the standard. The excess emission report requirement is waived as to affected sources in States where the program has been delegated, if EPA, in the course of delegation, approves reporting requirements or an alternative means of source surveillance adopted by the State. Such sources would be required to comply with the requirements adopted by the State.

Summary of Environmental, Energy, and Economic Impacts

The environmental, energy, and economic impacts of the proposed revision to the existing standards of performance were estimated and compared to the impacts that would occur in the absence of the revised standards (referred to as the baseline). These impacts were estimated for a typical new carbon steel shop, for a typical new specialty steel shop (the specialty steel shop involves both alloy and stainless steel production), and for the industry as a whole. The industry-wide impacts are based on the projected growth in capacity from 1983 through 1987 and include 15 new EAF's in carbon steel shops and 4 new EAF's and 4 new AOD vessels in specialty steel shops.

Particulate matter emissions from a typical new carbon steel shop operating one 136.1-megagram (Mg) (150-ton) ultra-high power (UHP) EAF would be about 149 Mg/yr (164 tons/yr) under the baseline. The proposed standards would reduce these emissions to about 78 Mg/yr (86 tons/yr), a 48 percent reduction. Particulate matter emissions from a typical new specialty steel shop operating one EAF and one AOD vessel, each of 90.7-Mg (100-ton) capacity, would be about 85 Mg/yr (94 tons/yr) under the baseline. The proposed standards would reduce these emissions to about 45 Mg/yr (49 tons/yr), a 47 percent reduction.

In the fifth year following today's proposal of revised standards of performance, national particulate matter emissions associated with the growth in steel facilities would be about 1,810 Mg (2,000 tons) under the baseline and about 950 Mg (1,040 tons) under the proposed standards.

The proposed standards would increase the amount of solid waste generated (dust collected by the fabric filter) at a typical carbon steel plant by about 71 Mg/yr (78 tons/yr). The increased solid waste generation at a typical specialty steel plant would be about 40 Mg/yr (45 tons/yr). In both cases, this impact represents an increase of about 1 percent over the amount of solid waste collected by the fabric filter under baseline conditions.

There would be no increase in the electrical energy consumption over baseline to control the emissions from either a carbon or specialty steel shop to the levels of the proposed standards.

There would be no impacts on water pollution because dry control technologies such as fiber filters would be used to control particulate matter emissions. In addition, there would be no increase in noise levels.

The cost impact of the proposed standards would be an increase of no more than $190,000 in capital costs and about $32,100 in annualized costs above baseline at a typical new carbon steel shop. At a typical new specialty steel shop, the cost impact would be an increase of no more than $139,000 in capital costs and about $18,000 in annualized costs above baseline. These costs include an increase in the cost of the capture system used to meet the fugitive emission limit and a decrease in control and capture systems monitoring costs. The monitoring costs were determined based on the assumption that typical carbon and specialty steel plants would use positive-pressure fabric filters. These costs are detailed in the section of this notice entitled "Impacts of Regulatory Alternatives."

In 1987, the industry-wide total capital costs for emission control under the proposed standards would show an increase over baseline of about $3,150,000, and the fifth-year annualized costs would increase by about $475,000 over baseline.

There would be a small increase of at most $0.23/MG ($0.21/ton) (0.11 percent) in the price of carbon steel billets and at most $.041/Mg ($0.37/ton) (0.07 percent) in the price of specialty steel billets under the proposed standards. The proposed standards would have no adverse impact on employment or imports.

Rational

Background

Standards of performance for new sources established under Section 111 of the Clean Air Act reflect:

> * * * Application of the best technological systems of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact, and energy requirements) the Administrator determines has been adequately demonstrated (Section 111(a)(1)).

For convenience, this will be referred to as "best demonstrated technology," or BDT.

The establishment of standards of performance on a national basis is an efficient way of achieving long-term air quality goals as well as industrial growth. In promulgating these standards, documentation is developed which is useful in other environmental decisions. This documentations includes the identification and comprehensive analysis of alternative emission control

technologies, the development of associated costs, an evaluation and verification of applicable emission test methods, the identification of specific emission limits achievable with alternate techologies, and a discussion of the economic impact of controls on an industry.

Documentation of the technology and costs associated with emission control reduces uncertainty for industry and regulatory agencies in determining best available control technology (BACT) for facilities located in attainment areas and lowest achievable emission rates (LAER) for facilities located in nonattainment areas. This gives industry a basis for long-term planning and reduces delays in obtaining permits for new sources. In addition, national standards of performance preclude situations in which some States may attract new industries as a result of having relaxed air pollution standards relative to other States.

The rulemaking process by which proposed standards are developed includes technical review and participation by representatives of the industry being considered for regulation, the Government, and the public affected by that industry's emissions. The resultant regulation represents a balance in which decisions are made in a well-publicized national forum concerning pollution control requirements that allow for a dynamic economy and a healthful environment.

On October 21, 1974 (39 FR 37466), standards of performance were proposed under Section 111 of the Clean Air Act to control particulate matter emissions from EAF's in the steel industry. Standards of performance were promulgated on September 23, 1975 (40 FR 43850), and apply to any facility constructed, modified, or reconstructed after October 21, 1974. Under the Clean Air Act amendments of 1977, standards of performance must be reviewed every 4 years and revised if appropriate. On April 21, 1980, a notice was published in the Federal Register (45 FR 26910) announcing such a review of the standards of performance for EAF's in the steel industry. The review found that fugitive emissions capture technology had improved since promulgation of the existing standards of performance for EAF's. Another finding was that AOD vessels are a significant source of particulate matter emissions in specialty steel shops. As a result of these findings, additional data were collected on the controlled emission levels from EAF's and AOD vessels to determine how the standards should be revised. Also, the appropriateness of the monitoring, recordkeeping, and reporting requirements included in the existing standards were reviewed. The proposed standards are based on the detailed information and data that were gathered.

Amendment of Source Category

The use of AOD vessels in specialty steel shops was just beginning during the development of the existing standards of performance. For this reason, they were not regulated with EAF's in the existing standards. Subsequent to promulgation of these standards, AOD vessels were installed in many specialty steel shops to refine molten steel from an EAF. In many of these shops, AOD vessel emissions are controlled in common with emissions from adjacent EAF's.

The uncontrolled particulate matter emissions from a 22.7-Mg (25-ton) AOD vessel are approximately 300 Mg/yr (330 tons/yr), while uncontrolled emissions from a 90.7-Mg (100-ton) AOD vessel are about 1,300 Mg/yr (1,440/yr). Under the baseline [typical State implementation plan (SIP)], emissions from these vessels are about 6.7 Mg/yr (7.4 tons/yr) and 29.4 Mg/yr (32.4 tons/yr), respectively. At least four new AOD vessels [two each of 22.7-Mg (25-ton) and 90.7-Mg (100-ton) capacity] are projected from 1983 through 1987 along with four EAF's of the same size to satisfy the projected growth in production capacity in new specialty steel shops. As with EAF's, AOD vessels are located primarily in or near urban areas.

Argon-oxygen decarburization vessels are considered significant sources of air pollution because of: (1) The large quantity of emissions generated by the AOD vessel, (2) the growth projected for AOD vessels, and (3) the location of AOD vessels in urban areas. Consequently, AOD vessels have been selected as affected facilities under the proposed standards.

Other furnaces located in carbon steel and specialty steel shops are vacuum-arc remelting, vacuum induction melting, electro-slag remelting, and consumable electrode melting. These melting furnances are usually uncontrolled, but because they generate relatively low emissions of particulate matter and there is no adequately demonstrated control technology in use, the proposed standards of performance do not limit emissions from these facilities.

Ladle refining is a process where the molten steel, tapped from an EAF into a ladle, is refined by the addition of alloys and fluxing agents. In some ladle refining processes, argon or nitrogen gases are injected into the molten steel to achieve uniform stirring and to improve the quality of the steel. The ladle refining process is relatively new, and little information is available on emissions, control technology, or costs of control. In the absence of adequately demonstrated control technology, standards of performance are not being proposed for ladle refining at this time.

Selection of Pollutants

Emissions to the atmosphere from EAF's and AOD vessels in the steel industry consist primarily of particulate matter. Uncontrolled particulate matter emissions are estimated to be 15 kilograms per megagram (kg/Mg) [30 pounds per ton (lb/ton)] of steel produced from the operation of an EAF and 8 kg/Mg (16 lb/ton) of steel produced from the operation of an AOD vessel. Up to 80 percent of the particles emitted are fine particles (i. e., smaller than 10 micrometers in diameter). Since the magnitude of particulate matter emissions from EAF's and AOD vessels has led to the conclusion that these furnaces are major sources of air pollution, particulate matter emissions were selected for control by standards of performance.

Uncontrolled carbon monoxide (CO) emissions are about 3 kg/Mg (6 lb/ton) of steel produced. Carbon monoxide emissions measured from an EAF with a DEC system (used to capture process emissions) in operation ranged from 0.26 to 0.7 kg/Mg (0.52 to 1.4 lb/ton) of steel produced. This reduction in CO emissions results from combustion in the DEC system duct. Most steel mills will incorporate DEC systems as the process emissions capture device in order to meet the proposed particulate matter standard. There is no additional emission control technology demonstrated in the industry capable of achieving further reduction in CO emissions. Therefore, CO was not selected for control by standards of performance.

Uncontrolled emission levels for nitrogen oxides (NO_x) and sulfur oxides (SO_x) were estimated based on information provided by the industry to be 0.05 kg/Mg (0.1 lb/ton) and 0.005 kg/Mg (0.01 lb/ton) of steel produced, respectively. No emission control technology is used to reduce NO_x and SO_x emissions at carbon and specialty steel shops. Due to the lack of demonstrated technology to reduce these emissions, NO_x and SO_x were not selected for control by standards of performance.

Emissions of fluorides from EAF's and AOD vessels with fabric filters to control particulate matter emissions have been measured at levels from 0.002

to 0.035 kg/Mg (0.004 to 0.7 lb/ton) of steel produced and are present only when flourspar is used to form a slag in the furnaces. Fluroides are emitted primarily as particulate matter and are controlled by the fabric filter. No additional emission control technology has been adequately demonstrated that is capable of achieving further reductions in flouride emissions. Therefore, flouride emissions were not selected for control by standards of performance.

The uncontrolled emissions of trace metals (chromium, lead, and nickel) range from 0.019 to 0.43 kg/Mg (0.039 to 0.87 lb/ton) based on tests performed at specialty steel shops. As with flourides, the trace metals are emitted as particulate matter and are controlled by fabric filters. No additional control technology to control emissions of trace metals is in use. The trace metal emissions at facilities that use fabric filters to control particulate matter emissions ranged from 0.0006 to 0.0019 kg/Mg (0.0012 to 0.0038 lb/ton). As with fluorides, due to the lack of technology capable of achieving further reductions in emissions of trace metals, these pollutants were not selected for control by standards of performance.

Selection of the Basis for the Proposed Standards

EAF/AOD Processes: There are five main phases involved in a complete heat cycle in EAF steelmaking. They are: (1) Charging, (2) meltdown, (3) refining, (4) slagging, and (5) tapping. A bucket of raw material (including scrap iron and flux material) is dropped into the furnace by a crane to begin a heat cycle. The furnace roof is closed, the electrodes are lowered, and meltdown begins. After the initial melt, up to three additional charges are added to the furnace to make up the total weight of the heat. After the final charge and melt, refining takes place. Alloying agents are added and oxygen lancing may be conducted. Slag formation begins and is carefully monitored during the meltdown stages to control the chemical concentration and product quality. The slag is poured off into a slagging pot or onto the ground prior to tapping. The molten steel is tapped into a ladle by tilting the furnace. The ladle may be held in place by a crane, or it may be placed on a railcar that positions the ladle underneath the furnace.

In a carbon steel shop, the ladle containing the molten steel is transferred to the casting area. In a specialty steel shop, the molten steel in the ladle may be transferred to an AOD vessel to refine the steel further or may be transferred to the casting area, depending on the quality of the steel desired. After the molten steel is charged into the AOD vessel, alloy additions are made, and argon and oxygen (and sometimes nitrogen) are blown through the tuyeres in the sides of the vessel to refine the steel further. Frequent temperature measurements and chemical analyses of the molten steel in the vessel are made, and alloy materials are added as necessary. After the desired chemical composition of the steel is reached, the refined steel is tapped into a ladle, which is then transferred to the casting area.

Significant quantities of process and fugitive emissions are generated during each phase of the EAF/AOD vessel process. Process emissions refer to those generated during the meltdown and refining process in EAF's and during the refining process in AOD vessels. Fugitive emissions refer to those generated during charging, slagging, and tapping.

Process Emissions Capture Systems: There are two principal types of capture systems employed during EAF operation to control the process emissions generated during meltdown and refining. One is the DEC system and the other is the side draft hood system. Neither system operates when the furnace roof is open for charging or the furnace is tilted for tapping.

The DEC system, also called a fourth-hole system, captures the process emissions from the EAF. The DEC system consists of a watercooled or refractory-lined duct that extends through the furnace roof. This duct is connected to another duct that leads to a particulate matter control device. During meltdown and refining, a slightly negative pressure is maintained within the furnace to withdraw particulate matter emissions generated in the furnace through the DEC duct. At the point where the DEC duct joins the duct leading to the control device, there is a gap of a few inches that allows dilution air to enter. The dilution air cools the exhaust gases and provides oxygen to burn the CO present. During times the funace is tilted for tapping or the furnace roof is rotated aside for charging, the DEC system is ineffective, and fugitive emissions escape from the furnace into the melt shop. The DEC system provides good process emissions capture and requires the lowest air volume of any of the capture devices for process emissions. No significant problems with this system have been reported.

A side draft hood captures the process emissions that are vented from the EAF through the electrode holes in the furnace roof. The side draft hood is mounted on the furnace roof adjacent to the furnace electrbdes. One side of the hood is open to permit movement of the electrodes and to provide access to the electrodes for maintenance. For most efficient operation, there must be a tight fit of the furnace roof so that all the process emissions are vented from the furnace through the electrode holes. Emissions captured by the side draft hood are ducted to a control device. Sufficient air is also drawn into the side draft hood to combust the CO present in the side draft hood duct. The side draft hood requires higher air flow rates per unit of furnace capacity than does the DEC system. Side draft hoods are not as widely used as the DEC systems.

Process emissions from the operation of an AOD vessel are generated during the refining process. As these emissions escape the vessel, they can be captured by close-fitting hoods positioned over the mouth of the AOD vessel, thus preventing their deflection into the shop. During the refining process, the AOD vessel is in an upright position, and the close-fitting hood is situated immediately above the mouth of the vessel with a gap of 0.3 to 0.6 m (1 to 2 ft). Ambient air is drawn into the hood through this gap to aid in complete combustion of the CO. When the AOD vessel is not in an upright position (i.e., during charging, tapping, and sampling), the hood is swung aside and fugitive emissions escape into the shop. Most AOD vessel installations are expected to use the close-fitting hood system in the future because it achieves better emission capture utilizing lower air flow rates than a diverter stack and canopy hood system (described later).

Fugitive Emissions Capture Systems: There are several systems utilized individually, or in combinations, to capture or aid in the capture of fugitive emissions that are generated from an EAF or an AOD vessel during charging, tapping, and slagging. They are:

1. Canopy hoods;
2. Scavenger ducts;
3. Cross-draft partitions;
4. Partial furnace enclosures; and
5. Various roof monitor configurations.

All of these fugitive emissions capture systems are in use in EAF shops. All of the systems except partial furnace enclosures are in use in AOD vessel shops.

Fugitive emissions escaping from an EAF or an AOD vessel are hot and, thus, rise rapidly toward the roof of the melt shop. For this reason, the fugitive emissions capture systems listed above (except partial furnace enclosures) are located near or in the roof of the shop.

Canopy hoods are used extensively to capture fugitive emissions. The canopy hood system may include one or more canopy hoods suspended from, or built into, the melt shop roof directly above each furnace. Fugitive emissions are sometimes deflected away from the canopy hood by impingement on the crane and charge bucket when the furnace is being charged. Fugitive emissions may also be deflected by cross-drafts within the shop due to open doors or open end and side walls. At a majority of newer steel plants, the canopy hood is divided into two sections, one section for capture of fugitive emissions from charging and slagging and the other section for capture of fugitive emissions from tapping. In addition to the overhead canopy hood, separate local hooding systems may be installed directly above the tapping ladle or slagging pot to capture the fugitive emissions from the tapping and slagging operations.

Scavenger ducts are used to capture fugitive emissions that bypass the canopy hoods. These are auxiliary ducts located above the canopy hoods in the melt shop roof. A relatively low air flow rate is maintained through these ducts. The capture efficiency of the scavenger ducts can be improved by increasing the time that the fugitive emissions are retained at the shop roof.

Both cross-draft partitions and a closed roof over the EAF or AOD vessel can be used to increase the retention time. Cross-draft partitions are sheet metal partitions that are suspended from the roof down to the crane level to reduce the effect of cross-drafts in the melt shop. These partitions are positioned on either side of the bay in which the EAF or AOD vessel is located. Closed shop roofs prevent the immediate escape of fugitive emissions through the shop roof.

A partial furnace enclosure may be used in association with a canopy hood and local slagging and tapping hoods. While the partial furnace enclosure does not alter the air flow requirements associated with the hoods, it may in some cases improve capture of fugitive emissions. The furnace area is walled on three sides; the walls act as a chimney to direct the fugitive emissions to the canopy hood and to prevent cross-drafts from deflecting the upward flow of emissions. As secondary benefits, furnace noise and radiant heat are reduced outside the partial enclosure. The enclosure walls are designed to allow adequate room for the furnance roof to swing open, for the crane to bring in charge buckets, and for furnace maintenance. Partial furnace enclosures have only been used at a few EAF shops to date.

Fugitive emissions that are not captured usually drift out of the shop through roof openings (generally referred to as roof monitors). These openings or monitors also affect shop ventilation. There are three basic shop roof configurations: A completely open roof monitor, an open roof monitor except over the furnace, and a closed roof over the entire melt shop. Completely open roof monitors allow for natural ventilation within the shop but do not provide enough residence time for effective fugitive emissions capture. (Residence time is the time that the emissions are retained within the shop at the roof.) A roof monitor configuration that is closed above the furnace but open over other areas provides for addtional fugitive emissions capture by increasing residence time of fugitive emissions within the shop. The increased residence time allows the emissions to be captured by the overhead canopy hood or scavenger duct. This system also provides for natural ventilation of the shop. A closed roof configuration over the entire melt shop provides sufficient residence time for complete capture of fugitive emissions by the canopy hood or scavenger duct system. A few plants have installed mechanical louvers in the roof monitors that are closed during periods of charging, tapping, and slagging to contain the fugitive emissions inside the shop for capture by the fugitive emissions capture systems. The louvers are opened during other periods for natural ventilation.

Some industry representatives have expressed concern about heat buildup due to the reduced ventilation in shops with closed roof configurations. Heat buildup results in elevated temperatures near the shop roof in steel mills that are located in geographical areas that experience high ambient temperatures and humidity. Personnel and equipment that must function near the shop roof, such as crane operators and the crane electrical equipment, need an air conditioned environment to prevent heat stress and equipment malfunctions. Heat buildup may also affect personnel on the floor of the shop. However, protective clothing, rest areas, and radiant heat shields are effective in reducing or preventing heat stress to personnel on the shop floor. Several new EAF shops with closed roof configurations have recently been constructed in Southern climates; however, operating experience at these facilities is insufficient at this time to fully evaluate the effects of closed roofs on workers and equipment.

Capture Systems for Both Process and Fugitive Emissions: Total furnace enclosures are designed to capture both process and fugitive emissions at lower air flows then devices that capture process and fugitive emissions separately. A furnace using this capture system is completely surrounded by a metal shell that contains all the charging, meltdown and refining, slagging, and tapping emissions. When the furnace is charged, bi-parting doors open in the front of the total furnace enclosure to allow entry of the charge bucket, and a keyhole door on top of the total furnace enclosure opens for the crane cables. When the charge bucket is in place to charge the scrap, the bi-parting doors close and an air curtain blows across the keyhole door to prevent the escape of any fugitive emissions. At other times during the furnace cycle, the keyhole and by-parting doors are closed. A large duct at the top of the enclosure removes charging, slagging, and melting-refining emissions, and a local hood under the enclosure captures the tapping emissions. A canopy hood or scavenger duct in the roof above the furnace enclosure is used at some installations to ensure complete capture of any fugitive emissions that may escape the total furnace enclosure during charging and tapping. While total furnace enclosures require lower air flows than other capture devices, they have currently been installed only on smaller EAF's [i.e., less than 54 Mg (60 tons) capacity] in the United States. Total furnace enclosures have not been demonstrated on furnaces above this size in the United States.

A building evacuation system utilizes a closed roof with ductwork at the peak of the roof that collects the process and fugitive emissions from all furnace operations. Building evacuation systems are only operated at a few facilities because such systems require much higher air flow rates than canopy hood/DEC systems on EAF's or canopy hood/close-fitting hood systems on AOD vessels.

A diverter stack/canopy hood system is another system used for the collection of both process and fugitive emissions from the operation of AOD vessels. The diverter stack is a slightly tapered stack with the narrower end at the top. It is

located approximately 1.5 to 3 m (5 to 10 ft) directly above the mouth of the AOD vessel when the vessel is in the upright position for refining, ranges between 1.5 and 4 m (5 and 12 ft) in length, and may either be fixed in position or movable. The diverter stack acts to accelerate the movement of the emissions released through the mouth of the AOD vessel toward the overhead canopy hood, thereby reducing the dispersion of the emission plume by cross-drafts.

Emission Control Systems: Fabric filters are the predominate control system used to reduce emissions from both EAF's and AOD vessels. Of 32 EAF's subject to the existing standards of performance, 30 use fabric filters and 2 (at one plant) use a proprietary wet scrubber system. Fabric filters are used to control emissions from all AOD vessels currently in operation.

The predominate use of fabric filters is expected to continue because they use less energy than scrubbers, are more tolerant of fluctuations in inlet concentration, have lower annualized costs, and collect emissions in a dry form, which is easier to handle and dispose of than the wastewater and sludges from scrubbers.

Dust-Handling System: The dust-handling system is a combination of equipment used to handle the dust collected in the fabric filters. It may include a screw conveyor on the control system dust hoppers, a pneumatic conveying system used to transfer the collected dust to a storage silo, a storage silo, and a duct or hose used to transfer the dust from the storage silo to a truck. A flexible hose for silo-to-truck transfer helps to reduce fugitive emissions by minimizing the opportunity for dispersion of the dust during the transfer operation. A small control device is usually installed on top of the storage silo to control the dust emitted during the transfer operations. Some plants use a pug mill that mixes water with the dust before transfer to the truck to minimize the possibility of emissions being generated when the dust is transferred to the truck. The pug mill is part of the dust-handling system. Other plants pelletize the dust and then recycle the dust to an EAF or to a recycling plant. The pelletizer also is a part of the dust-handling system.

Capture System Performance: Various combinations of the technologies that capture process and fugitive emissions are used on EAF's and AOD vessels. Some of these technology combinations have been identified as distinct capture systems in Table 1.

TABLE 1. PROCESS AND FUGITIVE EMISSIONS CAPTURE SYSTEMS [1]

Capture system	Emission control technology		
	Process equipment	Fugitive equipment	Roof monitor
EAF			
1	DEC	CH	OR
2A	DEC	CH, TH, SH, SD	CR/OR
2B	DEC	SCH, SD, CDP	CR/OR
3	DEC	SCH, SD	CR
AOD			
1	CFH	CH	OR
2	CFH	CH, SD, CDP	CR/OR
3	CFH	CH, SD, CDP	CR

[1] CDP = Cross-draft partitions. CFH = Close-fitting hood. CH = Canopy hood. CR = Closed roof. CR/OR = Closed roof (over furnace or vessel)/open roof monitor elsewhere. DEC = Direct-shell evacuation control. OR = Open roof monitor. SCH = Segmented canopy hood. SD = Scavenger ducts. SH = Slagging hood. TH = Tapping hood.

Three capture systems have been identified for EAF's, and three capture systems have been identified for AOD vessels.

Capture system 1 for EAF's represents the baseline (i.e., the system used under the existing standards of performance) and includes a DEC system to capture process emissions and a single canopy hood to capture fugitive emissions. The building roof for this capture system has an open roof monitor. Capture system 2A for EAF's includes a DEC system for process emissions, a large canopy hood for fugitive emissions, a local tapping hood, a local slagging hood, and a scavenger duct. The building roof configuration for this capture system is closed over the EAF and open elsewhere. Capture system 2B for EAF's includes a DEC system for process emissions, a segmented canopy hood for fugitive emissions, and a scavenger duct and cross-draft partitions to capture fugitive emissions escaping capture by the canopy hood. The building roof configuration for this capture system is closed over the EAF and open elsewhere. Capture system 3 includes a DEC system for process emissions, a segmented canopy hood, and a scavenger duct for fugitive emissions control. The roof configuration under this capture system is closed over the entire melt shop.

Capture system 1 for AOD vessels includes a close-fitting hood for process emissions and a single canopy hood for fugitive emissions. The shop roof monitor is open. Capture system 2 for AOD vessels includes a close-fitting hood for process emissions, a canopy hood with cross-draft partitions, and a scavenger duct to capture fugitive emissions. The shop roof monitor is closed over the AOD vessel and open elsewhere. Capture system 3 for AOD vessels uses a close-fitting hood for process emissions, a single canopy hood with cross-draft partitions, and a scavenger duct to capture fugitive emissions. The roof configuration under this capture system is closed over the entire melt shop.

Reference Method 9 was used to obtain data to determine visible emissions from shop roof monitors at carbon steel shops and specialty steel shops. The opacity data on visible emissions from the shop roof monitors at carbon and specialty steel shops are summarized in Table 2.

TABLE 2. SUMMARY OF VISIBLE EMISSION DATA FROM SHOP ROOF MONITORS AT CARBON AND SPECIALTY STEEL EAF SHOPS

Capture system	Process	Minutes of observation	Maximum opacity, percent	Average opacity, percent
Carbon Steel Shops				
1 [1]	Charge	60	12	5.0
	Melt	570	0	0
	Tap	30	33	23.0
2A [2]	Charge	90	4.4	1.0
	Melt	636	4.2	0.2
	Tap	60	5.0	0.6
2B [2]	Charge	180	3.3	0.7
	Melt	564	3.1	0.1
	Tap	84	1.0	0.1
3	Heat cycle	276	0	0
Specialty Steel Shops				
3	Heat cycle	330	5.0	0.1

[1] Test data were taken during the development of the existing standards of performance.
[2] Data from two separate steel mills.

For capture system 1, which was tested during development of the existing standards of performance, the maximum 6-minute average opacity of fugitive emissions from the carbon steel shop roof was zero percent during meltdown and refining, 12 percent during charging, and 33 percent during tapping. For the remaining capture systems, which were tested during development of these proposed revised standards, the maximum 6-minute average opacity of fugitive emissions from the shop roof during the complete heat cycle at carbon and specialty steel shops was 5 percent or less.

No data are presented in Table 2 for the performance of AOD capture systems 1 and 2 because neither of these systems was observed or tested during development of these proposed revised standards. The performance of these two systems was estimated from the performance of EAF capture systems 1 and 2, which utilize the same technologies. This transfer of technology is supported by data that show the emissions from EAF's and AOD vessels are similar in composition, about the same temperature, and similar in particle size distribution. Since emissions from an EAF are generated at

a higher rate than those from an AOD vessel, the performance of a capture system on EAF emissions can be extrapolated to AOD vessel emissions. Therefore, capture systems 1 and 2 for AOD vessel facilities will perform as efficiently as capture systems 1 and 2 for EAF facilities.

Test data were also obtained from other plants utilizing different capture systems than those shown in Table 2. These data are presented in Chapter 4 of the BID. The data presented in Table 2 were used to establish the regulatory alternatives, and the capture systems were used to evaluate the environmental and economic impacts associated with the regulatory alternatives.

Control System Performance: The use of fabric filters and enclosed dust-handling equipment is common to all of the capture system combinations discussed above. Emission test data were obtained to evaluate the performance of fabric filters. Test data were obtained from carbon and specialty steel shops utilizing both negative- and positive-pressure fabric filters. These data were obtained either from tests performed to determine compliance with the State and Federal regulations or from source tests conducted for this study.

All the particulate matter tests were conducted using Reference Method 5 or proposed Reference Method 5D. The particulate matter emission data are summarized in Table 3. Particulate matter emissions from all facilities are less than 7 mg/dscm (0.0031 gr/dscf).

Data were also obtained on the opacity of visible emissions from fabric filters at carbon and specialty steel shops. The opacity measurements were made using either Reference Method 9 or a continuous opacity monitor. The opacity data are also summarized in Table 3.

TABLE 3. SUMMARY OF FABRIC FILTER EMISSION TEST DATA

Plant code	Average emission concentration		Opacity observations		
	mg/dscm	gr/dscf	Minutes of observation	Maximum opacity, percent	Average opacity, percent
Carbon Steel Shops					
A	3.11	0.0014			
B	5.95	0.0026			
B	2.29	0.0010	960	[1] 2.5	2.3
C			36	0	0
C	2.79	0.0012	560	0	0
D	2.57	0.0011			
E	3.67	0.0016			
F	2.06	0.0009	18	0	0
G	5.90	0.0026	936	[1] 2.8	
H	5.95	0.0026	120	0	0
I			60	0	0
K			300		

TABLE 3. SUMMARY OF FABRIC FILTER EMISSION TEST DATA—Continued

Plant code	Average emission concentration		Opacity observations		
	mg/dscm	gr/dscf	Minutes of observation	Maximum opacity, percent	Average opacity, percent
Specialty Steel Shops					
P	3.47	0.0015	438	0	0
O	0.65	0.0003	408	0	0
O	6.87	0.0030			
R	0.06	0.0003			
S			336	0	0
S			318	0	0

[1] Highest 6-minute average from continuous opacity monitor during a Method 5 test.

Opacities of less than 3 percent (based on a 6-minute average) were achieved at all the facilities. These particulate matter and visible emission data were obtained during all phases of furnace/vessel operation.

Dust-Handling System Performance: The use of enclosed dust-handling equipment is also common to all the capture systems discussed above. Visible emission data for dust-handling equipment were obtained at three facilities. The data were obtained using Reference Method 9 and are summarized in Table 4.

TABLE 4. SUMMARY OF OPACITY DATA FOR DUST-HANDLING SYSTEMS AT CARBON AND SPECIALTY STEEL MILL FACILITIES

Plant	Minutes of observation	Maximum opacity, percent
B	12	0.6
C	20	5.0
P	594	[1] 0
Q	60	[1] 0
Q	48	7.3

[1] Dust transfer from storage silo to truck did not occur during the period of observation.

The data show that dust-handling and transfer operations can be designed and operated so that emissions of less than 10 percent opacity (based on a 6-minute average) are achieved.

Regulatory Alternatives

Three regulatory alternatives were developed for consideration as the basis for the proposed standards. All of the regulatory alternatives reflect essentially the same degree of process emission control; however, each alternative reflects a varying degree of fugitive emission control.

Regulatory Alternative A corresponds to no additional Federal regulatory action. This level of emission control and control device monitoring is represented by the current standards of performance for EAF's and by existing State regulations for AOD vessels. Regulatory Alternative A is considered the baseline emission level. Regulatory Alternative A could be met with capture system 1 and a fabric filter.

Regulatory Alternative B represents a more stringent level of emission control. Regulatory Alternative B could be met with capture systems 2A and 2B for EAF's, capture system 2 for AOD vessels, and a fabric filter. Instead of the continuous opacity monitors and continuous flow monitors required by Regulatory Alternative A, Regulatory Alternative B permits periodic monitoring of flows through the capture systems and opacities of emissions from positive-pressure fabric filters. However, continuous opacity monitors are required on negative-pressure fabric filters.

Regulatory Alternative C represents the most stringent level of emission control considered. Regulatory Alternative C emission levels could be met with capture system 3 for EAF's, capture system 3 for AOD vessels, and a fabric filter. As with Regulatory Alternative B, Regulatory Alternative C permits periodic monitoring of flows through the capture systems and opacities of emisions from positive-pressure fabric filters. However, continuous opacity monitors are required on negative-pressure fabric filters.

Impacts of Regulatory Alternatives

To assess the environmental impact of each regulatory alternative, the emission reductions achievable under each of the alternatives must be estimated. Emissions from fabric filters have been measured, and emission reduction calculations can readily be made for process and fugitive emissions captured by the various capture systems. However, fugitive emissions that escape the capture systems are not measurable. Therefore, the emission reductions achieved under each of the regulatory alternatives were estimated based on the following three factors: (1) Estimates of the relative amounts of process and fugitive emissions, (2) estimates of the capture efficiency for process emissions and fugitve emissions, and (3) the control device efficiency.

It was estimated that 90 percent of EAF emissions are process emissions due to melting and refining and 10 percent are fugitive emissions due to charging and tapping. For AOD vessels, it was estimated that 90 percent of emissions occur during refining and are process emissions and 10 percent occur during charging and tapping and are fugitive emissions. These estimates are

based on observation of operations of the various furnaces.

The capture efficiency of a DEC system on an EAF (used to capture melting and refining emissions) and the capture efficiency of a close-fitting hood on an AOD vessel (used to capture refining emissions) were estimated to be 99 percent. These estimates are based on observation of the operation of these cpature systems.

The capture efficiency for fugitive emissions was estimated to range from 75 to 85 percent for capture system 1 for EAF's and capture system 1 for AOD vessels, 85 to 95 percent for capture system 2 for EAF's and capture system 2 for AOD vessels, and 95 to 100 percent for capture system 3 for EAF's and capture system 3 for AOD vessels. These estimates are based on observation of several EAF and AOD facilities, literature review, and engineering judgment.

The efficiency of the fabric filter was estimated to be 99.9 percent based on the emission test data gathered during this study.

The above stated estimates of the relative amounts of process and fugitive emissions, capture efficiency, and fabric filter performance are not rigorous or precise. Rather, they are reasonable estimates of performance developed solely to assess the environmental impacts of the regulatory alternatives.

The environmental, energy, and economic impacts of each regulatory alternative were estimated based on an analysis of "model plants" defined to reflect the different sizes and types of EAF's and AOD vessels found throughout the industry. Standards of performance could apply to individual new, modified, or reconstructed facilities within an existing shop; thus, it was necessary to analyze modified or retrofit situations in addition to entirely new shops.

Table 5 presents the estimated incremental environmental, energy, and economic impacts of Regulatory Alternatives B and C over Regulatory Alternative A (baseline) for a typical new carbon steel and a typical new specialty steel model plant.

TABLE 5. INCREMENTAL IMPACTS OF REGULATORY ALTERNATIVES OVER BASELINE ON NEW CARBON AND SPECIALTY STEEL MODEL PLANTS

Impacts	Carbon steel		Specialty steel	
	Regulatory alternative B	Regulatory alternative C	Regulatory alternative B	Regulatory alternative C
Environmental				
Emission reduction:				
Mg/yr	71	142	40	81
tons/yr	78	157	45	90
Percent	48	96	47	96
Increase in solid waste, percent	1	2	1	2
Water pollution	(1)	(1)	(1)	(1)
Energy				
Electrical energy increase for emission control:				
kWh/yr	(1)	419,000	(1)	354,500
Percent	—	4.2	—	2.2
Economic[2]				
Capital Costs:				
Capture system cost increase, dollars	235,000	423,600	214,000	614,300
Monitoring system cost decrease, dollars	(45,000)	(45,000)	(75,000)	(75,000)
Aggregate cost increase, dollars	190,000	378,600	139,000	539,300
Annualized Costs:				
Capture system capital charges increase, dollars	40,300	72,600	36,800	105,400
Continuous monitoring system capital charges decrease, dollars	(7,700)	(7,700)	(12,800)	(12,800)
Continuous monitoring labor/maintenance cost decrease, dollars	(25,100)	(25,100)	(25,300)	(25,300)
Labor cost for periodic VE observer, dollars	4,500	4,500	5,700	5,700
Labor cost for periodic flow monitoring, dollars	13,600	13,600	13,600	13,600
Solid waste transfer cost increase, dollars	6,500	9,700	—	—
Electricity cost increase, dollars	—	19,500	—	16,400
Bags for fibric filters, dollars	—	—	—	5,000
Aggregate cost increase, dollars	32,100	87,100	18,000	108,000
Cost of pollutant removal:				
Dollars per ton	452	613	450	1,333
Dollars per Mg	411	556	400	1,200

[1] No impact.
[2] Costs are presented in March 1981 dollars.

A typical carbon steel model plant includes one 136.1-Mg (150-ton) UHP EAF, and a typical specialty steel model plant includes one 90.7-Mg (100-ton) EAF and one 90.7-Mg (100-ton) AOD vessel. For the carbon steel plant, Regulatory Alternative B would reduce the emission by 71 Mg/yr (78 tons/yr) below baseline and increase the solid waste by about 1 percent over baseline. For the specialty steel plant, this alternative would reduce the emissions by 40 Mg/yr (45 tons/yr) below baseline and would increase the solid waste by about 1 percent over baseline.

The actual cost impacts of Regulatory Alternative B would depend on the design of the capture system installed. As noted in Tables 1 and 2, two different capture systems form the basis for this regulatory alternative. An analysis of these capture systems indicate that cost impacts would range from no increase beyond baseline for capture system 2A to a positive cost for system 2B. In order to model the more conservative (but not necessarily typical) capture system design, the positive cost impacts are presented here.

The positive cost impacts would be an overal increase of $190,000 in capital costs and $32,100 in annualized costs above baseline in the carbon steel plant and an increase of $139,000 in capital costs and $18,000 in annualized costs above baseline in the specialty steel plant because Alternative B recommmends more stringent fugitive emissions control. These overall costs include an increase in the cost of the capture system used to meet the fugitive emission limit and a decrease in control device and capture system monitoring costs.

For a typical carbon steel plant, the increased canopy hood size, scavenger ducts, and cross-draft partitions included in Regulatory Alternative B would add no more than $235,000 in capital costs and $40,300 in annualized costs. Periodic monitoring requirements would reduce capital costs by $45,000 and annualized costs by $14,700. These monitoring costs are based on the assumption that the typical new carbon and specialty steel plants would use positive-pressure fabric filters. A more detailed listing of the annualized cost changes under both Regulatory Alternatives B and C is presented in Table 5. Thus, the cost effectiveness of just the enhanced EAF capture system over baseline is $513 per ton of particulate matter removed, and the overall cost effectiveness for this alternative is $411 per ton.

For a typical specialty steel plant, Regulatory Alternative B would add no more than $214,000 in capital costs and $36,900 in annualized costs. Assuming that positive-pressure fabric filters will be used, periodic monitoring requirements would reduce capital costs by $75,000 and annualized costs by $18,800. A more detailed listing of the annualized cost under both Regulatory Alternatives B and C is presented in Table 5. The cost effectiveness for the

enhanced capture system under Regulatory Alternative B for specialty steel plants is $822 per ton of particulate matter removed, and the overall cost effectiveness is $400 per ton.

For the carbon steel plant, Regulatory Alternative C would reduce emissions by 142 Mg/year (157 tons/yrs) below baseline. This alternative would increase the solid waste collected by 2 percent, the capital costs by $378,600 and the annualized costs by $87,100. The incremental cost effectiveness over baseline is $613/Mg ($555/ton) of particulate matter removed. For the specialty steel plant, Regulatory Alternative C would reduce emissions by 81 Mg/yr (90 tons/yr) below baseline. The solid waste collected would increase by 2 percent, and the capital and annualized costs would increase by $539,300 and $108,000, respectively. The incremental cost effectiveness over baseline for Alternative C and the specialty steel plant is $1,333/Mg ($1,200/ton) of particulate matter removed.

The fifth-year inpacts of the regulatory alternatives were estimated based on an increase in EAF/AOD vessel capacity of 5.2 million Mg (5.73 million tons) during 1983 through 1987. This growth in capacity is equivalent to the construction of approximately 15 EAF's of various capacities in carbon steel shops and 4 EAF's and 4 AOD vessels of various capacities in specialty steel shops. The industrywide impact of the regulatory alternatives presented in Table 6 for carbon steel plants are based on the estimated construction of eight 90.7-Mg (100-ton) EAF facilities, five 136.1-Mg (150-ton) UHP EAF facilities, and two 272.2-Mg (300-ton) EAF facilities.

TABLE 6. INDUSTRY-WIDE INCREMENTAL IMPACTS IN 1987 OF REGULATORY ALTERNATIVES OVER BASELINE FOR NEW CARBON AND SPECIALTY STEEL PLANTS ADDED BETWEEN 1983 AND 1987

Impacts	Carbon steel plants		Specialty steel plants	
	Regulatory alternative B	Regulatory alternative C	Regulatory alternative B	Regulatory alternative C
Environmental				
Emission reduction:				
Mg/yr	780	1,530	100	200
Tons/yr	850	1,690	110	220
Percent	48	96	48	96
Increase in solid waste, percent	1	2	1	2
Water pollution	(1)	(1)	(1)	(1)
Energy				
Electrical energy increase for emission control:				
kWy/yr	(1)	5,500,000	(1)	1,100,000
Percent		1.5		2.7
Economic [2]				
Increase in capital costs, dollars	2,750,000	5,300,000	400,000	1,340,000
Increase in annualized costs, dollars	436,000	1,187,000	43,000	268,000
Cost of pollutant removal:				
Dollars per Mg	573	775	430	1,340
Dollars per ton	513	702	390	1,218

[1] No impact.
[2] Costs are presented in March 1981 dollars.

The impacts presented for specialty steel plants are based on the estimated construction of two facilities, each with one 22.7-Mg (25-ton) EAF and one 22.7-Mg (25-ton) AOD vessel, and of two facilities, each with one 90.7-Mg (100-ton) EAF and one 90.7-Mg (100-ton) AOD vessel. The production capacities of this mix of facilities yield the projected increase in capacity noted above. Construction of the facilities was estimated to be spread over the 5-year period, with some facilities becoming affected facilities each year.

The industry-wide impacts (including both the carbon and specialty steel plants) show that Regulatory Alternative B would reduce the particulate matter emissions by 860 Mg/yr (960 tons/yr) over baseline. There would be increases in the capital costs and the annualized costs of no more than $3,150,000 and $479,000 respectively.

For Regulatory Alternative C, the total industry-wide emission reduction for both carbon and specialty steel plants would be 1,730 Mg/yr (1,910 tons/yr) of particulate matter. There would be increases in the capital costs and the annualized costs of $6,640,000 and $1,455,000, respectively.

Selection of Basis for the Proposed Standards

For a typical carbon steel shop, the capital and annualized costs associated with Regulatory Alternative A (baseline) are $6.3 million and $2.3 million, respectively. The emission reduction that this alternative achieves, compared to uncontrolled emissions, is about 6,375 Mg/yr (7,025 tons/yr). For a typical specialty steel shop, the capital and annualized costs under Regulatory Alternative A are $8.45 million and $2.37 million, respectively, and the emission reduction compared to uncontrolled emissions is about 3,670 Mg/yr (4,045 tons/yr). The cost effectiveness for Regulatory Alternative A is $360/Mg ($327/ton) of particulate matter removed for carbon steel shops and $645/Mg ($585/ton) of particulate matter removed for specialty steel shops.

For a typical carbon steel shop, the incremental impacts of Regulatory Alternative B include an emission reduction of 71 Mg/yr (78 tons/yr) and an increase of $190,000 in capital costs and $32,100 in annualized costs. The incremental impacts of Regulatory Alternative B for a typical specialty steel shop include an emission reduction of 40 Mg/yr (45 tons/yr) and an increase of $139,000 in capital costs and $18,000 in annualized costs. The cost effectiveness for Regulatory Alternative B compared to Regulatory Alternative A is an increase of $452/Mg ($411/ton) for carbon steel shops and an increase of $450/Mg ($400/ton) for spacialty steel shops.

The incremental capital and annualized costs and the emission reduction between Regulatory Alternatives C and B for a typical carbon steel shop are $188,200, $55,000, and 71 Mg/yr (79 tons/yr), respectively. For a typical specialty steel shop, the incremental capital and annualized costs and emission reduction are $339,700, $90,000, and 41 Mg/yr (45 tons/yr), respectively. The incremental impacts of Regulatory Alternative C over Regulatory Alternative B also include an incremental cost effectiveness of $775/Mg ($696/ton) of particulate matter removed for carbon steel shops and $2,195/Mg ($2,000/ton) of particulate matter removed for specialty steel shops.

Although the impacts associated with Regulatory Alternative C are considered reasonable, this alternative may not be suitable as the basis for national standards of performance because it is based on a closed roof configuration which may aggravate worker and equipment heat stress problems. Operating experience with this roof configuration is limited in areas of the country where ambient temperatures and humidity are high. Because the effects of heat stress cannot be fully evaluated at this time, Regulatory Alternative B has been selected as the

basis for the proposed revised standards rather than Regulatory Alternative C.

Selection of Format of the Proposed Standards

Process and fugitive emissions that escape capture rise to the top of the shop and exit to the atmosphere through the shop roof monitor. Methodology does not exist to make mass emission measurements for emissions discharged from shop roof monitors. The opacity of visible emissions existing the shop roof monitor, however, is a good indicator of the performance of the process and fugitive emissions capture systems. Therefore, shop roof monitor visible emission opacity limits were selected as the format for standards to ensure good capture of both process and fugitive emissions.

Mass emissions exiting a control device such as a fabric filter, however, can be readily measured. A mass emission limit is typically expressed in terms of concentration (mass of pollutant per volume of gas) or process weight (mass of pollutant per unit of input material or product).

A process weight format is based on a direct relationship between the quantity of pollutant emitted and the amount of input material consumed or product produced. Because of wide differences between EAF and AOD shops in operating procedures, such as the length of the steel production cycle, grade of steel produced, control technologies, vessel capacities, and other operating parameters, a simple direct relationship between mass emissions and steel production does not exist. Therefore, a process weight format was not selected for control devices regulated by the proposed standards.

Methodology to measure the concentration of emissions discharged to the atmosphere from control devices is readily available and well demonstrated. Concentration measurements are obtained directly from the stack emission test data. A concentration standard can be met equally well by a large or a small shop and by carbon and specialty steel shops. Consequently, a concentration format (i.e., mass emission per unit volume of gas) was selected for control devices regulated by the proposed standards to ensure control of captured process and fugitive emissions.

The opacity of visible emissions exiting the control device is more easily measured than is concentration and is a good indicator of whether the control device is being properly operated and maintained. Therefore, the opacity of visible emissions exiting the control device was also selected as a format for control devices regulated by the proposed standards as a means of ensuring proper operation and maintenance of the control device.

Particulate matter removed from the exhaust gas stream by the control device must be collected and disposed of. Improper handling can allow the captured particulate matter to escape into the atmosphere. Observations of the opacity of visible emissions exiting the dust-handling system are a good indicator of the performance of such equipment. Therefore, visible emission opacity limits were selected as the format for the proposed standards for dust-handling system to ensure proper handling of the captured particulate matter.

Selection of Numerical Emission Limits

Particulate matter and visible emission opacity limits were selected based on the performance of the capture and control technologies that served as the basis for Regulatory Alternative B.

Twenty-seven hours of opacity observations were made of shop roof visible emissions at two shops that utilized the capture systems upon which Regulatory Alternative B is based. These measurements show that the opacity of shop roof visible emissions is 5 percent or less (see Table 2). Therefore, the proposed revised standards limit the opacity of visible emissions from the shop roof monitors to less than 6 percent for all operations.

Emission data for particular matter were gathered from 13 fabric filters at both carbon steel and specialty steel shops. These data were obtained from compliance tests or from EPA source tests. The test data presented in Table 3 show that emissions from fabric filters are less than 7 mg/dscm (0.0031 gr/dscf).

The existing standards of performance limit particulate matter emissions to 12 mg/dscm (0.0052 gr/dscf). If the emission limit were lowered to 7 mg/dscm (0.0031 gr/dscf) the capital costs of fabric filters could increase by as much as 25 percent. This increase in costs results from the increased control device air-to-cloth ratio or more efficient filter fabric which would be needed to assure compliance with the more stringent emission limit. This increased cost is not considered reasonable in view of the small additional emission reduction it would achieve. Therefore, the mass emission standard for control devices covered by the proposed revised standards remains at 12 mg/dscm (0.0052 gr/dscf).

Forty-three hours of visible emission data were obtained using Reference Method 9 for emissions from 10 tests on fabric filters at both carbon steel and specialty steel shops. The maximum 6-minute average opacity from the 10 tests was zero percent (see Table 3). In addition, over 31 hours of visible emission data were obtained using continuous opacity monitors from two tests on fabric filters. The maximum 6-minute average opacity observation was 2.8 percent from one continuous opacity monitor (see Table 3). The data obtained from the other continuous opacity monitor averaged 2.3 percent opacity, with a 95 percent confidence interval of 2.2 to 2.5 percent opacity. Therefore, the data show that the existing 3 percent opacity standard for visible emissions is achievable by a well-designed and properly operated fabric filter. As with the particulate matter standard, revision of the visible emission standard for control devices to a lower level is not proposed.

Opacity observations of visible emissions from the operation of dust-handling equipment at both carbon and specialty steel shops confirm that the opacity of visible emissions from dust-handling equipment operations can be controlled to the existing limit of 10 percent. Therefore, a revision of the existing standard is not proposed.

Selection of Monitoring Requirements

The existing standards of performance for EAF's contain two continuous monitoring requirements for emission capture systems: the flow through each fugitive emission capture hood must be monitored and the static pressure within the furnace must be monitored when a DEC system is used to capture process emissions. The furnace static pressure tap could be located in the furnace roof or in the DEC duct prior to any openings for the introduction of air. These monitoring requirements were included in the existing standards as an enforcement tool to ensure proper operation and maintenance of the systems, installed to capture process and fugitive emissions. Monitoring of the furnace static pressure also provides the operator with information to ensure that explosive conditions do not arise in the furnace and that refractory and electrode wear are minimized.

Velocity probes in each duct serving a fugitive emission capture hood and chart recorders to record these velocity measurements are used to meet the continuous flow monitoring requirements of the existing standards. Velocity probes suitable for use in EAF and AOD vessel fugitive emission capture systems are readily available. A typical EAF and/or AOD vessel installation would require two or three velocity probes and one or two

multipoint strip chart recorders per furnace or vessel. Equipment and installation costs would be between $15,000 and $20,000 per furnace or vessel, depending on the number and type of devices selected. Annual operating and maintenance costs would be between $25,000 and $30,000 per furnace or vessel.

An alternative approach, however, is available to ensure proper operation and maintenance of the equipment installed to capture fugitive emissions. This approach involves monitoring parameters that are proportional to the flow through the fugitive emission capture hood rather than direct monitoring of the flow itself. Compliance with monitoring requirements could be achieved by maintaining an operating log of key operating parameters such as damper positions and fan amperes. No additional equipment would be needed to maintain operating logs of these key operating parameters because these parameters can be readily and directly observed. The annual cost of maintaining once-per-shift operating logs is estimated to be no more than $13,000 per furnace or vessel.

Maintaining an operating log will ensure proper operation and maintenance of the equipment installed to capture fugitive emissions at a lower cost than direct monitoring of the flow through this equipment. Therefore, this approach is being proposed for use on both EAF's and AOD vessels. In addition, the existing standards would be amended to permit the use of this approach. Monthly inspections of the equipment that is critical to the performance of the total capture system and once-per-shift checks of key operating parameters associated with this equipment would be required. The results of the monthly inspection and the once-per-shift check would be recorded and available for inspection by enforcement personnel. The owner or operator would be required to maintain the monitoring records in the log at the source for a minimum of 2 years for review by enforcement personnel during inspections or audits.

The existing standards of performance for EAF's require that a continuous opacity monitoring system be installed, calibrated, maintained, and operated to measure the opacity of emissions discharged into the atmosphere from each control device. This requirement was developed to ensure proper operation and maintenance of the fabric filters used by the industry.

The negative-pressure fabric filter, in use by most of the industry at the time the existing standards of performance were developed, has the fan on the clean side of the fabric filter and applies suction through the fabric filter. The exhaust gases are pulled through the filters and are typically discharged to the atmosphere through a single stack. The capital costs of continuous opacity monitoring systems for negative-pressure fabric filters are approximately $30,000 per unit and annualized costs are approximately $5,000 per unit.

Currently, however, a new type of fabric filter has gained widespread use in the steel industry—the positive-pressure fabric filter. This type of fabric filter has the fan on the dirty side, that is, upstream of the fabric filter. The fans force the exhaust gasses through the fabric filter. Cleaned gases are discharged to the atmosphere from multiple vents or stub stacks, or through a single vent extending down the center of the length of the roof of the housing containing the filters. Indications are that positive-pressure fabric filters will be used in most of the new installations in this industry because of lower capital and maintenance costs.

Continuous opacity monitors, however, have not proven very cost effective on positive-pressure fabric filters. As mentioned above, positive-pressure fabric filters have either multiple exhaust points or a single exhaust vent running the length of the fabric filter. To monitor visible emissions adequately, continuous opacity monitors must be mounted at each emission point or a single opacity monitor must be positioned to monitor the emission points on a single "line of sight." Frequently, the distance to be traversed by the beam from an opacity monitor positioned on a single "line of sight" exceeds the capability of the monitor. Thus, in almost all cases, multiple monitors are required to monitor emissions adequately on a positive-pressure fabric filter. Installation of these monitors greatly increases both the capital and operating costs required to monitor visible emissions. In addition, a number of technical problems accompany the use of opacity monitors installed on positive-pressure fabric filters (see docket entry II–I–86). These problems include the stratification of the exhaust gases from the fabric filter and the monitor's inability to indicate the performance of an individual compartment, which might provide low results when visible emissions from a compartment are averaged for the path length of the opacity monitor. For these cost and technical reasons, opacity monitors are not readily adaptable to monitoring visible emissions from positive-pressure fabric filters.

Observations of the opacity of visible emissions discharged to the atmosphere from positive-pressure fabric filters, however, could be employed on a routine basis to ensure proper operation and maintenance of the control device. The proposed standards, therefore, would require visual observation of visible emissions by certified personnel in lieu of installation of continuous opacity monitors on positive-pressure fabric filters. In addition, the existing standards would be amended to permit visual observation of emissions from positive-pressure fabric filters in lieu of continuous opacity monitoring.

The proposed standards would require that if a continuous opacity monitor is not installed on a positive-pressure fabric filter, then a certified observer must monitor and record visible emissions from each compartment or exhaust point once per day of operation (up to five times per week) while the EAF or AOD vessel is in the meltdown or refining phase of a heat cycle. The annual cost of this approach would be approximately $5,000, the same as that for operation of one opacity monitor. No capital costs are involved, however. The Agency concludes that this procedure for monitoring the exhaust gas opacity from positive-pressure fabric filters will ensure that they are properly operated and maintained at a reasonable cost and is appropriate for this situation.

Selection of Performance Test Methods

Test methods considered for determining compliance with the proposed standards include Reference Methods 1 through 3 for volumetric flow rate, Reference Method 5 or proposed Refernce Method 5D for particulate matter emissions, and Reference Method 9 for visible emissions. These methods are included in Appendix A of 40 CFR Part 60.

The Reference Method 5 and proposed Reference Method 5D were used to obtain the particulate matter emission data base for EAF's and AOD vessels. Reference Methods 1 through 5 are well suited for use on negative-pressure fabric filters that typically vent exhaust gases out a single stack. However, the physical design of positive-pressure fabric filters often makes particulate matter emission testing difficult. The exit ports, side vents, stub stacks, or long roof monitors associated with positive-pressure fabric filters do not conform to criteria specified in reference test methods, primarily because of the lack of stack height in the sampling area and the presence of nonparallel flow.

Some regulatory agencies have resolved these problems by requiring the addition of stacks or stack extensions to allow the use of Reference Methods 2 and 5. The cost of such modifications can be substantial.

Other regulatory agencies have used variants of high volume (hi-vol) samplers normally employed to measure ambient air quality. These samplers are located at a point between the bags and the exit ports to sample emissions from individual fabric filter compartments. Comparisons of simultaneous hi-vol and Reference Method 5 test results, however, have shown that hi-vol samplers yield particulate matter concentrations significantly lower (up to 97 percent lower) than Reference Method 5 (see docket entries II–I–65, II–I–66, II–I–97). Consequently, the use of hi-vol samplers is not appropriate for determining compliance with the proposed standards.

Reference Method 5D is the proposed sampling procedure for positive-pressure fabric filters. In addition, the existing standards of performance would be amended to permit the use of Method 5D on positive-pressure fabric filters. Several alternative procedures are included in proposed Reference Method 5D for emission testing of positive-pressure fabric filters. These alternatives have been shown to yield particulate matter concentrations consistent with Reference Method 5.

Emission testing would be conducted in one of four locations. The first location is in a stack that meets the Reference Method 1 criteria for straight stack distances between disturbances and sampling ports. In such cases, Reference Method 5 would be used for the emission test. The second sampling location is at the top of the fabric filter compartment in the space between the top of the bags and the exhaust vents. The third location is at the base of a roof monitor or monovent. In both of these cases, proposed Reference Method 5D would be used. The fourth sampling location would be in stub stacks using Reference Method 5. If nonparallel gas flows occur, which are often encountered if stub stacks are present, straightening vanes would have to be installed.

The total cost of an initial proposed Method 5D performance test on a positive-pressure fabric filter installed on an EAF or an AOD vessel is estimated to range from $5,000 to $8,000, including the test report. These costs are considered to be reasonable.

Visible emissions from the fabric filters, the melt shop roof monitors, and the dust-handling equipment were recorded using Reference Method 9 in developing the data base for the proposed standards. Therefore, Reference Method 9 is included in the proposed standards as the means of determining compliance with the proposed visible emission limits.

Modification/Reconstruction

New source performance standards apply to facilities that commence construction, modification, or reconstruction after proposal of the standards. A modification is defined by § 60.14 of Title 40 of the Code of Federal Regulation as any physical or operational change to an affected facility that results in an increased emission rate of any pollutant to which the standard applies. Modifications to EAF's that could increase emissions include changes to the furnance shell (including the roof), an increase in transformer capacity, or changes to the emissions control system. Modifications to AOD vessels that could increase emissions include changes to the vessel shell or changes to the emissions control system.

A reconstruction is defined by § 60.15 of Title 40 of the Code of Federal Regulations as any replacement of components of an existing facility within a 2-year period to such an extent that: (1) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost of a comparable new facility, and (2) it is technologically and economically feasible to meet the applicable standards. Reconstructed facilities are subject to the standard. Examples of changes to EAF's that would be examined in any reconstruction consideration are installation of water-cooled walls and roof, an increase in tranformer capacity to increase the melt rate, or the conversion of a normal-power furnace to an ultra-high power furance. While any one of these changes would not constitute reconstruction, the cumulative result of more than one change may be a capital expenditure exceeding 50 percent of the capital cost of a comparable new facility, which would constitute reconstruction.

If an EAF or AOD vessel is modified or reconstructed, the same emissions capture and control systems can be used as at new facilities. The economic and energy impacts on any modified or reconstructed facilities resulting rrom compliance with the proposed revisions to the standards are expected to be similar to those on new facilities. The capital cost for upgrading the control system serving a modified or reconstructed furnance is estimated to be about 20 percent of the cost for a new control system. Therefore, no exemptions or special allowances for modified or reconstructed facilities are included in the proposed standards.

Impacts of Reporting and Recordkeeping Requirements

Three types of reporting would be associated with the proposed standards. First, there would be notification requirements, which would inform enforcement personnel of facilities subject to the standards. Second, there would be reporting of the results of performance tests that would be conducted to determine compliance with the standards. These reports are required by the General Provisions of 40 CFR Part 60, which apply to all standards of performance. Third, an excess emissions report would be required to document exceedances of the control device opacity standard. This report would be required on a semiannual basis, instead of quarterly as required in the General Provisions.

In addition, as previously discussed, any owner or operator subject to the proposed standards would have to maintain the operating log of key operating parameters in a form suitable for inspection.

The Paperwork Reduction Act of 1980 (Pub. L. 96–511) requires that the Office of Management and Budget (OMB) approve reporting and recordkeeping requirements that qualify as an "information collection request" (ICR).

The reporting and recordkeeping provisions of the regulation that this rulemaking revises have previously been cleared by OMB (OMB clearance 2000–0142). A clearance package reflecting the reporting requirements contained in this proposal has been submitted to OMB for review under Section 3504(h) of the Paperwork Reduction Act of 1980. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for EPA. During the first 2 years the standards are in effect, the total industry-wide burden of the reporting and recordkeeping requirements would be about 9,240 labor-hours, based on eight respondents in 2 years.

Public Hearing

A public hearing will be held to discuss the proposed standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before,

during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see **ADDRESSES** section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered in the development of this proposed rulemaking. The principal purposes of the docket are: (1) to allow interested parties to readily indentify and locate documents so that they can effectively participate in the rulemaking process; and (2) to serve as the record in case of judicial review, except for interagency review materials [Section 307(d)(7)(A)].

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (RFA) requires consideration of the impacts of proposed regulations on small businesses. The guidelines for conducting a regulatory flexibility analysis define a small business as "any business concern which is independently owned and operated and not dominant in its field as defined by the Small Business Administration Regulations under Section 3 of the Small Business Act." The Small Business Administration has determined that any firm classified in SIC 3312 (which includes carbon and specialty steel shops) that employs less than 1,000 workers will be considered small in regard to the Small Business Act.

Of the 87 firms that currently operate one or more EAF shops, employment and financial data are available for only 42. Of these 42, none employ fewer than 1,000 employees. It is quite likely, however, that some of the remaining 45 firms do qualify as small businesses. It is possible, therefore, that some small businesses could be affected by the proposed standards.

If a substantial number of small businesses may be affected by a regulation, the RFA requires an analysis of whether these impacts are "significant." If any of the following four criteria are met, the impact of the regulation on a small business is considered significant.

Under the first criterion, the impact is judged to be significant if the regulation causes the average total cost of production to increase by 5 percent or more. The proposed standards would not cause an increase in the average total cost of production as high as 5 percent. Thus, the potential impacts of the proposed standards on small businesses are not significant from an average total cost standpoint.

The second criterion for significance relates compliance costs to sales for small versus large businesses. If compliance costs as a percent of sales for small businesses are at least 10 percent higher than compliance costs as a percent of sales for large businesses, the impact is judged to be significant. The total annualized cost of compliance as a percent of sales is much less than 10 percent greater for a small plant than for a large plant. The small business impact of the proposed standards is not significant by this measure.

A third criterion to measure the significance of an impact on small businesses compares the capital cost of compliance with the capital available to small firms. It is difficult to determine how much capital is available to a firm. A reasonable approach is to recognize that the capital available to a small firm building a new EAF or AOD plant at least equals the capital cost of the plant itself. The capital cost of compliance with the proposed standards would be well under 1 percent of plant capital cost. Therefore, the capital costs of compliance do not represent a significant portion of capital available to small businesses.

The fourth criterion for significance is if the regulation is likely to result in closures of small businesses. The proposed standards would not result in any closures of firms of any size.

The proposed standards, therefore, would not have a significant impact on small businesses. Thus, a regulatory flexibility analysis was not conducted for the proposed standards.

Miscellaneous

As prescribed by Section 111, establishment of standards of performance for this source category is based on the Administrator's determination that these sources contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committee, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues, and on the proposed test method.

This regulation will be reviewed 4 years from the date of promulgation as required by the Clean Air Act.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to ensure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the BID.

In addition to economics, the cost effectiveness of each regulatory alternative was evaluated in order to determine the least costly way to reduce emissions and to assure the controls required by this rule are reasonable relative to other particulate matter regulations. In this case, the proposed standards of performance will result in the reduction of fugitive emissions from 45 to 78 tons per year at typical specialty and carbon steel plants. The annualized costs for fugitive emissions capture equipment would increase from $37,000 to $40,000 to achieve this emission reduction. Thus, the cost effectiveness of the fugitive emissions standards would range from $513 to $882 per ton of particulate matter removed. However, the standards would also require continuous monitoring for negative-pressure fabric filters and periodic monitoring for positive-pressure fabric filters. Assuming that fabric filter units will be positive-pressure, a savings in annualized costs ranging from $14,700 to $18,000 will be realized for a typical carbon steel or specialty steel plant. Thus, the overall cost effectiveness for the proposed standards would range from $400 to $411 per ton of particulate matter removed.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a regulatory impact analysis. This regulation is not considered major. The proposed standard would have a minimal impact on the economy with a slight increase in the air pollution control system expenditures by 1987. Only slight increases in costs or prices of products are anticipated. The proposed standard would not adversely affect competition, employment, or the ability of the industry to compete with foreign steel firms.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic Minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference.

Dated: July 27, 1983.

William Ruckleshaus,

Administrator.

PART 60—[AMENDED]

1. 40 CFR Part 60, Subpart AA title is proposed to be revised to read as follows:

Subpart AA—Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and Before August 17, 1983.

(Secs. 111, 114, and 301(a), Clean Air Act, as amended (42 U.S.C. 7411, 7414, and 7601(a)))

* * * * *

2. In § 60.270, paragraphs (a) and (b) are revised to read as follows:

§ 60.270 Applicability and designation of affected facility.

(a) The previsions of this subpart are applicable to the following affected facilities in steel plants that produce carbon, alloy, or specialty steels: Electric arc furnaces and dust-handling system.

(b) The provisions of this subpart apply to each affected facility identified in paragraph (a) of this section that commenced construction, modification, or reconstruction after October 21, 1974, and before August 17, 1983.

(Secs. 111 and 301(a), Clean Air Act, as amended (42 U.S.C. 7411) and 7601(a)))

3. In § 60.271, paragraph (a) is revised to read as follows:

§ 60.271 Definitions.

* * * * *

(a) "Electric arc furnace" (EAF) means a furnace that produces molten steel and heats the charge materials with electric arcs from carbon electrodes. Furnaces that continuously feed direct-reduced iron ore pellets as the primary source of iron are not affected facilities within the scope of this definition.

* * * * *

4. In § 60.272, paragraph (a)(3) is revised to read as follows:

§ 60.272 Standard for particulate matter.

(a) * * *

(3) Exit from a shop and, due solely to operations of any EAF(s), exhibit 6 percent opacity or greater except:

(i) Shop opacity less than 20 percent may occur during charging periods.

(ii) Shop opacity less than 40 percent may occur during tapping periods.

(iii) Where the capture system is operated such that the roof of the shop is closed during the charge and the tap, and emissions to the atmosphere are prevented until the roof is opened after completion of the charge or tap, the shop opacity standards under paragraph (a)(3) of this section shall apply when the roof is opened and shall continue to apply for the length of time defined by the charging and/or tapping periods.

* * * * *

(Secs. 111 and 301(a), Clean Air Act, as amended (42 U.S.C. 7411 and 7601(a)))

5. In § 60.273, paragraph (c) is added to read as follows:

§ 60.273 Emission monitoring.

* * * * *

(c) No continuous monitoring system shall be required on any positive-pressure fabric filters if daily observations of the opacity of the visible emissions from the control deveice are performed by a certified visible emission observer in accordance with Method 9.

(Secs. 111, 114, and 301(a), Clean Air Act, as amended (42 U.S.C. 7411, 7414, and 7601(a)))

6. In § 60.274, paragraphs (a)(3), (a)(4), (b), (c), (e) and (f) are revised and paragraph (h) is added to read as follows:

§ 60.274 Monitoring of operations.

(a) * * *

(3) All data obtained under paragraph (b) of this section, or equivalent obtained under paragraph (d) of this section; and

(4) All monthly operational status inspections performed under paragraph (c) of this section.

(b) Except as provided under paragraph (d) of this section, the owner or operator shall check and record on a once-per-shift basis the furnace static pressure (if a DEC system is in use) and the control system fan amperes.

(c) The owner or operator shall perform monthly operational status inspections of the equipment that is key to the performance of the total capture system (i.e., pressure sensors, dampers, and damper switches). This inspection shall include observations of the physical appearance of the equipment (e.g., presence of holes in ductwork or hoods, flow constrictions caused by dents or accumulated dust in ductwork, and fan erosion). Any deficiencies shall be noted and proper maintenance performed.

* * * * *

(e) If emissions during any phase of the heat time are controlled by the use of a DEC system, the owner or operator shall install, calibrate, and maintain a monitoring device that allows the pressure in the free space inside the EAF to be monitored. The monitoring device may be installed in any appropriate location in the EAF or DEC duct prior to the introduction of ambient air such that reproducible results will be obtained. The pressure monitoring device shall have an accuracy of ±5 mm of water gauge over its normal operating range and shall be calibrated according to the manufacturer's instructions.

(f) When the owner or operator of an EAF controlled by a direct shell evacuation system is required to demonstrate compliance with the standard under § 60.272(a)(3) of this subpart, and at any other time the Administrator may require, the pressure in the free space inside the furnace shall be determined during the melting and refining period(s) using the monitoring device required under paragraph (e) of this section.

* * * * *

(h) During any performance test required under § 60.8, and for any report thereof required by § 60.275(c) of this subpart or to determine compliance with § 60.272(a)(3) of this subpart, the owner or operator shall monitor the following information for all heats covered by the test:

(1) Charge weights and materials, and tap weights and materials;

(2) Heat times, including start and stop times, and a log of process operation, including periods of no operation during testing and the pressure inside the furnace where direct-shell evacuation systems are used;

(3) Control device operation log; and

(4) Continuous monitor data.

(Secs. 111, 114 and 301(a), Clean Air Act, as amended (42 U.S.C. 7411, 7414, and 7601(a)))

7. In § 60.275, paragraphs (a)(1), (a)(3), (a)(4), (b), and (c) are revised and

paragraphs (a)(5), (i), and (j) are added to read as follows:

§ 60.275 Test methods and procedures.

(a) * * *

(1) Method 5 or 5D for concentration of particulate matter and associated moisture content.

* * * * *

(3) Method 2 for velocity and volumetric flow rate;

(4) Method 3 for gas analysis; and

(5) Method 9 for the opacity of visible emissions.

(b) For Methods 5 or 5D, the sampling time for each run shall be at least 4 hours. When a single EAF is sampled, the sampling time for each run shall also include an integral number of heats. Shorter sampling times when necessitated by process variables or other factors may be approved by the Administrator. For Method 5 or 5D, the minimum sample volume shall be 4.5 Nm^3 (160 dscf).

(c) For the purpose of this subpart, the owner or operator shall conduct the demonstration of compliance with § 60.272(a) of this subpart and furnish the Administrator a written report of the results of the test. This report shall include the following information:

(1) Facility name and address;

(2) Plant representative;

(3) Make and model of process, control device, and continuous monitoring equipment;

(4) Nonconfidential flow diagram of process and emission capture equipment including other equipment or process(es) ducted to the same control device;

(5) Rated (design) capacity of process equipment;

(6) That data required under § 60.274(h) of this subpart;

(i) Nonconfidential list of charge and tap weights and materials;

(ii) Heat times and process log;

(iii) Control device operation log; and

(iv) Continuous monitor data.

(7) Test dates;

(8) Test company;

(9) Test company representative;

(10) Testd observers from outside agency;

(11) Description of test methodology used, including any deviation from standard reference methods;

(12) Schematic of sampling location;

(13) Number of sampling points;

(14) Description of sampling equipment;

(15) Listing of sampling equipment calibrations and procedures;

(16) Field and laboratory data sheets;

(17) Description of sample recovery procedures;

(18) Sampling equipment leak check results;

(19) Description of quality assurance procedures;

(20) Description of analytical procedures;

(21) Notation of sample blank corrections;

(22) Sample emission calculations; and

(23) Test log.

* * * * *

(i) Visible emissions observations of positive-pressure fabric filters shall occur at least once per day of operation for up to 5 days per week. The observations shall occur when the furance is operating in the melting and refining period. These observations shall be taken in accordance with Method 9, and, for at least three 6-minute periods, the opacity shall be recorded for any point(s) where visible emissions are observed. Records shall be maintained of any 6-minutes average that is in excess of the emission limit specified in § 60.272(a) of this subpart.

(j) Unless it is unreasonable (e.g., inclement weather), the owner or operator shall conduct concurrently the performance tests required under § 60.8 to demonstrate compliance with § 60.272(a) (1), (2), and (3) of this subpart.

(Secs. 111, 114, and 301(a), Clean Air Act, as amended (42 U.S.C. 7411, 7414, and 7601(a)))

8. 40 CFR Part 60, Subpart AAa is proposed to be added to read as follows:

Subpart AAa—Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983.

Sec.

60.270a Applicability and designation of affected facility.
60.271a Definitions.
60.272a Standard for particulate matter.
60.273a Emission monitoring.
60.274a Monitoring of operations.
60.275a Test methods and procedures.
60.276a Recordkeeping and Reporting Requirements.

(Secs. 111, 114, and 301(a), Clean Air Act, as amended (42 U.S.C. 7411, 7414, and 7601(a)))

Subpart AAa—Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983.

§ 60.270a Applicability and designation of affected facility.

(a) The provisions of this subpart are applicable to the following affected facilities in steel plants that produce carbon, alloy, or specialty steels: electric arc furnances, argon-oxygen decarburization vessels, and dust-handling systems.

(b) The provisions of this subpart apply to each affected facility identified in paragraph (a) of this section that commences construction, modification, or reconstruction after August 17, 1983.

§ 60.271a Definitions.

(a) As used in this subpart, all terms not defined herein shall have the meaning given them in the Act and in Subpart A of this part.

"Argon-oxygen decarburization vessels" (AOD vessel) means any closed-bottom, refractory-lined converter vessel with submerged tuyeres through which gaseous mixtures containing argon and oxygen or nitrogen may be blown into molten steel for futher refining.

"Capture system" means the equipment (including ducts, hoods, fans, dampers, etc.) used to capture or transport particulate matter generated by an electric arc furnace or AOD vessel to the air pollution control device.

"Charge" means the addition of iron and steel scrap or other materials into the top of an electric arc furnace or the addition of molten steel or other materials into the top of an AOD vessel.

"Control device" means the air pollution control equipment used to remove particulate matter from the effluent gas stream generated by an electric arc furnace or AOD vessel.

"Direct-shell evacuation control system" (DEC system) means a system that maintains a negative pressure within the electric arc furnance above the slag or metal and ducts emissions to the control device.

"Dust-handling system" means equipment used to handle particulate matter collected by the control device for an electric arc furnance or AOD vessel subject to this subpart. For the purposes of this subpart, the dust-handling system shall consist of the control device dust hoppers, the dust-conveying equipment, any central dust storage equipment, the dust-treating equipment (e.g., pug mill, pelletizer), dust transfer equipment (from storage to truck), and any secondary control devices used with the dust transfer equipment.

"Electric arc furnace" (EAF) means a furnace that produces molten steel and heats the charge materials with electric arcs from carbon electrodes. For the purposes of this subpart, an EAF shall consist of the furnace shell and roof and the transformer. Furnaces that continuously feed direct-reduced iron ore pellets as the primary source of iron are not affected facilities within the scope of this definition.

"Heat cycle" means the period beginning when scrap is charged to an empty EAF and ending when the EAF tap is completed or beginning when molten steel is charged to an empty AOD vessel and ending when the AOD vessel tap is completed.

"Melting" means that phase of the steel production cycle during which the iron and steel scrap is heated to the molten state.

"Negative-pressure fabric filter" means a fabric filter with the fans on the downstream side of the filter bags."Positive-pressure fabric filter" means a fabric filter with the fans on the upstream side of the filter bags.

"Refining" means that phase of the steel production cycle during which undesirable elements are removed from the molten steel and alloys are added to reach the final metal chemistry.

"Shop" means the building which houses one or more EAF's or AOD vessels.

"Shop opacity" means the arithmetic average of 24 observations of the opacity of emissions from the shop taken in accordance with Method 9 of Appendix A of this part.

"Tap" means the pouring of molten steel from an EAF or AOD vessel.

§ 60.272a Standard for particulate matter.

(a) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from an EAF or an AOD vessel any gases which:

(1) Exit from a control device and contain particulate matter in excess of 12 mg/dscm (0.0052 gr/dscf);

(2) Exit from a control device and exhibit 3 percent opacity or greater; and

(3) Exit from a shop and, due solely to the operations of any affected EAF(s) or AOD vessel(s), exhibit 6 percent opacity or greater.

(b) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from the dust-handling system any gases that exhibit 10 percent opacity or greater.

§ 60.273a Emission monitoring.

(a) Except as provided under paragraphs (b) and (c) of this section, a continuous monitoring system for the measurement of the opacity of emissions discharged into the atmosphere from the control device(s) shall be installed, calibrated, maintained, and operated by the owner or operator subject to the provisions of this subpart.

(b) No continuous monitoring system shall be required on any control device serving the dust-handling system.

(c) No continuous monitoring system shall be required on positive-pressure fabric filters if daily observations of the opacity of the visible emissions from the control device are performed by a certified visible emission observer in accordance with Method 9.

(Sec. 114, Clean Air Act, as amended (42 U.S.C. 7414))

§ 60.274a Monitoring of operations.

(a) The owner or operator subject to the provisions of this subpart shall maintain records of the following information:

(1) All data obtained under paragraph (b) of this section; and

(2) All monthly operational status inspections performed under paragraph (c) of this section.

(b) The owner or operator shall check and record on a once-per-shift basis the furnace static pressure (if a DEC system is in use) and control system fan amperes.

(c) The owner or operator shall perform monthly operational status inspections of the equipment that is key to the performance of the total capture system (i.e., pressure sensors, dampers, and damper switches). This inspection shall include observations of the physical appearance of the equipment (e.g., presence of holes in ductwork or hoods, flow constrictions caused by dents or accumulated dust in ductwork, and fan erosion). Any deficiencies shall be noted and proper maintenance performed.

(d) The owner or operator may petition the Administrator to approve any alternative to monthly operational status inspections that will provide a continuous record of the operation of each emission capture system.

(e) If emissions during any phase of the heat time are controlled by the use of a DEC system, the owner or operator shall install, calibrate, and maintain a monitoring device that allows the pressure in the free space inside the EAF to be monitored. The monitoring device may be installed in any appropriate location in the EAF or DEC duct prior to the introduction of ambient air such that reproducible results will be obtained. The pressure monitoring device shall have an accurary of ±5 mm of water gauge over its nomal operating range and shall be calibrated according to the manufacturer's instructions.

(f) When the owner or operator of an EAF controlled by a direct-shell evacuation system is required to demonstrate compliance with the standard under § 60.272a(a)(3) of this subpart, and at any other time the Administrator may require, the pressure in the free space inside the furnace shall be determined during the melting and refining period(s) using the monitoring device required under paragraph (e) of this section.

(g) During any performance test required under § 60.8, and for any report thereof required by § 60.275a(d) of this subpart, or to determine compliance with § 60.272a(a)(3) of this subpart, the owner or operator shall monitor the following information for all heats covered by the test:

(1) Charge weights and materials, and tap weights and materials;

(2) Heat times, including start and stop times, and a log of process operations, including periods of no operation during testing and the pressure inside the furnace when direct-shell evacuation systems are used;

(3) Control device operation log; and

(4) Continuous monitor data.

(Sec. 114, Clean Air Act, as amended (42 U.S.C 7414))

§ 60.275a Test methods and procedures.

(a) Reference methods in Appendix A of this part, except as provided under § 60.8(b), shall be used to determine compliance with the standards prescribed under § 60.272a of this subpart as follows:

(1) Method 1 for sample and velocity traverses;

(2) Method 2 for velocity and volumetric flow rate;

(3) Method 3 for gas analysis;

(4) Method 5 or 5D for concentration of particulate matter and associated moisture content; and

(5) Method 9 for the opacity of visible emissions.

(b) For Method 5 or 5D, the sampling time for each run shall be at least 4 hours, or such time as is necessary to achieve a sample weight of 50 milligrams (0.77 grains). When a single EAF or AOD vessel is sampled, the sampling time for each run shall also include an integral number of heats. Shorter sampling times, when necessitated by process variables or other factors, may be approved by the Administrator. For Method 5 or 5D, the minimum sample volume shall be 4.5 Nm^3 (160 dscf).

(c) Visible emissions observations of positive-pressure fabric filters shall occur at least once per day of operation for up to 5 days per week. The observations shall occur when the furnace or vessel is operation in the meeting or refining phase of a heat

cycle. These observations shall be taken in accordance with Method 9, and, for at least three 6-minute periods, the opacity shall be recorded for any point(s) where visible emissions are observed. Records shall be maintained of any 6-minute average that is in excess of the emission limit specified in § 60.272(a) of this subpart.

(d) For the purpose of this subpart, the owner or operator shall conduct the demonstration of compliance with § 60.272a(a) of this subpart and furnish the Administrator a written report of the results of the test. This report shall include the following information:

(1) Facility name and address;

(2) Plant representative;

(3) Make and model of process, control device, and continuous monitoring equipment;

(4) Nonconfidential flow diagram of process and emission capture equipment including other equipment or process(es) ducted to the same control device;

(5) Rated (design) capacity of process equipment;

(6) That data required under § 60.274a(g) of this subpart;

(i) List of charge and tap weights and materials;

(ii) Heat times and process log;

(iii) Control device operation log; and

(iv) Continuous monitor data.

(7) Test dates;

(8) Test company;

(9) Test company representative;

(10) Test observers from outside agency;

(11) Description of test methodology used, including any deviation from standard reference methods;

(12) Schematic of sampling location;

(13) Number of sampling points;

(14) Description of sampling equipment;

(15) Listing of sampling equipment calibrations and procedures;

(16) Field and laboratory data sheets;

(17) Description of sample recovery procedures;

(18) Sampling equipment leak check results;

(19) Description of quality assurance procedures;

(20) Description of analytical procedures;

(21) Notation of sample blank corrections;

(22) Sample emission calculations; and

(23) Test log.

(e) During any performance test required under § 60.8, no gaseous diluents may be added to the effluent gas stream after the fabric in any pressurized fabric filter collector, unless the amount of dilution is separately determined and considered in the determination of emissions.

(f) When more than one control device serves the EAF(s) or AOD vessel(s) being tested, the concentration of particulate mater shall be determined using the following equation:

$$C = \frac{\sum_{n=1}^{N} (CQ)_n}{\sum_{n=1}^{N} (Q)_n}$$

where:

C = concentration of particulate matter in mg/dscm (gr/dscf) as determined by Method 5 or 5D.

N = total number of control devices tested.

Q = volumetric flow rate of the effluent gas stream in dscm/h (dscf/h) as determined by Method 2.

$(CQ)_n$, $(Q)_n$ = value of the applicable parameter for each control device tested.

(g) Any control device subject to the provisions of the subpart shall be designed and constructed to allow measurement of emissions using applicable test methods and procedures.

(h) Where emissions from any EAF(s) or ADD vessel(s) are combined with emissions from facilities not subject to the provisions of this subpart but controlled by a common capture system and control device, the owner or operator may use any of the following procedures during a performace test:

(1) Baser compliance on control of the combined emissions;

(2) Utilize a method acceptable to the Administrator that compensates for the emissions from the facilities not subject to the provisions of this subpart, or;

(3) Any combination of the criteria of paragraphs (h)(1) and (h)(2) of this section.

(i) Where emissions from any EAF(s) or AOD vessel(s) are combined with emissions from facilities not subject to the provisions of this subpart, determinations of compliance with § 60.272a(a)(3) will only be based upon emissions originating from the affected facility (ies).

(j) Unless it is unreasonable (e.g., inclement weather), the owner or operator shall conduct concurrently the performance tests required under § 60.8 to demonstrate compliance with § 60.272a(a) (1), (2), and (3) of this subpart.

(Sec. 114 Clean Air Act, as amended (42 U.S.C. 7414))

§ 60.276a Recordkeeping and Reporting Requirements.

(a) Records of the measurements required in § 60.274a must be retained for at least 2 years following the date of the measurement.

(b) Each owner or operator shall submit a written report of exceedances of the control device opacity to the administrator semiannually. For the purposes of these reports, exceedances are defined as all 6-minute periods during which the average opacity is 3 percent or greater.

(c) The requirements of this subsection remain in force until and unless EPA, in delegating enforcement authority to a State under Section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected sources within the State will be relieved of the obligation to comply with this subsection, provided that they comply with requirements established by the State.

9. Appendix A is amended by adding Method 5D to read as follows:

Appendix A—Reference Test Methods

* * * * *

Method 5D—Determination of Particulate Matter Emissions From Positive Pressure Fabric Filters

1. Applicability and Principle

1.1 Applicability. This method applies to the determination of particulate matter emissions from positive pressure fabric filters. Emissions are determined in terms of concentration (mg/m^3) and emission rate (kg/h).

The General Provisions of 40 CFR Part 60, paragraph 60.8(e) require that the owner or operator of an effected facility shall provide performance testing facilities. Such performance testing facilities include sampling ports, safe sampling platforms, safe access to sampling sites, and utilities for testing. It is intended that affected facilities also provide sampling locations that meet the specification for adequate stack length and minimal flow disturbances as described in Method 1. Provisions for testing are ofter overlooked factors in designing fabric filters or are extremely costly. The purpose of this procedure is to identify appropriate alternative locations and procedures for sampling the emissions from positive pressure fabric filters. The requirements that the affected facility owner or operator provide adequate access to performance testing facilities remain in effect.

1.2 Principle. Particulate matter is withdrawn isokinetically from the source and collected on a glass fiber filter maintained at a temperature at or above the exhaust gas temperature up to a nominal 120°C (120±14°C or 248±25°F). The particulate mass, which includes any material that condenses at or above the filtration temperature, is determined gravimetrically after removal of uncombined water.

2. Apparatus

The equipment requirements for the sampling train, sample recovery, and analysis are the same as specified in Sections 2.1, 2.2,

and 2.3, respectively, of Method 5 or Method 17.

3. Reagents

The reagents used in sampling, sample recovery, and analysis are the same as specified in Section 3.1, 3.2, and 3.3, respectively, of Method 5 or Method 17.

4. Procedure

4.1 Determination of Measurement Site. The configurations of positive pressure fabric filter structures frequently are not amenable to emission testing according to the requirements of Method 1. Following are several alternatives for determining measurement sites for positive pressure fabric filters.

4.1.1 Stacks Meeting Method 1 Criteria. Use a measurement site as specified in Method 1, Section 2.1.

4.1.2. Short Stacks Not Meeting Method 1 Criteria. Use stack extensions and the procedures in Method 1. Alternatively, use flow straightening vanes of the "egg-crate" type (see Figure 5D-1). Locate the measuremment site downstream of the straightening vanes at a distance equal to or greater than two times the average equivalent diameter of the vane opening and at least one-half of the overall stack diameter upstream of th stack outlet.

4.1.3 Roof Monitor or Monovent. (See Figure 5D-2.) For a positive pressure fabric filter equipped with a peaked roof monitor, ridge vent, or other type of monovent, use a measurement site at the base of the monovent. Examples of such locations are shown in Figure 5D-2. The measurement site must be upstream of any exhaust point (e.g., louvered vent).

4.1.4 Compartment Housing. Sample immediately downstream of the filter bags directly above the tops of the bags as shown in the examples in Figure 5D-2. Depending on the housing design, use sampling ports in the housing walls or locate the sampling equipment within the compartment housing.

4.2 Determination of Number and Location of Traverse Points. Locate the traverse points according the Method 1, Section 2.3. Because a performance test consists of at least three test runs and because of the varied configurations of positive pressure fabric filters, there are several schemes by which the number of traverse points can be determined and the three test runs can be conducted.

4.2.1 Single Stacks Meeting Method 1 Criteria. Select the number of traverse points according to Method 1. Sample all traverse points for each test run.

4.2.2. Other Single Measurement Sites. For a roof monitor or monovent, single compartment housing, or other stack not meeting Method 1 criteria, use at least 24 travers points. For example, for a rectangular measurement site, such as a monovent, use a balanced 5 × 5 traverse point matrix. Sample all traverse points for each test run.

4.2.3 Multiple Measurement Sites. Sampling from two or more stacks or measurement sites may be combined for a test run, provided the following guidelines are met:

a. All measurement sites up to 12 must be sampled. For more than 12 measurement sites, conduct sampling on at least 12 sites or 50 percent of the sites, whichever is greater. The measurement sites sampled should be evenly, or nearly evenly, distributed among the available sites; if not, all sites are to be sampled.

b. The same number of measurement sites must be sampled for each test run.

c. The minimum number of traverse points per test run is 24. An exception to the 24-point minimum would be a test combining the sampling from two stacks meeting Method 1 criteria for acceptable stack length and specifing fewer than 12 points per site.

d. As long as the 24 traverse points per test run criterion is met, the number of traverse points per measurement site may be reduced to eight.

Alternatively, conduct a test run for each measurement site individually using the criteria in Sections 4.2.1 or 4.2.2 for number of traverse points. Each test run shall count toward the total of three required for a performance test. If more than three measurement sites are sampled, the number of traverse points per measurement site may be reduced to eight as long as at least 72 traverse points are sampled for all the tests.

The following examples demonstrate the procedures for sampling multiple measurement sites.

Example 1: A source with nine circular measurement sites of equal areas may be tested as follows: For each test run, traverse three measurement sites using four points per diameter (eight points per measurement site). In this manner, test run number 1 will include sampling from sites 1, 2, and 3; run 2 will include samples from sites 4, 5, and 6; and run 3 will include sites 7, 8, and 9. Each test area may consist of a separate test of each measurement site using eight points. Use the results from all nine tests in determining the emission average.

Example 2: A source with 30 rectangular measurement sites of equal ares may be tested as follows: For each of three test runs, traverse five measurement sites using a 3 x 3 matrix of traverse points for each site. In order to distribute the sampling evenly over all the available measurement sites while sampling only 50 percent of the sites, number the sites consecutively from 1 to 30 and sample all the even numbered (or odd numbered) sites. Alternatively, conduct a separate test of each of 15 measurement sites using Sections 4.2.1 or 4.2.2. to determine the number and location of traverse points, as appropriate.

Example 3: A source with two measurement sites of equal areas may be tested as follows: For each test of three test runs, traverse both measurement sites using Sections 4.2.3 in determining number of traverse points. Alternatively, conduct two full emission test runs of each measurement site using the criteria in Sections 4.2.1 or 4.2.2 to determine the number of traverse points.

Other test schemes, such as random determination of traverse points for a large number of measurement sites, may be used with prior approval from the Administrator.

4.3 Velocity Determination. The velocities of exhaust gases from positive pressure baghouses are often too low to measure accurately with the type S pitot specified in Method 2 [i.e., velocity head <1.3 mm H_2O (0.05 in. H_2O)]. For these conditions, measure the gas flow rate at the fabric filter inlet following the procedures in Method 2.

Calculate the average gas velocity at the measurement site as follows:

$$\bar{V} = \frac{Q_i}{A_s} \cdot \frac{T_s}{T_i}$$

Where:

$\bar{V}$ = Average gas velocity at the measurement site(s), m/s (ft/s).

Q_i = Inlet gas volume flow rate, m^3/s (ft^3/s).

A_s = Measurement site(s) total cross-sectional area, m^2 (ft^2).

T_s = Temperature of gas at measurement site, °K (°R).

T_i = Temperature of gas at inlet, °K (°R).

Use the average velocity cacluated for the measurement site in determining and maintaining isokinetic sampling rates.

Note.—All sources of gas leakage, into or out of the fabric filter housing between the inlet measurement site and the outlet measurement site must be blocked and made leak-tight.

Velocity determinations at measurement sites with gas velocities within the range measurable with the type S pitot [i.e., velocity head >1.3 mm H_2O (0.05 in. H_2O)] shall be conducted according to the procedures in Method 2.

4.4 Sampling. Follow the procedures specified in Section 4.1 of Method 5 or Method 17 with the exceptions as noted aboved.

4.5 Sample Recovery. Follow the procedures specified in Section 4.2 of Method 5 or Method 17.

4.6 Sample Analysis. Follow the procedures specified in Section 4.3 of Method 5 or Method 17.

5. Calibration

Follow the procedures as specified in Section 5 Method 5 of Method 17.

6. Calculations

Follow the procedures as specified in Section 6 of Method 5 or Method 17 with the exceptions as follows:

6.1 Total volume flow rate may be determined using inlet velocity measurements and stack dimensions.

6.2 Average Particulate Concentration. For multiple measurement sites, calculate the average particulate concentration as follows:

$$C = \frac{\sum_{i=1}^{n} m_i}{\sum_{i=1}^{n} Vol_i}$$

Where:

m_i = The mass collected for run i of n, mg(gr).

Vol_i = The sample volume collected for run i of n, Nm^3(scf).

C = Average concentration of particulate for all n runs, mg/Nm^3(gr/scf).

7. Bibliograph

The bibliography is the same as for Method 5, Section 7.

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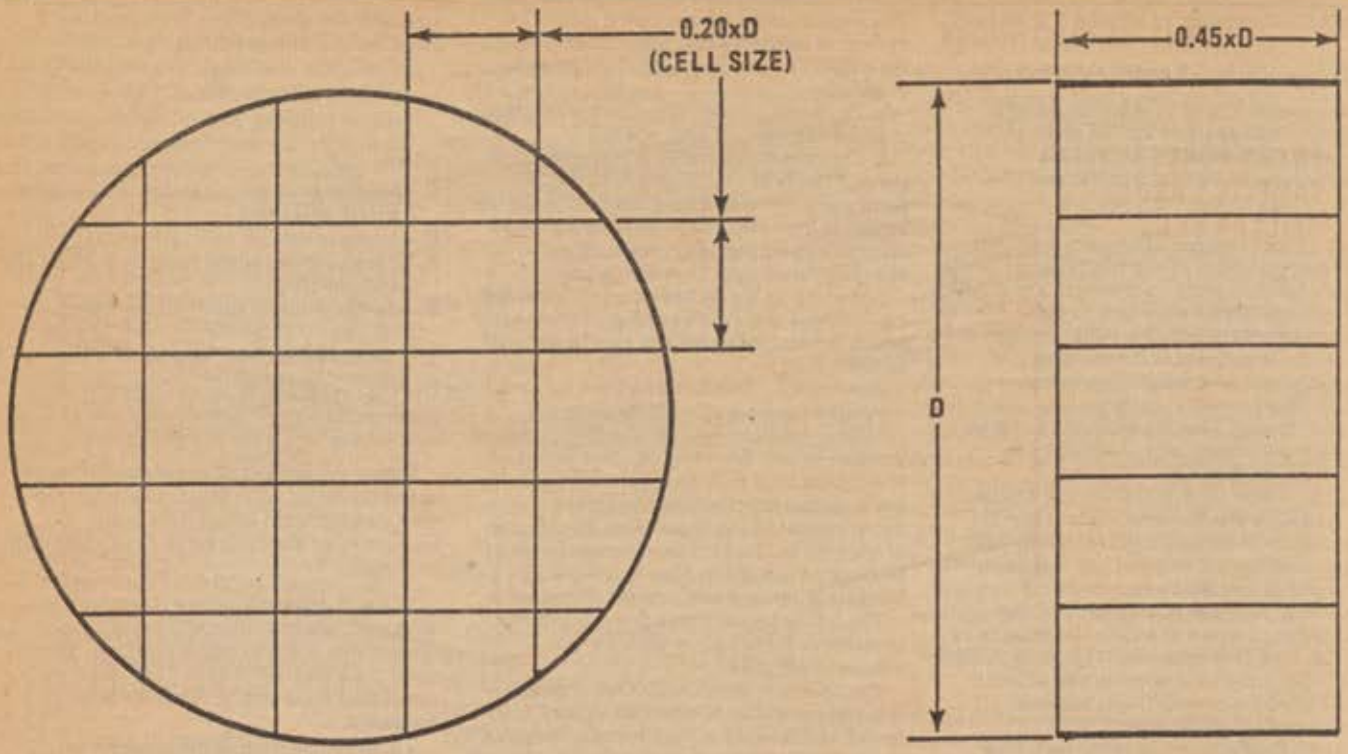

NOTE: POSITION STRAIGHTENERS SO THAT CELL SIDES ARE LOCATED APPROX. 45° FROM TRAVERSE DIA's.

Figure 5D-1. Example of flow straightening vanes.

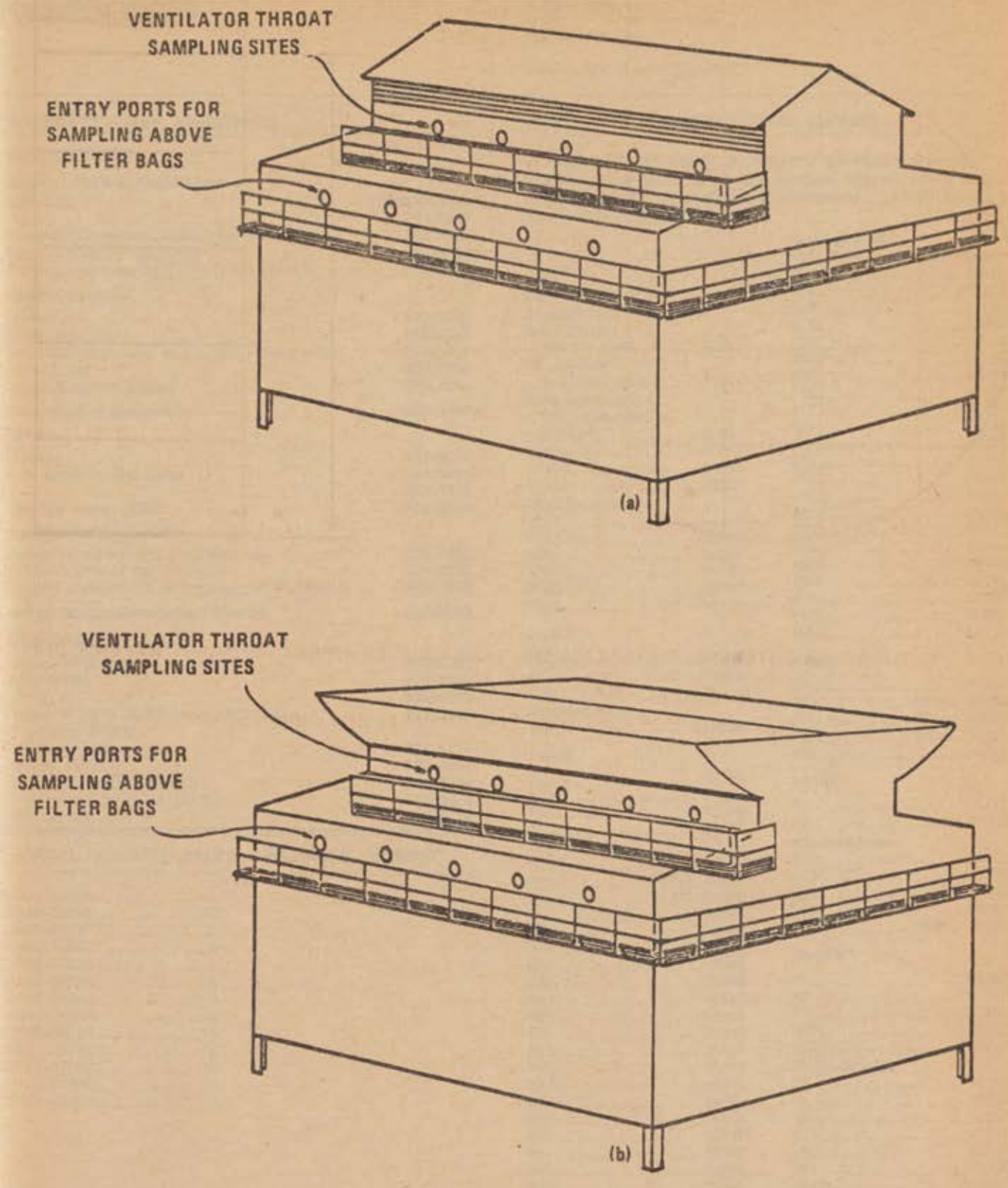

Figure 5D-2. Acceptable sampling site locations for: (a) peaked roof; and (b) ridge vent type fabric filters.

[FR Doc. 83-22350 Filed 8-16-83; 8:45 am]
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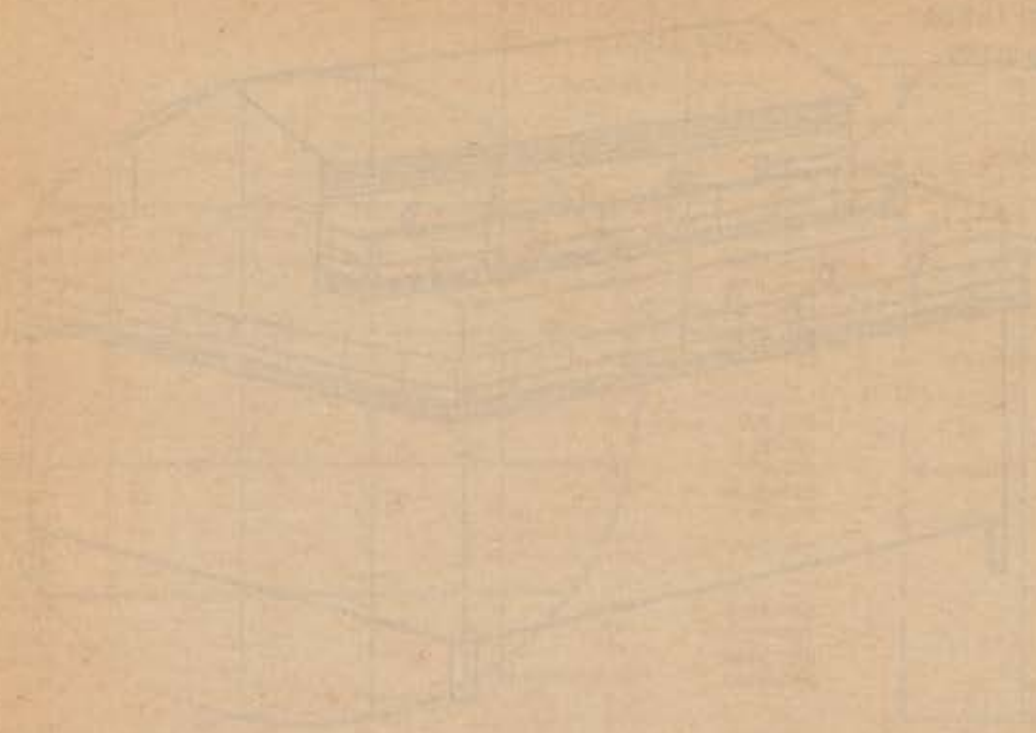

Reader Aids

Federal Register
Vol. 48, No. 160
Wednesday, August 17, 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, AUGUST

34723-34928	1
34929-35068	2
35069-35344	3
35345-35586	4
35587-35872	5
35873-36090	8
36091-36240	9
36241-36438	10
36439-36560	11
36561-36796	12
36797-37000	15
37001-37200	16
37201-37358	17

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 83-8 of July 19, 1983 35587
No. 83-9 of August 5, 1983 38561

Executive Orders:

12217 (Revoked by EO 12437) 36801
12435 34723
12436 34931
12437 36801

Proclamations:

5078 34929
5079 35873
5080 36091
5081 36241
5082 36797
5083 36799

5 CFR

550 36803
551 36803
950 34910

Proposed Rules:

1255 35652

7 CFR

28 37001
226 35589
707 35598
720 35599
726 36563
796 35599
906 ..... 35345, 36439
910 ..... 35600, 36563
915 35345
916 35345
917 35345
921 35345
922 35345
924 35345
926 35345
930 35345
945 35345
946 35345
947 35345
948 35345
953 35345
958 35345
967 35345
982 35345
985 35345
989 35347
993 35345
1124 36439
1427 35348
1430 ..... 34725, 34933
3015 35875

Proposed Rules:

68 35411
75 35411
201 35417
240 35108
278 35868
279 35868
404 35418
408 35423
413 35427
417 35431
421 35435
423 35439
425 35443
432 35447
437 35112
442 35451
983 36272
989 35454
1004 36113
1030 36464
1076 36467
1139 35652
1290 35116

8 CFR

100 37201
103 ..... 36441, 36564
212 ..... 35349, 36564
231 ..... 36093, 37003
235 35349

9 CFR

78 34943
92 37202

Proposed Rules:

3 35654
317 35654
319 35654
325 35884
381 ..... 35654, 35884

10 CFR

25 35069
40 35350
71 35600
795 36432
1016 36432

Proposed Rules:

Ch. I 34966
Ch. II 37226
430 34858
625 35119
710 35342
761 36792
1017 36825

12 CFR

207 35070
220 34944
221 35074
225 37003

303.....34945, 36565
329.....35627, 35629

Proposed Rules:

226.....35659
705.....37042

13 CFR

Proposed Rules:

120.....37044
121.....34966
122.....36825

14 CFR

39.....34731, 35355–35364, 36806
71.....35364–35366, 36442
73.....36806
75.....35366
91.....36442
95.....36445
97.....35876
212.....36445
252.....36093
261.....35080
263.....35081
289.....35081
398.....36094

Proposed Rules:

Ch. I.....36826
39.....36466
71.....35456–35458, 35887, 36827
152.....36828
241.....36598, 36601
252.....36273
298.....36601
377.....35459
385.....36601
399.....35119

15 CFR

Proposed Rules:

921.....35120
971.....35888

16 CFR

13.....35367, 37202, 37203
305.....35365
455.....36096
1013.....36506

Proposed Rules:

13.....34764, 35132–35135, 35888
451.....36273
460.....35661

17 CFR

1.....35248
3.....34732, 35248, 35305, 37203
4.....35248
10.....35248
15.....35248
17.....35248
18.....35248
21.....35248
33.....35248
140.....34945
145.....35248
147.....35248
155.....35248
166.....35248
170.....35248
210.....36566
239.....36566
240.....35082
270.....36097, 36243

Proposed Rules:

145.....34971
146.....34971
147.....34971
249.....36115
270.....35459

18 CFR

2.....35631, 35633
154.....35633
157.....34872, 34875, 35635
270.....35633
271.....35633–35636
284.....34875, 35635
300.....37006
410.....34946, 36469

Proposed Rules:

271.....35663–35666

19 CFR

12.....34734
127.....34734
177.....35878
210.....35386

Proposed Rules:

101.....35666
171.....37227
175.....36625

20 CFR

404.....37015

Proposed Rules:

299.....35460
404.....35135, 36831
410.....35135
416.....35135, 36831, 37228
422.....35135, 36831
652.....34866, 34974
653.....34866
655.....35667

21 CFR

5.....36571
74.....34946, 37020
109.....37020
177.....36099
193.....36246, 36448, 37203
436.....34947
452.....36571
522.....34947, 36100, 36571
558.....34948, 34949, 35637, 36100, 36101
561.....36448, 37203
610.....37022
870.....36101
1316.....35087

Proposed Rules:

133.....36132, 36625
184.....34974
291.....35668
353.....36133

23 CFR

Ch. I.....35388

Proposed Rules:

652.....36470
771.....33894

24 CFR

202a.....36247
203.....34949, 35088, 35638, 36247
205.....35389
207.....35389
209.....36247
211.....36247
213.....35389, 35638, 36247
220.....35393, 36247
221.....35389, 36247
222.....36247
226.....36247
228.....36247
232.....35389
234.....35638, 36247
235.....34949, 36247
237.....36247
244.....35389
300.....36572, 36573
500.....36574
868.....37023
886.....36101

Proposed Rules:

115.....36133
200.....35668–35671, 35890
203.....35140
234.....35140
235.....35140
241.....35891
3280.....37135

25 CFR

Proposed Rules:

11.....37046

26 CFR

1.....36448
31.....35089, 36807
35.....35090, 36448, 36807
51.....35092
150.....35092
301.....36449

Proposed Rules:

1.....36137, 36474
5c.....36137
20.....35143
31.....36474

27 CFR

9.....35395
178.....35398

Proposed Rules:

5.....35460
9.....35462

28 CFR

0.....35087
9.....35087

Proposed Rules:

0.....35892
16.....35892

29 CFR

500.....36576, 36736
1910.....36576
1952.....34950, 34951, 37024
1956.....37025
2610.....37027
2619.....36816
2622.....37027

Proposed Rules:

1550.....37047
1697.....34766
1926.....35774
2615.....37230

30 CFR

Ch. II.....35639
221.....36582
226.....36582
231.....36588
800.....36418
806.....36418
872.....35399

Proposed Rules:

55.....36789
56.....36789
57.....36789
913.....36625
915.....35903
935.....35146, 36274, 36627

31 CFR

Proposed Rules:

1.....35904

32 CFR

70.....35644
219.....35400
253.....35644
263.....34952
373.....36247
706.....37029, 37030
819a.....35878

Proposed Rules:

65.....34974

33 CFR

1.....35402
8.....36449
25.....36450
53.....36449
100.....36450, 36451
110.....36452
117.....35409, 36452
154.....34740
160.....35402
161.....35402
165.....35402, 36453
167.....36453

Proposed Rules:

100.....36474
110.....34767
115.....35464
117.....36475, 36477

34 CFR

200.....34953
205.....35879
263.....35330

35 CFR

Proposed Rules:

111.....35905

36 CFR

223.....34740

Proposed Rules:

228.....35580
251.....35465, 35580
261.....35465

37 CFR

202.....37204

Proposed Rules:

1.....34836, 36478
2.....36478
202.....37232

38 CFR

3.....37031
21.....35879, 36577

36 35879
40 36103

Proposed Rules:
21 ..... 34975, 35146

39 CFR

10 35409
111 35645

Proposed Rules:
3001 35914

40 CFR

52 ..... 36250, 36818, 36819
60 36579
61 36579
162 35095
180 ..... 35095, 36251, 37210–37214
264 36582
270 36582
271 ..... 34742, 34954, 35096, 35097, 35647, 36252, 37215
425 35649
468 36942

Proposed Rules:
Ch. II 34768
52 ..... 34976, 35312–35328, 35672, 35918, 36139, 37232
60 ..... 35338, 37338
62 34978
81 ..... 35919, 35920, 36275
180 36486
228 ..... 35147, 35673
271 ..... 36277, 36628
302 34979
414 35674
416 35674
1502 36486
1508 36486

41 CFR

Ch. 1 37031
Ch. 101 35098
101–41 35649

Proposed Rules:
3–1 37223
3–3 37223

42 CFR

Proposed Rules:
71 36143
100 36390
122 36402
123 36402
125 36390
405 34979
421 34979
431 36151
460 36970
482 36970

43 CFR

1820 36103

Public Land Orders:
3160 36582
3180 36582
3570 36588
6380 (corrected by PLO 6451) 35099
6388 (corrected by PLO 6450) 35098
6448 34743
6449 34743
6450 35098
6451 35099
8360 36382

44 CFR

64 ..... 34744, 34957, 36590, 36592
67 36104
71 37036

Proposed Rules:
61 35468
62 35468
67 ..... 36159–36167, 36629

45 CFR

1 35099
10 35099
67 35099
99 35099
1607 36820

Proposed Rules:
302 35468
304 35468
306 35468
1606 36845
1625 36845

46 CFR

31 36457
32 36457
35 36457
221 35881
503 36253
536 ..... 35099, 36254

Proposed Rules:
10 35920
35 35920
157 35920
175 35920
185 35920
186 35920
187 35920
540 35675

47 CFR

1 ..... 36104, 36459
2 ..... 34746, 37216
15 ..... 34748, 37217
18 37217
21 ..... 34746, 37216
73 ..... 34753–34757, 34959, 36106–36112, 36254, 36459, 37216, 37220–37224
74 ..... 34746, 37216
83 34961
90 ..... 34961, 36104
95 ..... 35234, 36104
97 ..... 34746, 37224

Proposed Rules:
Ch. I 36167
Ch. II 37235
18 37235
68 34985
73 ..... 34772–34779, 35964, 36168–36173, 36278, 37239–37269
76 34986
90 ..... 34782, 34987, 35149

48 CFR

Proposed Rules:
Ch. I 35675

49 CFR

213 35882
1170 35409
1175 36594
1300 36822
1307 36822

Proposed Rules:
171 ..... 35471, 35965
172 ..... 35471, 35965, 35970
173 ..... 35471, 35965, 35970
175 35471
179 35970
210 36487
218 36492
571 ..... 34783, 34784, 36493, 36849
622 34894
1105 36284
1152 36284
1160 36285
1165 36290
1180 36284

50 CFR

10 37040
17 ..... 34757, 34961, 36256, 36594
20 35100
32 36112
285 ..... 35107, 36597, 36823
611 ..... 34762, 34962, 35107
649 36266
650 34762
651 34762
652 34762
654 34762
655 34762
661 36823
662 34963
663 ..... 34762, 34763
671 34762
672 ..... 34762, 35107, 37040
674 ..... 34762, 34965, 37224
675 ..... 34762, 35107

Proposed Rules:
17 ..... 35475, 35973
20 ..... 35152, 35153, 36853
32 34987
424 36062
681 35475

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: On August 9, 1983, the Office of the Federal Register announced termination of the formal program of agency publication on assigned days of the week, effective August 22, 1983. See 48 FR 36197.

List of Public Laws

Last Listing August 16, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202-275-3030).

H.R. 1646 / Pub. L. 98-76 Railroad Retirement Solvency Act of 1983. (Aug. 12, 1983; 97 Stat. 411) Price: $3.25.