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Friday
June 8, 1984

Selected Subjects

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Immigration and Naturalization Service

Animal Biologics
Animal and Plant Health Inspection Service

Animal Drugs
Food and Drug Administration

Biologics
Food and Drug Administration

Crop Insurance
Federal Crop Insurance Corporation

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Forests and Forest Products
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Hazardous Materials Transportation
Nuclear Regulatory Commission

Hazardous Waste
Environmental Protection Agency

Loan Programs—Agriculture
Commodity Credit Corporation

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

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Reporting and Recordkeeping Requirements
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Surface Mining
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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 33, 35, 46, 51, 52, 900, and 1207

Office of Management and Budget Information Collection Control Numbers Assigned to Various Agricultural Programs

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule adds new §§ 33.60, 35.60, 46.47, 51.62, 52.59, 900.600, 900.601, and 1207.534 to Parts 33, 35, 46, 51, 52, 900, and 1207 respectively. These sections identify the information collection requirements each part contains and the respective control numbers assigned by the Office of Management and Budget (OMB). In accordance with 5 CFR Part 1320, these changes are made in order to make the information more convenient to locate.

EFFECTIVE DATE: June 8, 1984.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Vegetable Branch, Fruit and Vegetable, Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-5764.

SUPPLEMENTARY INFORMATION: Paperwork Reduction Act. This rulemaking does not require any additional collection of information from the public.

The Agency has determined that this amendment is administrative only, and involves only the identification of information collection requirements and display of OMB control numbers under 5 CFR Part 1320 and is not subject to the requirements of Executive Order 12291. This rulemaking is exempt from the provisions of the Regulatory Flexibility Act.

On March 31, 1983, OMB issued a final rule implementing the provisions of the Paperwork Reduction Act of 1980. Including among the provisions of the rule was a requirement for the display of OMB control numbers on all agency rules with information collection requirements. The control numbers provide a simple and effective way for the public to determine if a paperwork burden has been approved according to the provisions of the Act.

Therefore, new §§ 33.60, 35.60, 46.47, 51.62, 52.59, 900.600, 900.601, and 1207.534 are added to Parts 33, 35, 46, 51, 52, 900, and 1207 respectively. These sections identify information collection requirements contained in each part and the respective control numbers assigned by OMB.

List of Subjects

7 CFR Part 33

Exports, Apples, Pears.

7 CFR Part 35

Exports, Grapes, Plums.

7 CFR Part 46

Administrative practice and procedure, Perishable Agricultural Commodities Act.

7 CFR Part 51

Regulations governing inspection and certification of fresh fruits, Vegetables, Other products.

7 CFR Part 52

Processed fruits and vegetables, Food grades, Standards.

7 CFR Part 900

Marketing agreements and orders, Almonds, Apricots, Avocados, Celery, Cherries, Cranberries, Dates, Filberts, Grapefruit, Grapes, Hazelnuts, Hops, Lemons, Lettuce, Limes, Melons, Nectarines, Olives, Onions, Oranges, Papayas, Peaches, Pears, Plums, Potatoes, Prunes, Raisins, Spearmint Oil, Tangelos, Tangerines, Tomatoes, Walnuts.

7 CFR Part 1207

Administrative practice and procedure, Advertising, Agricultural research, Potatoes.

Findings

Under authority contained in the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627), the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a-499s), the Export Apple and Pear Act (7 U.S.C. 581-590), the Export Grape and Plum Act (7 U.S.C. 591-599) and the Potato Research and Promotion Act, as amended (7 U.S.C. 2611-2627), the U. S. Department of Agriculture hereby amends the Regulations Issued under Authority of the Export Apple and Pear Act (7 CFR Part 33), the Regulations Issued under Authority of the Export Grape and Plum Act (7 CFR Part 35), the Regulations (Other Than Rules of Practice) Under the Perishable Agricultural Commodities Act, 1930 (7 CFR Part 46), the Regulations Governing Inspection, Certification and Standards for Fresh Fruit, Vegetables and Other Products (7 CFR Part 51), the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products (7 CFR Part 52), General Regulations (Marketing Agreements and Orders; Fruits, Vegetables, Nuts) (7 CFR Part 900), and the Potato Research and Promotion Plan (7 CFR Part 1207), as set forth below:

It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice or engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that this rule is administrative only and does not impose any additional burden of information collection but merely provides a convenient listing of the current information collection requirements and OMB control numbers.

PART 33—REGULATIONS ISSUED UNDER AUTHORITY OF THE EXPORT APPLE AND PEAR ACT

In Part 33, a new § 33.60 is added to read as follows:

§ 33.60 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in this Part have been approved by the Office of Management and Budget (OMB) under

the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control No. 0581–0143.

PART 35—REGULATIONS UNDER AUTHORITY OF THE EXPORT GRAPE AND PLUM ACT

In Part 35, a new § 35.60 is added to read as follows:

§ 35.60 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in this Part have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control No. 0581–0143.

PART 46—REGULATIONS (OTHER THAN RULES OF PRACTICE) UNDER THE PERISHABLE AGRICULTURAL COMMODITIES ACT OF 1930

In Part 46 a new § 46.47 is added to read as follows:

§ 46.47 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in this Part have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control No. 0581–0031.

PART 51—REGULATIONS GOVERNING INSPECTION, CERTIFICATION AND STANDARDS FOR FRESH FRUIT, VEGETABLES AND OTHER PRODUCTS

In Part 51 a new § 51.62 is added to read as follows:

§ 51.62 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in this Part have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control No. 0581–0125.

PART 52—REGULATIONS GOVERNING INSPECTION AND CERTIFICATION OF PROCESSED FRUITS AND VEGETABLES AND RELATED PRODUCTS

In Part 52, a new § 52.59 is added to read as follows:

§ 52.59 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in this Part have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control No. 0581–0123.

PART 900—GENERAL REGULATIONS

In Part 900 new §§ 900.600 and 900.601 are added to read as follows:

Subpart—Information Collection

§ 900.600 General.

This subpart shall contain such requirements as pertain to the information collection provisions under the Paperwork Reduction Act of 1980.

§ 900.601 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection requirements by the Office of Management and Budget contained in 7 CFR Parts 904 through 993 under the Paperwork Reduction Act of 1980.

(b) *Display.*

7 CFR part where identified and described	Current OMB control No.
904, California Desert Grapefruit	0581–0101
905, Florida Oranges, Grapefruit, Tangerines, Tangelos	0581–0094
906, Texas Oranges & Grapefruit	0581–0068
907, California-Arizona Navel Oranges	0581–0116
908, California-Arizona Valencia Oranges	0581–0121
910, California-Arizona Lemons	0581–0120
911, Florida Limes	0581–0091
912, Florida Indian River Grapefruit	0581–0088
913, Florida Interior District Grapefruit	0581–0081
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916, California Nectarines	0581–0072
917, California Pears, Plums & Peaches	0581–0080
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953, Southeastern Potatoes	0581–0084
958, Idaho-Oregon Onions	0581–0087
959, South Texas Onions	0581–0074
966, Florida Tomatoes	0581–0073
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971, South Texas Lettuce	0581–0085
979, South Texas Melons	0581–0079
981, California Almonds	0581–0071
982, Oregon-Washington Filberts/Hazelnuts	0581–0144
984, California Walnuts	0581–0090
985, Spearmint Oil	0581–0065
987, California Dates	0581–0077
989, California Raisins	0581–0083
991, Hops	0581–0086
993, California Dried Prunes	0581–0099

PART 1207—POTATO RESEARCH AND PROMOTION PLAN

In Part 1207 a new § 1207.534 is added to read as follows:

§ 1207.534 OMB control number assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in this Part have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control No. 0581–0093.

Dated June 5, 1984 to become effective upon publication.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 84–15439 Filed 6–7–84; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 910

[Lemon Reg. 467]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 325,000 cartons during the period June 10–June 16, 1984. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: June 10, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under Marketing Order No. 910, as amended (7

CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy currently in effect. The committee met publicly on June 5, 1984, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that lemon demand is good.

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

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.767 is added as follows:

§ 910.767 Lemon Regulation 467.

The quantity of lemons grown in California and Arizona which may be handled during the period June 10, 1984, through June 16, 1984, is established at 325,000 cartons.

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

Dated: June 6, 1984.

Thomas R. Clark,

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

[FR Doc. 84–15609 Filed 6–7–84; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1421

Grains and Similarly Handled Commodities; 1982 Through 1985 Crops Peanut Farm-Stored Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The interim rule published in the **Federal Register** on December 2, 1982 (47 FR 54281), is adopted as a final rule with minor corrections. The interim rule set forth the terms and conditions under which the Commodity Credit Corporation (CCC) will make: (1) Farm-stored peanut loans to and purchases from eligible producers on eligible 1982 through 1985 crop farmers stock quota peanuts; and (2) farm-stored loans to eligible producers on eligible 1982 through 1985 crop farmers stock additional peanuts.

EFFECTIVE DATE: June 8, 1984.

FOR FURTHER INFORMATION CONTACT: Carolyn E. Cozart, (202) 447–7987. The Final Regulatory Impact Analysis is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with provisions of Executive Order 12291 and Departmental Regulation No. 1512–1 and has been classified "not major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic reigons; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loans and Purchases, 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

On December 2, 1982, an interim rule was published in the **Federal Register** (47 FR 54281) revising the regulations at 7 CFR Part 1421 which are applicable to farm-stored price support loans and price support purchase agreements for peanuts. The public was afforded 30 days to comment on the interim rule. One comment was received during the comment period. The commenter represented an association and supported the provisions of the interim rule which set forth the terms and conditions governing the peanut price support program for the 1982 through 1985 crops.

Accordingly, it has been determined that the interim rule should be adopted as a final rule without change except for two technical corrections as set forth below.

List of Subjects in 7 CFR Part 1421

Grains, Loan programs—agriculture, Oilseeds, Peanuts, Price support programs, Soybeans, Security bonds, Tobacco warehouses.

Final Rule

The interim rule published on December 2, 1982 (47 FR 54281) is hereby adopted as a final rule with the following corrections:

1. The list of statutory authorities which immediately follows the table of contents in that subpart of 7 CFR Part 1421 entitled "Subpart—1982 through 1985 Crops Peanut Farm-Stored Loan and Purchase Program" is revised by changing the reference to "7 U.S.C. 1445C–1" to read "7 U.S.C. 1445c–1".

2. The first sentence of 7 CFR 1421.280 is corrected to add quotation marks immediately before the fifth word within the first set of parentheses.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 108A, 401, 403, 405, 63 Stat. 1051, as amended, 95 Stat. 1254 (7 U.S.C. 1445c–1, 1421, 1423, and 1425))

Signed at Washington, D.C., on June 1, 1984.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 84–15399 Filed 6–7–84; 8:45 am]

BILLING CODE 3410–05–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 204

Petition to Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant; Technical Amendments

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule makes minor technical and editorial amendments to 8 CFR 204.1(d) without changing the substance of the affected provision. This amendment deletes the requirement that a visa petition be made under oath to be consistant with the instructions on the Form I–140, and corrects the reference to a Department of Labor form required to be submitted with Form I–140.

EFFECTIVE DATE: June 8, 1984.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3048.

For Specific Information: Ronald R. Lindquist, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3240.

SUPPLEMENTARY INFORMATION: Pub. L. 94–550, effective October 18, 1976, allowed agencies of the government to replace oaths with unsworn declarations under penalty of perjury. The Service decided to adopt this change and has eliminated the oath requirement from a number of Service forms including Form I–140, Petition to Classify Preference Status of Alien on Basis of Profession or Occupation. This notice amends the existing regulation to delete the oath requirement, thus making the regulation consistent with the instructions on the Form I–140 visa petition.

The use of self-certification of truthfulness and accuracy of petitioner furnished information does not diminish the ability of the Service to prosecute persons for making false statements, because petitioners remain subject to criminal penalties for perjury under 18 U.S.C. 1621. The penalty for perjury is imprisonment for not more than five years and a fine of not more than $2,000, or both.

This amendment also updates the reference to the Department of Labor Form ETA 750, Application for Alien Employment Certification, to include Part A, Offer of Employment, and Part B, Statement of Qualifications of Alien. This form is required to be filed with the Immigration and Naturalization Service when a third or sixth preference immigrant visa classification is sought.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because this amendment is merely editorial and technical in nature.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule will not have a significant economic impact on a substantial number of small entities. This is not a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 204

Administrative practice and procedure, Aliens, Petition.

Accordingly, Chapter 1 of Title 8 of the Code of Federal Regulations is amended to read as follows:

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

1. In § 204.1, paragraph (d)(1) is revised to read as follows:

§ 204.1 Petition.

* * * * *

(d) * * *

(1) *General.* A petition to classify the status of an alien under section 203(a)(3) or (6) of the Act shall be filed on Form I–140. For each beneficiary a separate Form I–140 must be submitted, accompanied by the fee required under § 103.7(b) of this chapter. Before the petition may be accepted and considered properly filed, the petitioner or authorized representative shall sign the visa petition (under penalty of perjury) in the block provided on the form. The petition must be accompanied by a completed Labor Department Form ETA 750, Application for Alien Employment Certification, including Part A, Offer of Employment, and Part B, Statement of Qualifications of Alien. The certification under section 212(a)(14) of the Act must be affixed to Part A of this form by the Secretary of Labor or the Secretary's designated representative, except that such certification may be omitted if the beneficiary is qualified for and will be engaged in an occupation currently listed in the Department of Labor's Schedule A (20 CFR Part 656). The petition shall be filed in the office of the Service having jurisdiction over the place of intended employment, except that when accompanied by an application for adjustment of status, a petition may be filed and a decision thereon made in the Service office having jurisdiction over the place where the beneficiary is residing.

* * * * *

(Sec. 204 of the Immigration and Nationality Act, as amended, 8 U.S.C. 1154)

Dated: June 4, 1984.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations Immigration and Naturalization Service

[FR Doc. 84-15401 Filed 6-7-84; 8:45 am]

BILLING CODE 4410-10-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-21013; File No. S7-983A]

Obligations of Self-Regulatory Organizations

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is amending its rules to permit self-regulatory organizations to submit to the Commission plans for abbreviated reporting of minor disciplinary infractions. The amendment is specifically designed to replace the requirements that SROs report individual minor rule violations as they are adjudicated. The Commission has determined that the proposed amendments will ensure satisfactory Commission oversight, while alleviating reporting burdens on the SROs and their members.

EFFECTIVE DATE: June 8, 1984.

FOR FURTHER INFORMATION CONTACT: Judith L. Levy, Esq., 272–7345, Division of Market Regulation, Securities and Exchange Commission, Room 5017, 450 5th Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

On July 14, 1983, the Commission issued a release proposing for comment an amendment to subsection (c) of Rule 19d–1 under the Securities Exchange Act of 1934 ("Act").[1] Rule 19d–1, which was adopted in 1977 pursuant to section 19(d)(1) of the Act,[2] requires self-regulatory organizations ("SROs") to report to the Commission notice of final disciplinary actions and prescribes the content of such notices. Subsection (c) of Rule 19d–1 requires any SRO that takes "any final disciplinary action" with respect to any person to file promptly a notice of the action with the Commission. The Commission is

[1] Securities Exchange Act Release No. 19969 (July 14, 1983); 48 FR 33314 (July 21, 1983).

[2] Securities Exchange Act Release No. 13726 (July 8, 1977); 42 FR 36410 (July 14, 1977). Section 19(d) was enacted as part of the Securities Act Amendments of 1975, Pub. L. 94–29 (June 4, 1975).

amending paragraph (c) of Rule 19d–1 to allow SROs to submit plans for Commission approval specifying minor rule violations (with sanctions not exceeding $2500)[3] that would either be exempt from the reporting requirement or subject to periodic reporting.[4] In permitting abbreviated periodic reporting of minor rule violations, the amendment is specifically designed to replace the requirement that SROs report individual minor rule violations as they are adjudicated. The Commission has determined that the proposed amendments will ensure satisfactory Commission oversight, while alleviating reporting burdens on the SROs and their members.

II. Comment Letters

The Commission received comment letters from three national securities exchanges.[5] As discussed below, the commentators generally supported the trust of the amendments. Two of the commentators, however, urged a more expansive reduction of reporting requirements under Rule 19d–1 than was proposed by the Commission.

The Amex strongly supported the proposed amendment, stating that the rule change would provide a more efficient procedure for obtaining exemptive relief and would significantly reduce the reporting burden of the SROs.[6] Amex also noted that the proposal by which each exchange would submit its own minor rule reporting exemption plan would enable an exchange to tailor subsequent additional proposed exemptions to its individual needs by amending its own plan (with Commission approval). In addition, the Amex endorsed the proposed increase, from $500 to $1000, in the maximum fine for floor decorum violations exempted from reporting under the rule, as well as the application of the $1000 limit to sanctions for minor rule violations included in an SRO's plan.[7]

Both the NYSE and the CBOE supported the Commission's proposed simplification of SRO reporting requirements but suggested broader relief from Section 19(d) reporting requirements than that proposed by the Commission. The NYSE urged the Commission to reconsider the need for even periodic reporting of uncontested minor rule violations and to give these minor rule violations a total exemption from the reporting requirement. The NYSE stated that periodic reporting would do little to alleviate the administrative burden on either the NYSE or the Commission, while providing less timely information than provided by case-by-case reporting under the present rule. According to the NYSE, Commission oversight responsibilities could be discharged by means of the recordkeeping requirement of Rule 17a–1(b),[8] coupled with periodic Commission inspections. In addition, the NYSE suggested that minor infractions exempted from the reporting requirement should include those involving the imposition of a $2500 rather than the proposed $1000 fine.

The CBOE comment letter questioned the need for existing requirements for the reporting of any disciplinary sanctions, not just minor infractions. The CBOE, therefore, urged the Commission to modify all reporting requirements for SRO disciplinary actions under Rule 19d–1 to conform with the Commission's proposed reporting requirements for minor uncontested disciplinary violations. Specifically, the CBOE recommended that the class of minor disciplinary infractions included in a plan submitted under Rule 19d–1(c) be expanded to include infractions subject to a $10,000 fine, and non-monetary sanctions except permanent bars or suspensions in excess of one month.[9] According to the CBOE, the reporting process could be streamlined in this manner because Commission oversight of disciplinary sanctions can be discharged by other means available to the Commission that would not involve the administrative burdens imposed by either the current or proposed system of reporting under section 19(d)(1). Such means include the Commission's comprehensive inspections, member or customer complaints to the Commission, and review of formal appeals from an exchange's disciplinary sanctions.

III. Discussion

The Commission has determined to amend Rule 19d–1 in the form proposed in its July 14, 1983 release, with the exception that it would raise the ceiling on fines for minor disciplinary

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[3] The Commission originally proposed that only minor rule violations with sanctions not exceeding $1000 were to be included in a plan. *See* discussion *infra*.

[4] The amendment also includes: (1) Proposed paragraph (c)(2), which would permit an SRO to submit to the Commission an appropriate plan for its approval; (2) revisions to the floor decorum violations exemption in Rule 19d–1(c), including (a) an increase from $500 to $1000 as the maximum fine that would not be required to be reported, and (b) deletion of the word "summarily"; and (3) technical renumbering and cross-referencing amendments to paragraphs (c) and (d) of Rule 19d–1. The Commission believes that an increase in the maximum fine that would not be reportable under the minor floor decorum violation exemption of the rule is appropriate to take account of inflation and to provide for future increases in SRO fines for minor floor decorum violations.

[5] *See* letter from Richard O. Scribner, Executive Vice President, American Stock Exchange ("Amex"), to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, dated September 19, 1983; letter from William J. Young, Senior Vice President, Chicago Board Options Exchange ("CBOE"), to George A. Fitzsimmons, dated September 19, 1983; letter from James E. Buck, Secretary, New York Stock Exchange ("NYSE"), to George A. Fitzsimmons, dated October 13, 1983.

[6] By letter dated August 7, Amex requested that an exemption from the notice requirement of Rule 19d–1 be granted for uncontested minor rule violations covered by its existing minor disciplinary infraction system and by its fee system for certain reporting requirements. *See* letter from Richard O. Scribner, Executive Vice President, Amex, to Michael A. Cline, Branch Chief, Division of Market Regulation, dated August 7, 1981. In its letter, the Amex suggested that both of these systems, like that applicable to floor decorum, give the Amex a simple, straightforward and effective method of achieving compliance with rules that are essentially administrative in nature, without resorting to formal disciplinary proceedings.

The Amex currently utilizes an "automatic fine" system under its summary disciplinary procedure for the disposition of certain minor rule violations. Minor rule violations under this procedure fall under two categories: (1) Any act or omission tending to disrupt the orderly conduct of business on the Amex trading floor or which causes serious interference with the personal comfort or safety of other persons on the floor ("floor decorum violations"), and (2) any failure of a member or member organization to comply with any on-floor or off-floor operational procedure established by the Exchange ("operational violations").

A typical on-floor oprational violation would be a specialist's failure to be properly represented at the trading post at scheduled times to answer inquiries regarding the status of orders and to resolve equity DK contested trade notices. Off-floor operational violations include the failure to submit options trade data to the Amex by specified deadlines, the failure to be represented in the Amex's options reconciliation room at scheduled times to resolve rejected options trades, the failure to provide the required options audit trail information on trade comparison input, or a specialist's failure to respond to inquiries regarding unreported PER/AMOS automated order routing market orders.

Other exchanges have similar minor disciplinary infraction systems. For example, the NYSE has implemented "Guidelines for Floor Conduct and Safety". Under the NYSE's procedures, officials are authorized to impose on-the-spot penalties against any member or floor clerical employee of a member or member organization found in violation of the Guidelines in accordance with the schedule of penalties specified in the Guidelines.

[7] Amex disagreed with the Commission's suggestion in the proposing release that the SROs engage in a joint effort to submit to the Commission a single, uniform minor rule violation plan. Amex contended that implementation of a uniform plan would limit the flexibility of an exchange to propose subsequent exemptions to the plan since any amendment would require the approval of the other participating SROs. The suggestion in the proposing release was not intended as a requirement, and as such was not incorporated into the text of the proposed amendment. While the Commission still favors the uniform approach as a matter of regulatory economy, it does not insist that the SROs devise a uniform plan.

[8] Rule 17a–1(b) requires SROs to keep records of all disciplinary actions for a period of 5 years.

[9] The CBOE's view is based on its perception that sanctions for infractions of up to $10,000 often do not involve matters of "high regulatory concern, but rather reflect application of established precedent to relatively routine violations."

infractions to $2500. Based upon the Commission's experience over the past six years in administering Rule 19d–1, the Commission believes that the amendments would not compromise the oversight responsibilities that Rule 19d–1 was intended to further. The Commission has found that separate, detailed reports of uncontested minor disciplinary violations are of limited value for purposes of Commission oversight of the enforcement and disciplinary activities of SROs, yet impose some administrative burdens on both the SRO and the Commission.

The amendments provide that SROs may file the Commission plans that would designate certain rule violations as minor and not subject to current reporting to the Commission under Rule 19d–1 (although the SRO involved would be required by other Commission rules to maintain internal records with respect to such violations for inspection purposes). After appropriate notice and opportunity for comment, the amendments provide that the Commission may, by order, declare such plans effective if it finds that such plans are consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act. The amendment expressly exempts only those categories of violations designated as minor rule violations in the plans submitted by the SROs, and only under such terms and conditions and for such time period, as the Commission deems appropriate.[10] While the amended rule gives the SROs and the Commission considerable flexibility in devising and reviewing plans, the Commission contemplates that plans filed pursuant to Rule 19d–1(c) and approved by the Commission will provide for simplified periodic reporting of minor rule violations (e.g., quarterly or on a tabular basis).[11]

The Commission does not believe that minor disciplinary violations under Rule 19d–1(c) should be automatically exempt from reporting, as suggested by the NYSE, or, as suggested by the CBOE, that all reporting requirements for SRO disciplinary actions should be modified by the Commission to conform to reporting requirements for minor disciplinary violations under Rule 19d–1(c). When the Commission adopted Rule 19d–1, it expressly considered SRO comments that reporting minor disciplinary sanctions would be of limited value for purposes of Commission review or oversight, would not serve any significant regulatory purpose, and would entail excessive costs to the SROs in light of the *de minimis* nature of the violations and sanctions. The Commission determined that the Act required SROs to give the Commission certain minimum information regarding each matter covered by Rule 19d–1 in order to permit the Commission to be adequately informed of a particular matter to determine whether the case should be called up for review on the Commission's own motion, as well as to enable the Commission to ascertain, in general, whether an SRO were adequately carrying out its responsibilities under the Act.[12]

As originally adopted, Rule 19d–1 attempted to balance the informational needs of the Commission against the reporting burdens of the SROs by imposing reduced reporting requirements for minor disciplinary sanctions. For minor infractions (including violations of rules regarding order and decorum), the rule provides that such notices need not include more than "appropriate" detail, and thus affords SROs considerable latitude for keeping reporting burdens to a minimum. In this regard, the Commission concluded that Rule 19d–1 reporting requirements were proportionate to their regulatory value to the Commission.[13]

In 1980, the Commission carved out a narrow exception to Rule 19d–1 [14] in exempting from the rule's reporting requirements uncontested disciplinary actions in which an exchange summarily imposes a fine not exceeding $500 or suspends floor privileges of a clerical employee for not more than five days for violation of regulations governing personal decorum on the floor.[15] The most important factor underlying the Commission's determination to adopt this exemption was that floor decorum violations represented the least important aspect of exchange administration and did not involve any aspect of trading, financial responsibility or other matters that the Commission regarded as vital for the protection of investors.

In adopting an additional exception to the comprehensive reporting scheme of Rule 19d–1, the Commission notes that, unlike personal decorum infractions, which are now subject to a complete exemption (for uncontested sanctions not exceeding $500), many minor rule violations that an SRO may choose to include under a Rule 19d–1(c) plan may impact upon aspects of trading, market making and other SRO activities that are necessary in fulfilling each SRO's regulatory responsibilities.[16] Therefore, the Commission believes that some reporting requirement is necessary to meet the policy and literal language of Section 19(d)(1). At the same time, the Commission is sensitive to the need to limit the reporting burdens for the SROs to the extent possible consistent with the Act. For this reason, the amendments provide the SROs and the Commission maximum flexibility to fashion reporting requirements in the SRO plan which would result in the Commission receiving the necessary information in the least burdensome way possible.

The Commission is also persuaded that some flexibility should be given the SROs in setting fines at meaningful levels for uncontested minor infractions without triggering case-by-case reporting of those sanctions. In originally proposing the $1000 ceiling, the Division was of the view that that level would be sufficient to encompass the kinds of minor violations included in minor disciplinary infraction fine systems currently implemented by the SROs, and which we anticipated would be included in SRO plans submitted under the rule. On further consideration, particularly in response to the NYSE comment letter, we are persuaded that a $2500 ceiling would better accomplish these objectives.

[10] The Commission believes that it is neither feasible nor desirable for the Commission to draft an all-inclusive rule listing all categories of minor infractions that might be exempted from the full reporting requirement. The Commission believes that the amendment provides both the SROs and the Commission the flexibility necessary to tailor the coverage of any relief as appropriate. Any approval of a plan under Rule 19d–1(c)(2) would be conditional on the Commission's retaining the authority to revoke the plan if, for example, it appeared that serious deficiencies in SRO disciplinary procedures warranted that an SRO not be relieved of current reporting requirements under Rule 19d–1(c).

[11] Although the amendment does not specifically require tabular reporting, the Commission expects that this type of reporting is likely to be most useful.

[12] *See* Securities Exchange Act Release No. 13726, 42 FR at 36411.

[13] *Id.* at 36412.

[14] Securities Exchange Act Release No. 17085 (August 22, 1980), 45 FR 57707, (August 29, 1980).

[15] Trading floor decorum violations include, among other things, running on the trading floor, using abusive language, consuming food and liquids on the floor, smoking in unauthorized areas and failing to wear an ID badge.

[16] The Commission notes that SROs are still required by Rule 17a–1(b) to keep a record of disciplinary actions for a period of five years which could be reviewed in the course of Commission oversight. The Commission believes that this recordkeeping, in conjunction with the formal reporting of contested cases and any periodic reporting resulting from the plans filed by the SROs, should afford the Commission sufficient information to adequately perform its oversight of the SROs with respect to uncontested sanctions for violations of its minor disciplinary rules.

The Commission is aware that an SRO may seek to prosecute more serious rule infractions under the abbreviated reporting structure contemplated by the amendment. We are confident, however, that this potential can be avoided by carefully screening the categories of violations included in SRO plans under the amended rule.[17]

In conclusion, the Commission believes that providing the SROs the option to submit plans detailing those minor rule violations that would be subject to abbreviated reporting requirements under Rule 19d–1(c) preserves the regulatory benefits intended by the Act, while minimizing the administrative burdens on the SROs and the Commission. The Commission, however, expressly retains the authority to restrict the categories of violations to be designated as minor rule violations and to impose any other terms or conditions on the submitted plan before approval is given. Finally, the Commission believes that it is appropriate to continue to require SROs to file notices of minor rule violations, notwithstanding their inclusion in an approved plan, in two situations: first, when a member contests a summarily imposed sanction by seeking an adjudication or otherwise exhausting his administrative remedies with the SRO, and second, when a sanction is imposed in the context of a hearing or adjudication, whether formal or otherwise.[18] Reporting under these circumstances is consistent with the purposes of Section 19(d) and will provide the Commission with information necessary to perform its oversight of the fairness of SRO enforcement and disciplinary activities.

IV. Regulatory Flexibility Act Considerations

The Chairman of the Commission has certified that the proposed amendments to Rule 19d–1(c), if adopted, would not have a significant impact on a substantial number of small entities.

[17] The Commission does not believe that the CBOE's recommended ceiling of $10,000 should be adopted. In our view, sanctions at that level rarely would involve matters of minimal regulatory concern. Instead, they either involve isolated infractions of significant rules or repeated violations of less significant rules which warrant a stringent sanction. The Division believes it is important that the Commission be informed on a timely basis of infractions in either situation.

[18] The exemption would not affect the requirement of subsection (i) of the rule that summary suspensions of memberships or summary limitations of access to services, for whatever reason, be reported to the Commission within 24 hours of the effectiveness of those sanctions. 17 CFR 240.19–d(i).

V. Effects on Competition

Section 23(a)(2) of the Act requires the Commission, in adopting rules under the Act, to consider the anti-competitive effect of such rules, if any, and to balance any impact against the regulatory benefits gained in terms of furthering the purposes of the Act. The Commission has considered the amendments to Rule 19d–1(c) in light of the standards cited in section 23(a)(2), and believes that adoption of the amendments will not impose any burden on competition not necessary or appropriate in furtherance of the Act.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

Text of Proposed Amendment

On the basis of the above discussion and analysis, the Commission is amending Part 240 of Chapter II of Title 17 of the Code of Federal Regulations by revising paragraph (c) and the introductory text of paragraph (d) of § 240.19d–1 as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

§ 240.19d–1 Notices by self-regulatory organizations of final disciplinary actions, denials, bars, or limitations respecting membership, association, participation, or access to services, and summary suspensions.

* * * * *

(c)(1) Any self-regulatory organization for which the Commission is the appropriate regulatory agency that takes any final disciplinary action with respect to any person shall promptly file a notice thereof with the Commission in accordance with paragraph (d) of this section. For the purposes of this rule, a "final disciplinary action" shall mean the imposition of any final disciplinary sanction pursuant to Section 6(b)(6), 15A(b)(7), or 17A(b)(3)(G) of the Act or other action of a self-regulatory organization which, after notice and opportunity for hearing, results in any final disposition of charges of:

(i) One or more violations of—

(A) The rules of such organization;

(B) The provisions of the Act or rules thereunder; or

(C) In the case of a municipal securities broker or dealer, the rules of the Municipal Securities Rulemaking Board;

(ii) Acts or practices constituting a statutory disqualification of a type defined in subparagraph (D) or (E) (except prior convictions) of Section 3(a)(39) of the Act; or

(iii) In the case of a proceeding by a national securities exhange or registered securities association based on Section 6(c)(3)(A)(ii), 6(c)(3)(B)(ii), 15A(g)(3)(A)(ii), or 15A(g)(3)(B)(ii) of the Act, acts or practices inconsistent with just and equitable principles of trade.

Provided, however, That in the case of a disciplinary action in which a national securities exchange imposes a fine not exceeding $1000 or suspends floor privileges of a clerical employee for not more than five days for violation of any of its regulations concerning personal decorum on a trading floor, the disposition shall not be considered "final" for purposes of this paragraph if the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies at the exchange with respect to the matter. Provided further, that this exemption from the notice requirement of this paragraph shall not be available where a decorum sanction is imposed at, or results from, a hearing on the matter.

(2) Any disciplinary action, other than a decorum sanction not deemed "final" under paragraph (c)(1) of this section, taken by a self-regulatory organization for which the Commission is the appropriate regulatory agency against any person for violation of a rule of the self-regulatory organization which has been designated as a minor rule violation pursuant to a plan or any amendment thereto filed with and declared effective by the Commission under this paragraph, shall not be considered "final" for purposes of paragraph (c)(1) of this section if the sanction imposed consists of a fine not exceeding $2500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies at the self-regulatory organization with resepect to the matter After appropriate notice of the terms of substance of the filing or a description of the subjects and issues involved and opportunity for interested persons to submit written comment, the Commission may, by order, declare such plan or amendment effective if it finds that such plan or amendment is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act. The Commission in its order may restrict the categories of violations to be designated as minor rule violations and may impose any other terms or conditions to the plan (including abbreviated reporting of selected minor rule violations) and to the period of its effectiveness which it deems necessary or appropriate in the public interest, for the protection of investors or otherwise

in furtherance of the purposes of the Act.

(d) *Contents of notice required by paragraph (c)(1).* Any notice filed pursuant to paragraph (c)(1) of this section, shall consist of the following, as appropriate:

* * * * *

VI. Statutory Basis

The proposed amendments to Rule 19d–1 are adopted under the Securities Exchange Act of 1934, 15 U.S.C. 78f, 78k–1, 78*o*, 78*o*–3, 78q, 78q–1, 78s and 78w.

Dated: June 1, 1984.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–15461 Filed 6–7–84; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 84–39]

Customs Regulations Amendment Relating to the Customs Field Organization—Bridgeport, Connecticut

AGENCY: Customs Service, Treasury.

ACTION: Final rule; Suspension of Effective Date.

SUMMARY: This document suspends until September 30, 1984, the effective date of a document which amended the Customs Regulations relating to the field organization of the Customs Service. In order to complete administrative adjustments, it has been determined necessary to suspend the effective date of changing the status of the Bridgeport, Connecticut, Customs district by placing it under the Boston, Massachusetts, Customs district. The document was published in the **Federal Register** on Friday, February 10, 1984 (49 FR 5092; FR Doc. 84–3707).

EFFECTIVE DATE: June 8, 1984.

FOR FURTHER INFORMATION CONTACT: Renee De Atley, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, (202–566–8157).

The amendments to 19 CFR Part 101 published in the **Federal Register** on Friday, February 10, 1984 (49 FR 5092; FR Doc. 84–3707) are suspended until September 30, 1984.

Dated: June 4, 1984.

Robert P. Schaffer,

Assistant Commissioner (Commercial Operations).

[FR Doc. 84–15306 Filed 6–7–84; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 73, 74, 103, 105, 131, 133, 135, 136, 137, 139, 145, 146, 150, 155, 160, 161, 163, 164, 166, 168, and 169

[Docket No. 84N–0025]

Incorporation by Reference; Updating of Text; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of the final rule that updated the incorporations by reference found in various sections of FDA's regulations. That action was taken to meet the requirements for incorporation by reference set forth in Title 1 of the Code of Federal Regulations (1 CFR Part 51).

DATE: Effective date confirmed: April 19, 1984.

FOR FURTHER INFORMATION CONTACT: Michael E. Kashtock, Center for Food Safety and Applied Nutrition (formerly Bureau of Foods) (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 30, 1984 (49 FR 3804), FDA published a proposal to amend certain of its regulations to update existing incorporations by reference to meet the requirements for incorporation by reference set forth in 1 CFR Part 51. That provision requires the filing and updating of material that has been incorporated by reference in the Code of Federal Regulations. The purpose of this requirement is to ensure the public availability and accuracy of material that has been incorporated from other sources. The agency received two comments in response to the January 30, 1984 proposal and published a final rule in the **Federal Register** of March 19, 1984 (49 FR 10087).

Any person adversely affected by the regulations was given an opportunity to file written objections to the final regulations and to request a hearing on those objections on or before April 18, 1984. No objections or requests for a hearing were received.

List of Subjects

21 CFR Part 73

Color additives, Cosmetics, Drugs, Incorporation by reference, Medical devices.

21 CFR Part 74

Color additives, Cosmetics, Drugs, Incorporation by reference; Medical devices.

21 CFR Part 103

Incorporation by reference, Quality standards.

21 CFR Part 105

Dietary foods, Food labeling, Incorporation by reference, Infant foods, Nutrition, Vitamins and minerals.

21 CFR Part 131

Cream, Food standards, Incorporation by reference, Milk, Yogurt.

21 CFR Part 133

Cheese, Food standards, Incorporation by reference.

21 CFR Part 135

Food standards, Frozen desserts, Ice cream, Incorporation by reference.

21 CFR Part 136

Bakery products, Bread, Food standards, Incorporation by reference.

21 CFR Part 137

Cereals, Flour, Food standards, Incorporation by reference.

21 CFR Part 139

Food standards, Incorporation by reference, Macaroni, Noodles.

21 CFR Part 145

Canned fruit, Food standards, Fruit, Incorporation by reference.

21 CFR Part 146

Canned fruit juice, Food standards, Fruit juices, Incorporation by reference.

21 CFR Part 150

Food standards, Fruit butter, Incorporation by reference, Jam, Jelly.

21 CFR Part 155

Canned vegetables, Food standards, Incorporation by reference, Vegetables.

21 CFR Part 160

Eggs, Food Standards, Incorporation by reference.

21 CFR Part 161

Fish, Food standards, Incorporation by reference, Seafood.

21 CFR Part 163

Cacao products, Chocolate, Food standards, Incorporation by reference.

21 CFR Part 164

Food standards, Incorporation by reference, Nuts, Peanuts.

21 CFR Part 166

Food standards, Incorporation by reference, Margarine.

21 CFR Part 168

Food standards, Incorporation by reference, Sirups, Sugars.

21 CFR Part 169

Food dressings, Food standards, Incorporation by reference, Vanilla.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701(e), 706, 72 Stat. 1784–1788 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371(e), 376)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no objections or requests for hearing were filed in response to the March 19, 1984 final rule. Accordingly, the amendments promulgated thereby became effective on April 19, 1984.

Dated: June 1, 1984.

William V. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-15349 Filed 6-7-84; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 600, 601, 606, 607, 610, 620, 630, 640, 650, 660, and 680

Biological Products; Update of Organizational References

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its biologics regulations following a reorganization to update organizational references and clarify delegations of authority regarding biological products.

EFFECTIVE DATE: June 8, 1984.

FOR FURTHER INFORMATION CONTACT: Michael L. Hooton, Center for Drugs and Biologics (formerly National Center for Drugs and Biologics) (HFN-368), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1306.

SUPPLEMENTARY INFORMATION: In the Federal Register of March 19, 1984 (49 FR 10168), FDA announced a reorganization of FDA's Center for Drugs and Biologics to abolish three existing line offices and establish five new line offices that combine similar drugs and biologics functions. To implement that reorganization and update its regulations for biological products, FDA is amending 21 CFR Parts 600 through 680. The agency essentially is delegating authority to take actions on biological products to the Office of Biologics Research and Review (HFN-800), Center for Drugs and Biologics.

Because these amendments relate to agency management and personnel and are not substantive, the rule is exempt from the notice and comment and delayed effective date requirements of section 553 (b) and (d)(3) of the Administrative Procedure Act (5 U.S.C. 553 (b) and (d)(3)).

This rule has no economic impact. Hence, in accordance with section 605(b) of the Regulatory Flexibility Act, FDA certifies that the rule will not have a significant economic impact on a substantial number of small entities. The rule is related to agency organization, management, and personnel and therefore is exempt from Executive Order 12291.

List of Subjects in 21 CFR Parts 600, 601, 606, 607, 610, 620, 630, 640, 650, 660, and 680

Biologics, Blood, Labeling, Laboratories.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), 21 CFR Subchapter F is amended in Parts 600 through 680 as follows:

PART 600—BIOLOGICAL PRODUCTS: GENERAL

1. The words " 'Bureau of Biologics' means 'Bureau of Biologics of' " are changed to read " 'Office of Biologics Research and Review' means 'Office of Biologics Research and Review, Center for Drugs and Biologics of' " in § 600.3(d); the words "Bureau of Biologics" are changed to read "Center for Drugs and Biologics" in § 600.10; the words "Bureau of Biologics" are changed to read "Office of Biologics Research and Review" wherever they appear in §§ 600.11, 600.12, 600.13, 600.15, and 600.22; and the words "Bureau Biologics" are changed to read "Office of Compliance, Center for Drugs and Biologics (HFN-355), 5600 Fishers Lane, Rockville, MD 20857" in § 600.14.

PART 601—LICENSING

2. The words "Bureau Biologics" are changed to read "Office of Biologics Research and Review" and the words "Bureau of Drugs" are changed to read "Office of Drug Research and Review" wherever they appear in § 601.2; the words "Commissioner of Food and Drugs" are changed to read "Director, Office of Biologics Research and Review" wherever they appear in §§ 601.3 and 601.4(a); the reference "§ 601.6 and" is changed to read "§ 601.6 or" in the next to the last sentence in § 601.5(b); the words "Bureua of Biologics" are changed to read "Office of Biologics Research and Review" in § 601.6(a); the word "Commissioner" is changed to read "Director, Office of Biologics Research and Review" in § 601.9(a); the words "Bureau of Biologics" are changed to read "Office of Biologics Research and Review" wherever they appear in §§ 601.12, 601.31, 601.33 and 601.51.

PART 606—CURRENT GOOD MANUFACTURING PRACTICES FOR BLOOD AND BLOOD COMPONENTS

3. The words "Bureau of Biologics" are changed to read "Center for Drugs and Biologics" in § 606.20; the words "Bureau of Biologics" are changed to read "Office of Biologics Research and Review" wherever they appear in §§ 606.100 and 606.110; and the words "Bureau of Biologics" are changed to read "Office of Compliance, Center for Drugs and Biologics" wherever they appear in § 606.170.

PART 607—ESTABLISHMENT REGISTRATION AND PRODUCT LISTING FOR MANUFACTURERS OF HUMAN BLOOD AND BLOOD PRODUCTS

4. The words "Bureau of Biologics (HFB-14), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205" are changed to read "Office of Compliance, Center for Drugs and Biologics (HFN-315), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857" wherever they appear in §§ 607.7, 607.22, and 607.37; the words "Bureau of Biologics" are changed to read "Office of Biologics Research and Review" in § 607.25; and paragraph (b) in § 607.35 is removed and paragraphs (c) and (d) are redesignated as paragraphs (b) and (c), respectively.

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

5. The words "Bureau of Biologics" are changed to read "Office of Biologics

Research and Review" and the words "Bureau of Drugs" are changed to read "Office of Drug Research and Review" wherever they appear in §§ 610.2, 610.11, 610.12 (also the words "National Center for Drugs and Biologics" are changed to read "Office of Biologics Research and Review" in § 610.12), 610.15, 610.20, 610.40 (also the words "Office of Biologics (HFN–800), National Center for Drugs and Biologics" are changed to read "Office of Biologics Research and Review (HFN–800)" in § 610.40), and 610.53.

PART 620—ADDITIONAL STANDARDS FOR BACTERIAL PRODUCTS

6. The words "Office of Biologics" and "Bureau of Biologics" are changed to read "Office of Biologics Research and Review" and the words "Commissioner of Food and Drugs" are changed to "Director, Office of Biologics Research and Review" wherever they appear in §§ 620.6, 620.12, 620.13, 620.14, 620.21, 620.22, 620.24, 620.31, 620.32, 620.35, 620.43, 620.44, 620.45, and 620.48.

PART 630—ADDITIONAL STANDARDS FOR VIRAL VACCINES

7. The words "Commissioner of Food and Drugs" are changed to read "Director, Office of Biologics Research and Review" and the words "Bureau of Biologics" or "Office of Biologics" are changed to read "Office of Biologics Research and Review" wherever they appear in §§ 630.1, 630.2, 630.3, 630.4, 630.5, 630.10, 630.12, 630.13, 630.14, 630.17, 630.30, 630.33, 630.36, 630.50, 630.53, 630.56, 630.60, 630.63, 630.66, 630.70, 630.72, 630.74, 630.75, 630.81, 630.83, and 630.86.

PART 640—ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS

8. The words "Commissioner of Food and Drugs" are changed to read "Director, Office of Biologics Research and Review" and the words "Bureau of Biologics" are changed to read "Office of Biologics Research and Review" wherever they appear in §§ 640.2, 640.3, 640.4, 640.6, 640.17, 640.21, 640.22, 640.25, 640.55, 640.56, 640.64, 640.66, 640.71, 640.73, 640.74, 640.75, 640.82, 640.92, 640.101, 640.104, 640.111, and 640.112.

PART 650—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR DERMAL TESTS

9. The words "Bureau of Biologics" are changed to read "Office of Biologics Research and Review" and the words "Commissioner of Food and Drugs" are changed to read "Director, Office of Biologics Research and Review" wherever they appear in §§ 650.6 and 650.11.

PART 660—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR LABORATORY TESTS

10. The words "Bureau of Biologics" and "Office of Biologics" are changed to read "Office of Biologics Research and Review" wherever they appear in §§ 660.3, 660.5, 660.6, 660.21, 660.22, 660.23, 660.26, 660.28, 660.29, 660.32, 660.36, 660.42, 660.44, 660.46, 660.101, 660.102, 660.103, and 660.105.

PART 680—ADDITIONAL STANDARDS FOR MISCELLANEOUS PRODUCTS

11. The words "Bureau of Biologics" and "Office of Biologics" are changed to read "Office of Biologics Research and Review" wherever they appear in §§ 680.4, 680.11, 680.12, 680.21, 680.24, and 680.26.

Effective date. June 8, 1984.

(Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262))

Dated: June 1, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84-15350 Filed 6-7-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Prednisolone Sodium Phosphate Injection, Sterile; Removal of Regulation

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revoking that portion of the animal drug regulations reflecting approval of a new animal drug application (NADA) providing for intravenous use of prednisolone sodium phosphate injection for treating horses and dogs when an adrenal glucocorticoid and/or anti-inflammatory effect is required. The sponsor, Burns-Biotec Laboratories, Inc., requested the withdrawal of approval.

EFFECTIVE DATE: June 18, 1984.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Center for Veterinary Medicine (formerly Bureau of Veterinary Medicine) (HFV–214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1846.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, approval of NADA 97–566 which provides for use in horses and dogs of Burns-Biotec Laboratories' Cortisate-10 (prednisolone sodium phosphate) Injection is withdrawn. This document amends the animal drug regulations to revoke that portion of 21 CFR 522.1883 which reflects approval of the NADA.

List of Subjects in 21 CFR Part 522

Animal drugs, Injectable.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.1883 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), Part 522 is amended in § 522.1883 *Prednisolone sodium phosphate injection, sterile* by removing paragraph (b) and marking it "Reserved."

Effective date: June 18, 1984.

(Sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e)))

Dated: June 4, 1984.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 84-15346 Filed 6-7-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

Approval of Permanent Program Amendment From the State of Kansas Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of a program amendment submitted by Kansas as an amendment to the State's permanent regulatory program (hereinafter referred to as the Kansas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA)).

The amendment consists of changes to the Kansas statute to provide for the collection of permit fees from coal operators and a change to the Kansas regulations to provide public notice for meetings of the Mined Land Conservation and Reclamation Board (MLCRB).

Kansas submitted the proposed program amendment on March 16, 1984. After providing opportunity for public comment and conducting a thorough review of the program amendment, the Director has determined that the amendment meets the requirements of SMCRA and the Federal regulations and is approving it. The rules codifying decisions concerning the Kansas program are being amended to implement this action.

EFFECTIVE DATE: June 8, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Rieke, Director, Kansas City Field Office, Office of Surface Mining, Fifth Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106; Telephone: (816) 374–5527.

SUPPLEMENTARY INFORMATION:

I. Background

The Kansas program was conditionally approved by the Secretary of the Interior on January 21, 1981 (46 FR 5892). Information pertinent to the general background, revisions, modifications, and amendments to the Kansas program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Kansas program can be found in the January 21, 1981 **Federal Register**.

II. Submission of Revisions

By letter dated March 16, 1984, Kansas submitted proposed amendments consisting of:

(1) Senate Bill 812 amending K.S.A. 49–420 to provide for the disposition and investment of moneys in the mined-land reclamation fund;

(2) Senate Bill 816 amending K.S.A. 49–406 to establish additional permit fees for coal operators; and

(3) Kansas regulation K.A.R. 47–1–10 to specify public notice requirements for meetings of the Mined Land Conservation and Reclamation Board.

On April 18, 1984, OSM published a notice in the **Federal Register** announcing receipt of the amendment and inviting public comment on whether the proposed amendment was no less effective than the Federal regulations (49 FR 15228). The public comment period ended May 18, 1984. A public hearing scheduled for May 15, 1984, was not held because no one expressed a desire to present testimony.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendment submitted by Kansas on March 16, 1984, meets the requirements of SMCRA and 30 CFR Chapter VII, as discussed below.

A. Senate Bill 812

OSM was informed on May 2, 1984, that Senate Bill 812 to amend K.S.A. 49–420 was not passed by the Kansas legislature. Therefore, the Director considers this part of the amendment to be withdrawn and is taking no further action on it.

B. Senate Bill 816

Senate Bill 816 amends K.S.A. 49–406(g) to authorize assessment of a per ton fee for administering and enforcing the State program. The amendment specifies that the fee shall be set by the MLCRB at a rate of not less than three cents and not more than ten cents per ton of coal extracted each calendar year, and shall be payable on a quarterly basis. Section 49–406 already authorizes the assessment of a basic permit fee of $50, plus an additional amount as may be necessary to administer and enforce the State's Act, which must be paid prior to issuance of the permit.

Section 507(a) of SMCRA provides that a fee shall accompany a permit application, payable in an amount and by procedures to be determined by the regulatory authority. The fee may not exceed the actual or anticipated cost of reviewing, administering and enforcing the permit, and the regulatory authority may develop procedures to enable the fee to be paid over the term of the permit. The Federal regulations at 30 CFR 777.17 reiterate the statutory language of Section 507(a). The Director, therefore, finds that the Kansas provision allowing the State to assess fees on the basis of production and allow the fee to be paid as coal is produced, is consistent with Section 507(a).

The Director further finds that the provision authorizing the MLCRB to establish the fee between three and ten cents per ton, provides the necessary discretion to ensure that the fee will not exceed the actual or anticipated cost of reviewing, administering or enforcing the permit, as specified in Section 507(a) of SMCRA.

C. Kansas regulation K.A.R. 47–1–10

Kansas has added a new regulation K.A.R. 47–1–10 *General notice requirements*, for notice of MLCRB meetings. The regulation provides that notice of regularly scheduled meetings shall be published in the Kansas Register and a newspaper of general circulation in the locality of the Board's meeting place, at least 10 days prior to the date of the meeting. The rule further provides that notice of special Board meetings shall comply with the notice for regularly scheduled meetings unless time does not permit, in which case notice shall be published as soon as possible in a newspaper of general circulation in the locality of the meeting place for that special Board meeting. The Director finds the amendment to be consistent with SMCRA and the Federal regulations.

IV. Public Comment

No public comments were received. Acknowledgments were received from the following Federal agencies:

Department of the Interior—Fish and Wildlife Service

Environmental Protection Agency

The disclosure of Federal agency comments is made pursuant to Section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(1)(i).

V. Director's Decision

The Director, based on the above findings, is approving the March 16, 1984 amendment to the Kansas program. The Director is amending Part 916 of 30 CFR Chapter VII to reflect approval of the above State program modification.

VI. Procedural Requirements

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Section 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements

established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 916

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: June 4, 1984.

J. Lisle Reed.

Acting Director, Office of Surface Mining.

PART 916—KANSAS

30 CFR 916.15 is amended by adding a new paragraph (c) as follows:

§ 916.15 Approval of regulatory program amendments.

* * * * *

(c) The following amendments submitted to OSM on March 16, 1984, are approved effective June 8, 1984.

(1) Amended section 49–406 of the MLCRA, adopted May 10, 1984;

(2) Kansas regulation K.A.R. 47–1–10.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

[FR Doc. 84–15435 Filed 6–7–84; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 944

Extension of Deadline for Submission of Program; Amendments to the Utah Permanent Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing its decision to extend the deadline for Utah to (1) promulgate rules governing the training, examination and certification of blasters and (2) to develop and adopt a program to examine and certify all persons who are directly responsible for the use of explosives in a surface coal mining operation. On March 20, 1984, Utah requested an extension until April 4, 1985, to develop a blaster certification program. All States with regulatory programs approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) are required to develop and adopt a blaster certification program by March 4, 1984. Section 850.12(b) of OSM's regulations provides that the Director, OSM, may approve an extension of time for a State to develop and adopt a program upon a demonstration of good cause. In accordance with the State's request, the Director is granting the State an extension of time to submit a proposed blaster certification program. The extension granted is for twelve months.

EFFECTIVE DATE: June 8, 1984.

FOR FURTHER INFORMATION CONTACT: Mr. Bob Hagen, Director, Albuquerque Field Office, Office of Surface Mining, 219 Central Avenue NW., Albuquerque, New Mexico 87102; Telephone: (505) 766–1486.

SUPPLEMENTARY INFORMATION: On March 4, 1983, OSM issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Chapter M (48 FR 9486). Section 850.12 of these regulations stipulates that the regulatory authority in each State with an approved program under SMCRA shall develop and adopt a program to examine and certify all persons who are directly responsible for the use of explosives in a surface coal mining operation within 12 months after approval of a State program or within 12 months after publication date of OSM's rule at 30 CFR Part 850, whichever is later. In the case of Utah's program, the applicable date is 12 months after publication date of OSM's rule, or March 4, 1984.

On March 20, 1984, the State of Utah submitted to OSM a request for an extension until April 4, 1985, to submit final rules addressing the blaster certification program. The Utah Rules Revision Committee is presently studying rule and statutory changes needed to bring Utah's rules into compliance with the recently revised Federal rules. The Committee is planning to formulate a blaster certification program together with other revisions to the Federal rules. The State indicated that its current certification program, which is administered through the Utah Industrial Commission, should provide the necessary protection until the State develops a program under its approved surface mining regulatory program.

In the April 23, 1984 **Federal Register** (49 FR 17040), OSM proposed a thirteen month extension for Utah to submit to OSM a proposed blaster training program. Public comment on this proposal was sought for 30 days ending May 23, 1984. No comments were submitted to OSM during the comment period.

Director's Determination

In accordance with the State's request, the Director has decided to extend the deadline for Utah to submit a proposed blaster training program. The Director is granting the State an extension of 12 months. This extension will allow the Utah Division of Oil, Gas and Mining an opportunity to coordinate the development of the program with the development of other proposed regulatory modifications to the Utah program which are necessary as a result of changes to the Federal regulations.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 944

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: June 5, 1984.

J. Lisle Reed,

Acting Director, Office of Surface Mining.

PART 944—UTAH

30 CFR Part 944 is amended by adding a new § 944.16 to read as follows:

§ 944.16 Required program amendments.

Pursuant to 30 CFR 732.17 Utah is required to submit for OSM's approval the following proposed program amendments by the dates specified.

(a) By June 10, 1985, Utah shall submit for OSM's approval:

(1) Rules governing the training, examination and certification of blasters and

(2) A program to examine and certify all persons who are directly responsible for the use of explosives in surface coal mining operation.

[FR Doc. 84-15433 Filed 6-7-84; 8:45 am]
BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[FRL-2592-8]

Subdelegation of Authority to the Oklahoma City-County Health Department for the New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Programs

AGENCY: Environmental Protection Agency (EPA), Region 6.

ACTION: Final rulemaking.

SUMMARY: The Oklahoma State Department of Health (OSDH) has subdelegated the authority to implement and enforce the NSPS and NESHAP programs in Oklahoma City and County to the Oklahoma City-County Health Department (OCCHD). Except as specifically limited, all of the authority and responsibilities delegated to the OSDH by EPA, which are found in 40 CFR Parts 60 and 61, are subdelegated to the OCCHD. Any such authority and responsibilities may be redelegated by the OCCHD to its staff.

EFFECTIVE DATE: August 1, 1983.

ADDRESS: A copy of the OCCHD/OSDH agreement for this subdelegation of authority is available for public inspection at the Air Branch, Air and Waste Management Division, Environmental Protection Agency, Region 6, InterFirst Two Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: Donna M. Ascenzi, Air Branch, EPA, address above; Telephone (214) 767-9873.

SUPPLEMENTARY INFORMATION: On June 10, 1983, EPA delegated the additional authority to the OSDH to subdelegate the authority for the NSPS and NESHAP programs to local air pollution control agencies in Oklahoma. Effective on August 1, 1983, this authority was granted to the OCCHD to administer the requirements for the NSPS and NESHAP programs specified in 40 CFR Parts 60 and 61, as delegated to the OSDH by EPA.

In April 1983, the OCCHD requested the OSDH to delegate to them the authority to implement and enforce the NSPS and NESHAP programs as specified under 40 CFR Parts 60 and 61 for sources located in Oklahoma County and all sources located in Canadian County that are in the Oklahoma City limits. On August 1, 1983, the OSDH approved subdelegating this authority to the OCCHD.

This notice will have no effect on the National Ambient Air Quality Standards.

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

Sources locating in Oklahoma City and County should submit all information pursuant to 40 CFR Parts 60 and 61 directly to the Oklahoma City-County Health Department, 1000 Northeast 10th Street, Oklahoma City, Oklahoma 73152.

List of Subjects

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, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators, Fiberglass insulation, Synthetic fibers.

40 CFR Part 61

Asbestos, Beryllium, Hazardous substances, Mercury, Reporting and recordkeeping requirements, Vinyl chloride.

Dated: May 10, 1984.

Dick Whittington,

Regional Administrator.

PART 60—NEW SOURCE PERFORMANCE STANDARDS

Part 60 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Section 60.4 is amended by revising paragraph (b)(LL)(i) to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

(LL) * * *

(i) Oklahoma City and County: Oklahoma City-County Health Department, 1000 Northeast 10th Street, Oklahoma City, Oklahoma 73152.

PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

Part 61 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Section 61.04 is amended by revising paragraph (b)(LL)(i) to read as follows:

§ 61.04 Address.

* * * * *

(b) * * *

(LL) * * *

(i) Oklahoma City and County: Oklahoma City-County Health Department, 1000 Northeast 10th Street, Oklahoma City, Oklahoma 73152.

(Clean Air Act, secs. 111 and 112, 42 U.S.C. 7411 and 7412)

[FR Doc. 84-13787 Filed 6-7-84; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 271

[OSWER-FRL 2604-8]

Delaware; Decision on Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Determination on Application of Delaware for Final Authorization.

SUMMARY: Delaware has applied for final authorization under the Resource Conservation and Recovery Act (RCRA). EPA received Delaware's application, reached a final determination that Delaware's hazardous waste program satisfied all of the requirements necessary to qualify for final authorization, and granted final authorization on December 14, 1983. EPA subsequently was informed that many of Delaware's implementing regulations were not in effect on that date. These regulations are now in effect. Delaware now satisfies all RCRA final authorization requirements. Thus, EPA is granting final authorization to Delaware to operate its program in lieu of the Federal program.

DATES: These regulations shall be promulgated for purposes of judicial review at 1:00 p.m. eastern time on June 22, 1984. They shall become effective on June 22, 1984.

FOR FURTHER INFORMATION CONTACT: Wayne S. Naylor, State Programs, Section (3AW31), U.S. EPA, Region III, 6th & Walnut Streets, Philadelphia, PA 19106, Telephone: (215) 597–7239.

SUPPLEMENTARY INFORMATION: Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows the Environmental Protection Agency (EPA) to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program. To qualify for final authorization, a State's program must (1) be "equivalent" to the Federal program, (2) be consistent with the Federal program and other authorized State programs, and (3) provide for adequate enforcement (Section 3006(b) of RCRA, 42 U.S.C. 6926(b)).

On August 1, 1983, Delaware submitted a complete application for final authorization. On October 14, 1983, EPA published for comment a tentative decision to grant Delaware final authorization. 48 FR 46824 (October 14, 1983). No comments were received by EPA on its tentative decision, and on December 14, 1983, EPA granted Delaware final authorization. 48 FR 55570 (December 14, 1983). EPA subsequently learned that many of Delaware's hazardous waste regulations were not in effect as of the date the program was authorized because certain State officials had not received notice of these regulations, as required by Delaware law. This notice now has been given and the regulations are in effect. Due to concern that the original authorization may be ineffective (see 40 CFR 271.7(a)), EPA has decided to authorize Delaware again.

The Delaware program is now the same as when it was originally reviewed by EPA, except that all the State's regulations are now effective. Thus, there are no issues raised by today's action which have not already been open to comment. The only issue is the past ineffectiveness of Delaware's regulations. EPA is aware of the problem and it has been cured. Accordingly, the Agency finds that prior notice of EPA's action and an opportunity to comment on it are unnecessary.

I conclude that the Delaware application for final authorization now meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Delaware is granted final authorization to operate its hazardous waste program.

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 provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization effectively suspends the applicability of certain Federal regulations in favor of Delaware's program, thereby eliminating duplicative requirements for handlers of hazardous in Delaware. It does not impose any new burdens on small entities. The 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, Intergovernmental relatives, Penalties, Confidential business information.

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

Dated: June 1, 1984.

Thomas P. Eichler,

Regional Administrator.

[FR Doc. 84–15405 Filed 6–7–84; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 5400

[Circular No. 2545]

Advertised Sales: General; Amendment to Procedures

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking will enable the Bureau of Land Management to conduct competitive timber sales without the Bureau acquiring access to the timber. Previously, such sales were normally a negotiated sale involving a single purchaser.

EFFECTIVE DATE: July 9, 1984.

ADDRESS: Any suggestions or inquiries should be sent to: Director (230), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Charles Frost (202) 653–8864.

SUPPLEMENTARY INFORMATION: A proposed rulemaking to amend the regulations governing the competitive sale of timber from lands administered by the Bureau of Land Management was published in the **Federal Register** on December 19, 1983 (48 FR 56090). This proposed rulemaking would amend the existing regulations in 43 CFR, Group 5400, Advertised Sales: General, to allow the authorized officer, when he/she determines there is competitive interest in the sale, to sell competitively timber which is normally sold by negotiation because of lack of Government access.

The proposed rulemaking received four responses, all of which were from the timber industry and timber industry trade associations. All of these comments were given careful consideration during the development of the final rulemaking.

Three of the responses were favorable to the proposed change; however, two expressed concern that the proposed rule clearly states that lack of access is the exception rather than the normal rule. One response was opposed to the Bureau of Land Management offering timber for sale without guaranteed access for all potential bidders.

The rule specifically applies only to "timber that would normally be sold by *negotiated sale* because of lack of legal access." The Bureau of Land Management has identified a need to offer timber without access competitively when the authorized officer determines that there is competitive interest in the sale; otherwise, the sale would be negotiated. Therefore, the language of the proposed rule is incorporated in this final rulemaking.

The principal author of this final rulemaking is Charles Frost, Division of Forestry, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

List of Subjects in 43 CFR Part 5400

Administrative practice and procedure, Forest and forest products, Public lands, Reporting and recordkeeping requirements.

Under the authority of the Act of August 28, 1937 (43 U.S.C. 1181(a)), and the Act of July 31, 1947 (30 U.S.C. 601 et seq.), Part 5400, Title 43 of the Code of

Federal Regulations, is amended as set forth below.

PART 5400—[AMENDED]

§ 5401.0–6 [Amended]

Section 5401.0–6(a) is amended by revising the third sentence and adding a fourth sentence to read:

§ 5401.0–6 Policy

(a) * * * Competitive sales shall be offered by the authorized officer when access to the sale area is available to anyone who is qualified to bid. Further, timber that would normally be sold by negotiated sale because of lack of legal access may be sold competitively without access if the authorized officer determines that there is competitive interest in such a sale.

* * * * *

Dated: May 21, 1984.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 84–15419 Filed 6–7–84: 8:45 am]

BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below.

These modified elevations will be used in calculating flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

DATES: The effective dates for these modified base flood elevations are indicated in the following table and amend the Flood Insurance Rate Map (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Brian R. Mrazik, Ph. D., Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of modified flood elevations for each community listed. These modified elevations have been published in newspaper(s) of local circulation and ninety (90) days have elapsed since that publication. The Administrator has resolved any appeals resulting from this notification.

Numerous changes made in the base (100-year) flood elevations on the FIRM for each community make it administratively infeasible to publish in this notice all of the changes contained on the maps. However, this rule includes the address of the Chief Executive Officer of the community, where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 65.

For rating purposes, the revised community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified base flood elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

The changes in the base flood elevations are in accordance with 44 CFR 65.4.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance—flood plains.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Montana: Cascade	Unincorporated Areas FEMA–6580.	*Great Falls Tribune*, Jan. 3, and Jan. 10, 1984.	Chairman Jack T. Whitaker, Board of Commissioners, Cascade County, Courthouse Annex, Room 111, Great Falls, Mont. 59401.	Dec. 28, 1983	300008B
Montana: Cascade	Great Falls (city of) FEMA–6588.	*Great Falls Tribune*, Jan. 25, and Feb. 1, 1984.	Hon. Robert Worthington, Mayor, city of Great Falls, Civic Center Bldg., P.O. Box 5021, Great Falls, Mont. 59401.	Jan. 20, 1984	300010C
Oklahoma: Oklahoma	Edmond, city (FEMA Docket No. 6580).	*Edmond Sun*, Nov. 25 and Dec. 2, 1983.	Hon. Carl F. Reherman, Mayor of Edmond, P.O. Box 1260, Edmond, Okla. 73034.	Nov. 17, 1983, letter of map revision.	400252A
Oklahoma: Canadian, Cleveland, McClain, Oklahoma, Pottawatomie.	Oklahoma City, (city) (FEMA Docket No. 6580).	*Oklahoma Advertiser*, Jan. 6 and Jan. 13, 1984.	Hon. Andrew Coats, Mayor of Oklahoma City, 200 North Walker, Suite 302, Oklahoma City, OK 73102.	Dec. 29, 1983, letter of map revisoin.	405378C
Oklahoma: Osage, Rogers, Tulsa (FEMA Docket No. 6595).	Tulsa, city	*Tulsa Daily Business, Journal and Legal Record*, Feb. 1, and 8, 1984.	Hon. James M. Inhofe, Mayor of Tulsa, City Hall, 200 Civic Center, Tulsa, Oklahoma 74103.	Jan. 30, 1984 letter of map revision.	405381E
Pa: Chester (FEMA Docket No. 6595).	Township of Caln	*Coatesville Record* Feb. 14, and 21, 1984.	Hon. Charles O'Donnell, President of the Caln, Board of Commissioners, P.O. Box 149, Thorndale, Pa 19372.	Feb. 7, 1984 letter of map revision.	422247B

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Texas: Tarrant	City of Benbrook (FEMA Docket No. 6580).	*Fort Worth Star Telegram*, Nov. 28, and Dec. 5, 1983.	Hon. Jerry Dunn, Mayor of Benbrook, P.O. Box 26569, Benbrook, TX 76126.	Oct. 27, 1983, letter of map revision.	480586B
Texas: Dallas	Irving, City (FEMA Docket No. 6580).	*Daily News*, Nov. 25, and Dec. 2, 1983.	Hon. Bobby Joe Raper, Mayor of Irving, P.O. Box 2288, Irving, TX 75061.	Nov. 17, 1983, letter of map revision.	480180A
Texas: Dallas and Tarrant	Grand Prairie, City (FEMA Docket No. 6580).	*Grand Prairie Daily News*, Jan. 4, and 11, 1984.	Hon. Anne Gresham, Mayor of Grand Prairie, P.O. Box 11, Grand Prairie, TX 75051.	Dec. 28, 1983, letter of map revision.	485472B
Texas: Tarrant	North Richland Hills, City (FEMA Docket No. 6580).	*Mid-Cities Daily News*, Jan. 5, and 12, 1984.	Hon. Dick Faram, Mayor of North Richland Hills, P.O. Box 18609, North Richland Hills, TX 76118.	Dec. 12, 1983, letter of map revision.	480607B
Texas: Collin (FEMA Docket No. 6595).	Plano, City	*Plano Star Courier*, Feb. 15, and 22, 1984.	Hon. Jack Harvard, Mayor of Plano, P.O. Box 358, Plano, Texas 75074.	Feb. 8, 1984 letter of map revision.	480140A
Texas: Wichita (FEMA Docket No. 6595).	Wichita Falls, City	*Record News*, Feb. 14, and 21, 1984.	Hon. Gary Cook, Mayor of Wichita Falls, P.O. Box 1431, 1300 Seventh Street, Wichita Falls, Texas 76307.	Feb. 6, 1984, letter of map revision.	480662C

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to the Administrator)

Issued: May 31, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-15386 Filed 6-7-84; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-1128; RM-4562]

Television Broadcast Station in Venice, Florida; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF TV Channel 62 to Venice, Florida, as that community's first local television assignment, at the request of Holiday Group, Inc.

EFFECTIVE DATE: August 6, 1984.

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

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Venice, Florida); MM Docket No. 83–1128, RM–4562.

Adopted: May 15, 1984.

Released: May 29, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration a Notice of Proposed Rule Making, 48 FR 50584, published November 2, 1983, proposing the assignment of UHF TV Channel 62 to Venice, Florida, as that community's first local television channel. This proceeding was initiated at the request of Holiday Group, Inc. ("petitioner"), which has submitted comments reiterating its intention to apply for the channel, if assigned. No other comments were received.

2. Venice (population 12,153),[1] in Sarasota County (population 202,251), is located on the west coast of Florida, approximately 92 kilometers (60 miles) south of Tampa, Florida. The channel can be assigned in compliance with the Commission's minimum distance separation and other technical requirements.

3. In view of the interest expressed by the petitioner in providing Venice with its first television service, we believe the assignment would be in the public interest. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 061, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective August 6, 1984, the Television Table of Assignments, § 73.606(b) of the Rules, is amended with respect to the community listed below, to read as follows:

City	Channel No.
Venice, Fla	62

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

[1] Population figures are derived from the 1980 U.S. Census.

5. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-15362 Filed 6-7-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-496; RM4384]

TV Broadcast Station in Cadillac, Michigan; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 33 to Cadillac, Michigan, as that community's second local commercial television broadcast service, in response to a petition filed by GRK Productions.

EFFECTIVE DATE: August 6, 1984.

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.

Report and Order (Proceeding Terminated)

In the mattter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Cadillac, Michigan); MM Docket No. 83–496, RM–4384.

Adopted: May 15, 1984.

Released: May 30, 1984.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is the *Notice of Proposed Rule Making*, 48 FR 27574, published June 16, 1983, which proposed the assignment of UHF television Channel 33 to Cadillac, Michigan, as that community's second commercial television assignment, in response to a petition filed by GRK Productions ("petitioner"). Supporting comments were filed by petitioner reaffirming its intention to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Cadillac (population 10,199),[1] the seat of Wexford County (population 25,102), is located approximately 280 kilometers (175 miles) northwest of Detroit, Michigan. Currently, commercial Channel 9 (Station WWTV(TV) and noncommercial educational Channel *27 (Station WCMB(TV)) are licensed to the community.

3. In light of the fact that the proposed assignment could provide a second commercial television service to Cadillac, we believe the public interest would be served by assigning Channel 33 thereto. It should be noted that although the *Notice* proposed the assignment of Channel 33 to Cadillac with a "plus" offset, it will be changed herein to a "zero" offset to avoid short-spacing to a subsequent Canadian proposal to assign channel 33+ to Goderich, Ontario.

4. Canadian concurrence in the proposal has been obtained.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.202(b) and 0.283 of the Commission's Rules, it is ordered, that effective August 6, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended with respect to the community listed below, as follows:

City	Channel No.
Cadillac, Mich	9, *27, 33.

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

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

[1]Population figures were extracted from the 1980 U.S. Census.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-15364 Filed 6-7-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-611; RM-4437]

TV Broadcast Station in Union City, Tennessee; Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 41 to Union City, Tennessee, as that community's first television broadcast service, in response to a petition filed by David Critchlow.

DATE: August 6, 1984.

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.

Report and Order

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Union City, Tennessee); MM Docket No. 83-611, RM-4437.

Adopted: May 15, 1984.
Released: May 30, 1984.

By the Chief, Policy and Rules Division.

1. Before the Commission is the *Notice of Proposed Rule Making*, 48 FR 33918, published July 26, 1983, issued in response to a petition filed by David Critchlow ("petitioner"), proposing the assignment of UHF television Channel 41 to Union City, Tennessee, as that community's first local television service. Supporting comments were filed by petitioner in which he reiterated his intention to apply for the Channel, if assigned. No oppositions to the proposal were received.

2. Union City (population 10,436),[1] the seat of Obion County (population 32,781), is located in northwestern Tennessee, approximately 170 kilometers (105 miles) northeast of Memphis.

[1]Population figures were extracted from the 1980 U.S. Census.

3. In view of the fact that the proposed assignment could provide a first local television service to Union City, we believe the public interest would be served by assigning Channel 41 as requested. The channel can be assigned to Union City consistent with the applicable minimum distance separation requirements of Sections 73.610 and 73.698 of the Commission's Rules.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(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 August 6, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended to include the community listed below, as follows:

City	Channel No.
Union City, Tenn	41

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

6. For further information concerning the above, contact Nancy V. Joyner, 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. 84-15365 Filed 6-7-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-604; RM-4423]

FM Broadcast Station in Brian Head, Utah; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein, at the request of Liberty Trading Company, assigns Channel 251 to Brian Head, Utah, as the community's first FM channel.

EFFECTIVE DATE: August 6, 1984.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Brian Head, Utah); MM Docket No. 83–604, RM–4423.

Adopted: May 15, 1984.
Released: May 29, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 48 FR 29922, published June 29, 1983, proposing the assignment of Channel 251 to Brian Head, Utah, as that community's first FM broadcast channel. The *Notice* was adopted in response to a petition filed by Liberty Trading Company ("petitioner"). Petitioner filed a statement of continuing interest reaffirming its intention to apply for the channel, if assigned. No comments in opposition to the proposal were received.

2. The Commission believes that the public interest would be served by the assignment of FM Channel 251 to Brian Head, Utah, in order to provide a first FM service to the community. The assignment can be made in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(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 August 6, 1984, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended for the following city:

City	Channel No.
Brian Head, Utah	251

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

5. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–15360 Filed 6–7–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83–838; RM–4452]

FM Broadcast Station in Staunton, Virginia; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 232A to Staunton, Virginia, as that community's third local allotment, at the request of Ogden Broadcasting of Virginia, Inc.

EFFECTIVE DATE: August 6, 1984.

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

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, 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 Section 73.202(b), Table of Assignments, FM Broadcast Stations (Staunton, Virginia); MM Docket No. 83–838, RM–4452.

Adopted: May 15, 1984.
Released: May 29, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposed Rule Making*, 48 FR 37492, published August 18, 1983, proposing the assignment of FM Channel 232A to Staunton, Virginia, as that community's third FM allotment, at the request of Ogden Broadcasting of Virginia, Inc. ("petitioner"). The petitioner has filed comments reiterating its intention to apply for the channel, if assigned.

2. The channel can be assigned in compliance with the Commission's minimum distance separation and other technical requirements. Staunton is located within the limits of the National Radio Astronomy Observation Quiet Zone. Comments were received from the National Radio Astronomy Observatory and Naval Research Laboratory expressing their willingness to cooperate with all applicants for Channel 232A at Staunton, if it is assigned.

3. We believe the public interest would be served by the assignment of a third local FM allotment to Staunton. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(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 August 6, 1984, the FM Table of Assignments, Section 73.202(b) of the Rules, IS AMENDED with respect to the community listed below, to read as follows:

City	Channel No.
Staunton, Va	228A, and 232A, 259.

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

5. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–15361 Filed 6–7–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83–418; RM–4302]

Television Broadcast Station in Green Bay, Wisconsin; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 44 to Green Bay, Wisconsin, as that community's sixth television broadcast service, in response to a petition filed by David Allen Crabtree.

EFFECTIVE DATE: August 6, 1984.

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.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Green Bay, Wisconsin); MM Docket No. 83–418, RM–4302.

Adopted: May 15, 1984.
Released: May 30, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 48 FR 23868, published May 27, 1983, proposing the assignment of UHF television Channel 44 to Green Bay, Wisconsin, as that community's

sixth television broadcast service, in response to a request from David Allen Crabtree ("petitioner"). Supporting comments were filed by petitioner reiterating his intention to apply for the channel, if assigned. Additionally, comments and a counterproposal were filed by Iron River Telecasting Company ("IRTC"), which failed to elicit a response from the petitioner.

2. Green Bay (population 87,899),[1] the seat of Brown County (population 175,280), is located on Green Bay, an arm of Lake Michigan, approximately 165 kilometers (109 miles) north of Milwaukee, Wisconsin. Currently, Green Bay is served by commercial television Stations WBAY-TV (Ch. 2+), WFRV-TV (Ch. 5+), WLUK-TV (Ch. 11+), and WLRE(TV) (Ch. 26+), as well as noncommercial education Station WPNE(TV) (Ch. *38).

3. In its comments and counterproposal, IRTC requested that UHF television Channel 44 be assigned to Iron River, Michigan, instead of to Green Bay, Wisconsin, in order to provide that community with its first television broadcast service. However, in order to avoid a conflict, we have determined that Channel 23 can be assigned to Iron River consistent with the minimum spacing requirements, and have treated the request as a separate proposal. See MM Docket No. 83-1204 (48 FR 52337, published November 17, 1983).

4. In view of the above, and having found no policy objections to the proposal, we believe the public interest would be served by assigning UHF television Channel 44 to Green Bay, Wisconsin, since it could provide a sixth television broadcast service to the community.

5. As indicated in the *Notice*, Channel 44 can be assigned to Green Bay consistent with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules.

6. Since this proposal is within 400 kilometers (250 miles) of the common U.S.-Canadian border, the Commission has obtained the concurrence of the Canadian government.

7. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(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 August 6, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended with respect to the community listed below, as follows:

[1] Population figures were extracted from the 1980 U.S. Census.

City	Channel No.
Green Bay, Wisconsin	2+, 5+, 11+, 26+, *38, 44+.

8. It is further ordered, that this proceeding is terminated.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-15363 Filed 6-7-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-599; RM-4410]

TV Broadcast Stations in Carroll, Iowa; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF TV Channel 52 to Carroll, Iowa, as its third television assignment, at the request of Michael D. Pauley. The assignment could provide Carroll with earlier activation of a first local commercial television operation.

EFFECTIVE DATE: August 6, 1984.

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

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Carroll, Iowa); MM Docket No. 83-599, RM-4410.

Adopted: May 15, 1984.
Released: May 29, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposed Rule Making*, 48 FR 30163, published June 30, 1983, which was issued at the request of Michael D. Pauley, ("petitioner"), President, Television Development Association of Iowa, requesting the assignment of UHF TV Channel 52 to Carroll, Iowa. Petitioner reiterated his intention to apply for the channel, if assigned. Comments in support were filed by William B. Newbrough and Jeffrey E. Groves, members of the Television Development Association of Iowa.

2. Carroll currently has two television assignments, Channel *18, reserved for noncommercial educational use, and Channel 30. Petitioner had submitted an application (BPCT-821203KE) for use of Channel 30 under the name of Television Development Association of Iowa but the transmitter site chosen presented short-spacing problems to pending applications for Channel 15 at Omaha, Nebraska, and to an unused allocation at Marshall, Minnestoa. Petitioner was unable to locate another suitable site. Therefore, at his request, the application was dismissed on May 23, 1983. It appears that Channel 52 can be activated at Carroll without the transmitter siting problems.

3. Therefore, in light of the fact that the assignment could enable Carroll to have its first local commercial television facility, the Commission finds that the assignment of Channel 52 would be in the public interest. Accordingly, pursuant to authority found in Sections 4(i), 5(c)(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 August 6, 1984, the Television Table of Assignments, § 73.606(b) of the Rules, is amended with respect to the community listed below, as follows:

City	Channel No.
Carroll, Iowa	*18-, 30+, and 52.

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

5. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-15358 Filed 6-7-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-609; RM-4433]

TV Broadcast Station in Okmulgee, Oklahoma; Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF television Channel 44 to Okmulgee, Oklahoma, as that community's first television service, in response to a petition filed by Bob Brewer.

EFFECTIVE DATE: August 6, 1984.

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.

Report and Order

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Okmulgee, Oklahoma) (MM Docket No. 83–609, RM–4433).

Adopted: May 15, 1984.
Released: May 30, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the Notice of Proposed Rule Making, 48 FR 33916, published July 26, 1983, issued in response to a petition filed by Bob Brewer ("petitioner"), proposing the assignment of UHF television Channel 44 to Okmulgee, Oklahoma, as that community's first television service. Supporting comments were filed by petitioner reiterating his intention to apply for the channel, if assigned. Comments were also filed by the Association of Maximum Service Telecasters, Inc. ("AMST"). No reply comments were received.

2. Okmulgee (population 16,263),[1] the seat of Okmulgee County (population 39,169), is located in eastern Oklahoma, approximately 60 kilometers (38 miles) south of Tulsa, Oklahoma. Currently, Okmulgee is devoid of any local television service.

3. AMST notes that the proposed assignment of UHF television Channel 44 to Okmulgee would be short spaced to the proposed assignment of Channel *59 to Tulsa, Oklahoma (MM Docket No. 83–495). However, in recognition of the separation deficiency, we recently assigned Channel *63 to Tulsa in lieu of previously proposed Channel *59, thereby eliminating any conflict between the two proposals, while simultaneously assuring compliance with §§ 73.610 and 73.698 of the Commission's rules.

4. In light of the above, and having found no policy objections to the proposal, we believe the public interest would be served by assigning UHF television Channel 44 to Okmulgee, Oklahoma, since it could provide a first television service to the community. As noted, *supra*, the channel can be assigned consistent with the applicable minimum distance separation requirements and other technical criteria.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective August 6, 1984, the television Table of Assignments § 73.606(b) of the Commission's Rules, is amended to include the community listed below, as follows:

City	Channel No.
Okmulgee, Okla.	44–

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

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–15354 Filed 6–7–84; 8:45 am]

BILLING CODE 6712–01–M

[1] Population figures were extracted from the 1980 U.S. Census.

47 CFR Part 73

[MM Docket No. 83–593; RM–4413]

TV Broadcast Station in Eagle Pass, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 16 to Eagle Pass, Texas, as that community's first local television broadcast channel, at the request of Eagle Pass News Guide.

EFFECTIVE DATE: August 6, 1984.

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

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Eagle Pass, Texas) (MM Docket No. 83–593 RM–4413).

Adopted: May 15, 1984.
Released: May 29, 1984.

By the Chief, Policy and Rules Division.

The Commission has under consideration its *Notice of Proposed Rule Making*, 48 FR 30164, published June 30, 1983, proposing the assignment of UHF TV Channel 16 to Eagle Pass, Texas, at the request of Eagle Pass News Guide ("petitioner"). The channel can be assigned in compliance with the Commission's minimum distance separation requirements and other technical criteria.

2. Comments were filed by the petitioner reiterating its intention to apply for the channel, should it be assigned. No oppositions to the proposal were filed. Concurrence by the Mexican government has been obtained since the community of Eagle Pass is located within 320 kilometers (199 miles) of the U.S.-Mexican border.

3. Based on the fact that the assignment of Channel 16 to Eagle Pass could provide that community with its first local television broadcast service, the Commission finds that it would be in the public interest to assign the channel as proposed. Therefore, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective August 6, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended with regard to the community listed below, to read as follows:

City	Channel No.
Eagle Pass, Texas	16+

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

5. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–15357 Filed 6–7–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83–421; RM–4313]

TV Broadcast Station in San Antonio, Texas; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein, at the request of Stanley G. Emert, assigns UHF TV Channel 60 to San Antonio, Texas, as the community's eighth television allotment.

EFFECTIVE DATE: August 6, 1984.

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.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (San Antonio, Texas) (MM Docket No. 83–421, RM–4313).

Adopted: May 15, 1984.
Released: May 30, 1984.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is a Notice of Proposed Rule Making, 48 FR 23866, published May 27, 1983, proposing the assignment of UHF TV Channel 59 to San Antonio, Texas, as the community's eighth television channel. The *Notice* was adopted in response to a petition filed by Stanley G. Emert ("petitioner"). Supporting comments were filed by the petitioner reaffirming his intention to apply for the channel, if assigned. Opposing comments were filed by Harte-Hanks Television, Inc. ("Harte-Hanks") and the Association of Maximum Service Telecasters, Inc. ("AMST").[1]

2. Harte-Hanks, licensee of Station KENS-TV, Channel 5, San Antonio, points out that the proposal for Channel 59 is in conflict with the proposal to assign Channel 52 to Blanco, Texas (MM Docket No. 83-478) [2] as the two assignments would be short-spaced by 13.1 miles. Harte-Hanks further states that Channel 59 would be the eighth television assignment to San Antonio while Channel 52 would be the first local assignment to Blanco. Therefore, based on the Commission's priority for assigning a first local television service wherever possible, it urges the denial of the San Antonio assignment.

3. As pointed out by Harte-Hanks, Channel 59 at San Antonio, and Channel 52 at Blanco, are short-spaced by 13.1 miles. However, a channel search indicates that Channel 60 can be assigned to San Antonio in compliance with the minimum distance separation requirements of Sections 73.610 and 73.698 of the Commission's Rules.

4. San Antonio (population 785,800)[3] seat of Bexar County (population 988,800) is located in south Texas, approximately 120 kilometers (75 miles) southeast of Austin, Texas.

5. Since San Antonio is located within 320 kilometers (200 miles) of the U.S.-Mexican border, concurrence by the Mexican government has been requested and received.

6. In view of the fact that the proposed assignment could provide an eighth local television service to San Antonio,[4] we believe that the public interest would be served by assigning UHF Television Channel 60 to San Antonio.

7. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(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 August 6, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules is Amended for the following community:

City	Channel No.
San Antonio, Texas	4, 5, *9–, 12+, *23–, 29+, 41+, and 60+.

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

9. For further information concerning the above, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–15355 Filed 6–7–84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83–473; RM–4383]

TV Broadcast Station in Rochester, Washington; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF Television Channel 26 to Rochester, Washington, in response to a petition filed by The Daily Chronicle, Inc.

DATE: Effective: August 6, 1984.

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

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations (Rochester, Washington), MM Docket No. 83–473, RM–4383.

Adopted: May 15, 1984.
Released: May 30, 1984.

By the Chief, Policy and Rules Division.

1. The Commission herein considers the Notice of Proposed Rule Making, 48 FR 26469, published June 8, 1983, which proposed the assignment of UHF Television Channel 25 to Rochester, Washington, in response to a petition filed by The Daily Chronicle ("petitioner"). The petitioner filed comments in support of the Notice and reaffirmed its interest in applying for the channel, if assigned. No opposing comments were received.

2. The Association of Maximum Service Telecasters, Inc. filed comments noting a short spacing of 16.9 miles between proposed Channel 25 in Rochester and Channel 39 in Morton, Washington (RM–4382, MM Docket 83–481). The conflict has been resolved by substituting Channel 26 in this Docket. Channel 26 can be assigned to Rochester, Washington, in compliance with the minimum distance separation requirements and other technical criteria of the Commission's Rules.

3. Canadian concurrence has been received.

4. We believe that the petitioner has adequately demonstrated the need for a first local television service to Rochester, Washington, and that the public interest would be served by assigning UHF Television Channel 26 to that community.

5. Accordingly, pursuant to authority contained in sections 4(i), 5(c)(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 August 6, 1984, the Television Table of Assignments, § 73.606(b) of the Rules, is amended with respect to the community listed below:

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[1] The comments of AMST were not timely filed. They will not be accepted for consideration herein as they did not request their acceptance nor provide a reason for the lateness of the filing. Additionally, AMST's comments provide no information that was not already before the Commission.

[2] *Notice of Proposed Rule Making* in MM Docket No. 83–478 (48 FR 27578, published June 16, 1983).

[3] Population figures are taken from 1980 U.S. Census.

[4] Also pending before the Commission is a petition to assign Channel 69 to San Antonio filed by Frederick Vela (RM–4736).

City	Channel No.
Rochester, Wash	26+

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

7. For further information please call Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–15356 Filed 6–7–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83–623; RM–4434]

TV Broadcast Station in Parker and Castle Rock, Colorado; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF TV Channel 53 to Castle Rock, Colorado, as its first local television allotment. The assignment was made at the request of Arapahoe County T.V. Club.

EFFECTIVE DATE: August 6, 1984.

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

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Parker and Castle Rock, Colorado);[1] MM Docket No. 83–623, RM–4434.

Adopted: May 15, 1984.

Released: May 30, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration its *Notice of Proposed Rule Making*, 48 FR 33915, published July 26, 1983, issued in response to a petition for rule making received from Arapahoe County T.V. Club ("petitioner"). The *Notice* sought comments on the proposal to assign UHF TV Channel 53 to Parker or Castle Rock, Colorado. The assignment would represent a first local service to either community. Petitioner filed comments in response to the *Notice*. No oppositions were received.

2. As pointed out in the *Notice*, the Commission was unclear as to whether the petitioner sought the channel assignment for Parker or Castle Rock. If the petitioner desired the assignment at Parker, it was requested to furnish the Commission with information to establish the fact that it was indeed a "community," as defined for allocations purposes, as Parker is not listed in the U.S. Census nor any other official publication. Castle Rock is an incorporated community and is the seat of Douglas County and therefore meets the allotment definition of a "community." If petitioner chose Castle Rock as its proposed community of license, it was requested to so inform the Commission and state its intention to apply for use of the channel, if assigned.

3. Petitioner filed comments stating that it desired the allocation of Channel 53 at Castle Rock and affirmed its intention that it, or an entity of which it is a part, would apply for the channel. The channel can be assigned in compliance with the minimum distance separation and other technical requirements. Therefore, we believe the public interest would be served by assigning the channel as requested.

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(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 August 6, 1984, the Television Table of Assignments, § 73.606(b) of the Commission's Rules, is amended with respect to the listed community, as follows:

City	Channel No.
Castle Rock, Colorado	53

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

6. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–15371 Filed 6–7–84; 8:45 am]

BILLING CODE 6712–01–M

[1] This community has been added to the caption.

47 CFR Part 73

[MM Docket No. 83–597; RM–4422]

FM Broadcast Station in Sundance, Wyoming; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein, at the request of Donald D. Grant, assigns Channel 276A to Sundance, Wyoming, as the community's first FM channel.

EFFECTIVE DATE: August 6, 1984.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Sundance, Wyoming); MM Docket No. 83–597, RM–4422.

Adopted: May 15, 1984.

Released: May 30, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 48 FR 30158, published June 30, 1983, proposing the assignment of Channel 276A to Sundance, Wyoming, as the community's first FM broadcast channel. The *Notice* was adopted in response to a petition filed by Donald D. Grant ("petitioner"). Supporting comments were filed by petitioner reaffirming his intention to apply for the channel, if assigned.[1] No comments in opposition to the proposal were received.

2. The Commission believes that the public interest would be served by the assignment of FM Channel 276A to Sundance, Wyoming, in order to provide a first FM service to the community. The assignment can be made in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(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

[1] Petitioner's comments were not timely received. However, they will be accepted for consideration herein because the petitioner did reaffirm his intention to apply for the channel, if assigned and no other party has stated an interest.

of the Commission's Rules, it is ordered, that effective August 6, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended for the following city:

City	Channel No.
Sundance, Wyoming	276A

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

5. For further information concerning this proceeding, contact Mark N. Lipp, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84–15370 Filed 6–7–84; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 49, No. 112
Friday, June 8, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 418

[Amdt. No. 1]

Wheat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Wheat Crop Insurance Regulations (7 CFR Part 418), effective for the 1985 and succeeding crop years by: (1) Changing the end of insurance period date in Alaska to September 25; (2) eliminating the "7-day residue" provision; (3) clarifying specific quality standards stated in the policy; (4) changing the term "mature production" back to "harvested production" to eliminate procedural problems involving loss adjustment; (5) providing that Michigan counties have a cancellation/termination date of September 30, Walworth and Faulk Counties, South Dakota have a cancellation/termination date of April 15, and Matanuska-Susitna County, Alaska have a cancellation date of October 31; and (6) adding "failure of the water supply after planting due to unavoidable causes" as an insured cause of loss. The intended effect of this rule is to update the provisions of the contract for insuring wheat, clarify terminology, add another cause of loss, and provide for a different insurance period in Alaska to conform with current farming practices, and change cancellation/termination dates in certain Areas.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than July 9, 1984, to be sure of consideration.

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

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

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation No. 1512-1 (December 15, 1983). This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under that memorandum. The sunset review date established for these regulations is February 1, 1987.

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

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

As set forth in the related notice to 7 CFR Part 3015, Subpart V (48 FR 29116, June 24, 1983), the Federal Crop Insurance Corporation's program and activities, requiring intergovernmental consultation with State and local officials, are excluded from the provisions of Executive Order No. 12372.

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

The changes proposed for the Wheat Crop Insurance Regulations, to become effective for the 1985 and succeeding crop years, are as follows:

1. Section 7—Change end of insurance period date in Alaska to September 25.

2. Section 8—Eliminate the "7-day residue" provision.

3. Section 9e(2)—State the specific quality standards, replacing the grade designation (e.g.; U.S. No. 4) contained in current policies, which informs the insured as to the factors involved in quality determinations.

4. Section 9e(3)—Change "mature production" back to "harvested production" because of procedural problems in loss adjustment.

5. Section 15d—Provide that all Michigan counties have a cancellation/termination date of September 30, and Walworth and Faulk Counties, South Dakota of April 15, Matanuska-Susitna County, Alaska will now have a cancellation date of October 31.

The public is invited to submit written comments, data, and opinions on this proposed rule for 30 days after publication in the **Federal Register**.

All comments made pursuant to this action will be available for public inspection in the Office of the Manager during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 418

Crop Insurance, Wheat.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation herewith proposes to amend the Wheat Crop Insurance Regulations (7 CFR Part 418), effective for the 1985 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 418 is:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 418.7(d) is revised to read as set forth below:

§ 418.7 The application and policy.

* * * * *

(d) The application for the 1985 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38; first published at 48 FR 1023, January 10, 1983) and may be amended from time to time for subsequent crop years. The provisions of the Wheat Insurance Policy for the 1985 and succeeding crop years, are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Wheat—Crop Insurance Policy

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

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

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

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake;
(7) Volcanic eruption; or
(8) Failure of the water supply after planting due to unavoidable causes;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(7).

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

(1) The neglect, mismanagement, or wrongdoing of you, any number of your household, your tenants, or employees;
(2) The failure to follow recognized good wheat farming practices;
(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservior project; or
(4) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be wheat planted for harvest as grain, grown on insured acreage, and for which a guarantee and premium rate are provided by the actuarial table.

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

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

d. We do not insure any acreage:

(1) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;
(2) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;
(3) Which is destroyed and it is practical to replant to wheat but such acreage is not replanted;
(4) Initially planted after the final planting date contained in the actuarial table unless you agree in writing on our form to coverage reduction;
(5) Of volunteer wheat;
(6) Planted to a type or variety of wheat not established as adapted to the area or excluded by the actuarial table; or
(7) Planted with a crop other than wheat.

e. Where insurance is provided for an irrigated practice:

(1) You must report as irrigated only the acreage for which you have adequate facilities and water, at the time of planting, to carry out a good wheat irrigation practice; and
(2) Any loss of production caused by failure to carry out a good wheat irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, will be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities will not be considered as a failure of the water supply from an unavoidable cause.

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

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

3. Report of acreage, share, and practice.

You must report on our form:

a. All the acreage of wheat in the county in which you have a share;
b. The practice; and
c. Your share at the time of planting.

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

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnitites are in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverge level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

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

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126

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

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

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

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

(1) The contract of your estate or surviving spouse if you die;

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

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

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

6. Deductions for debt.

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

7. Insurance period.

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

b. Insurance ends at the earliest of:

(1) Total destruction of the wheat;

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

(3) Final adjustment of a loss; or

(4) The date shown below of the calendar year in which wheat is normally harvested:

(a) Alaska—September 25;

(b) All other states—October 31.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

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

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

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

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

(2) If you anticipate a loss on any unit, you must give us notice:

(a) At least 15 days before the beginning of harvest; or

(b) Immediately, if probable loss is later determined. A representative sample of the unharvested wheat (at least 10 feet wide and the entire length of the field) must be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

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

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

(b) Harvest of the unit; or

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

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

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

9. Claim for indemnity.

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

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

(2) Harvest of the unit; or

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

b. We will not pay any indemnity unless you:

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

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

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

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

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

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

(4) Multiplying this result by your share.

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

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

(1) Mature wheat production which otherwise is not eligible for quality adjustment will be reduced .12 percent for each .1 percentage point of moisture in excess of 13.5 percent; or

(2) Mature wheat production which, due to insurable causes, has a test weight of less than 53 pounds per bushel or, as determined by a licensed grain grader in accordance with the Official United States Grain Standards, contains more than 10 percent kernel damage; more than 12 percent shrunken kernels; or more than 6 green garlic bulblets or an equivalent of dry or partly dry bulblets in a 1000-gram sample; or is smutty or ergoty, will be adjusted by:

(a) Dividing the value per bushel of such wheat by the price per bushel of U.S. No. 2 wheat; and

(b) Multiplying the result by the number of bushels of such wheat.

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

(3) Any harvested production from other crops growing in the wheat will be counted as wheat on a weight basis.

(4) Appraised production to be counted will include:

(a) Potential production lost due to uninsured causes and failure to follow recognized good wheat farming practices;

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

(c) Any unharvested production.

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

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

(b) Is harvested; or

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

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

(7) When you have elected to exclude hail and fire as insured causes of loss and the wheat is damaged by hail or fire, appraisals for uninsured causes will be made in

accordance with Form FCI–78, "Request To Exclude Hail And Fire".

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

f. You must not abandon any acreage to us.

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

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

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

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

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

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

10. Concealment or fraud.

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

11. Transfer of right to indemnity or insured share.

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

12. Assignment of indemnity.

You may only assign to another party your right to an indemnity for the crop year on form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all wheat produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

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

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

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

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

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

d. The cancellation and termination dates are:

State and county	Cancellation date	Termination date for indebtedness
All Alaska counties except those listed below; Alamosa, Conejos, Costilla, Rio Grande and Saguache Counties, Colorado; Maine; Minnesota; Daniels, Roosevelt, Sheridan and Valley Counties, Montana; New Hampshire; North Dakota; Corson, Walworth, Edmunds, Faulk, Spink, Beadle, Jerauld, Aurora, Douglas and Bon Homme Counties, South Dakota and all South Dakota counties lying north and east thereof; Vermont; and Trempealeau, Jackson, Wood, Portage, Waupaca, Outagamie, Brown, and Kewaunee Counties, Wisconsin and all Wisconsin counties lying north and west thereof.	Apr. 15	Apr. 15.
All other Colorado counties Kansas, New Mexico, Oklahoma and Texas.	Aug. 31	Aug. 31.
Nebraska	Sept. 15	Sept. 15.
Archuleta, Custer, Delta, Dolores, Eagle, Garfield, Grand, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouary, Pitkin, Rio Blanco, Routt and San Miguel Counties, Colorado and all other South Dakota counties.	Sept. 15	Nov. 30.
Connecticut; Plymouth, Cherokee, Buena Vista, Pocahontas, Humboldt, Wright, Franklin, Butler, Black Hawk, Buchanan, Delaware and Dubuque Counties, Iowa and all Iowa counties lying north thereof; Massachusetts; all other Montana counties; New York; Rhode Island and Wyoming.	Sept. 30	Nov. 30.
Matanuska-Susitna County, Alaska; Arizona; California; Idaho; Nevada; Oregon; Utah and Washington.	Oct. 31	Nov. 30.
All other Iowa counties; all other Wisconsin counties; and all other states.	Sept. 30	Sept.30

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

f. The contract will terminate if on premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is on longer offered, the actuarial table will provide the price election which you deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date for counties with an April 15 cancellation date and by May 31 preceding the cancellation date for all other counties. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of wheat crop insurance:

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

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

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

d. "Harvest" means the completion of combining or threshing of wheat on the unit.

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

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

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

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

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

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

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

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

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

18. Descriptive headings.

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

19. Determinations

All determinations required by the policy shall be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal these determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Approved by the Board of Directors on April 26, 1984.

Dated: June 1, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-15388 Filed 6-7-84; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 427

[Amt. No. 2]

Oat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Oat Crop Insurance Regulations (7 CFR Part 427), effective for the 1985 and succeeding crop years by: (1) Changing the end of insurance period in Alaska to September 25; (2) eleminating the "7-day residue" provision; (3) clarifying specific quality standards stated in the policy; (4) changing the term "mature production" back to "harvested production" to eliminate procedural problems involving loss adjustment; (5) dividing Virginia into fall (September 30) and spring (April 15) counties for insurance purposes; and (6) adding "failure of the water supply after planting due to unavoidable causes" as an insured cause of loss. The intended effect of this rule is to update the provisions of the contract for insuring oats, clarify terminology, add another cause of loss, and provide for a different insurance period in Alaska to conform with current farming practices.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than July 9, 1984, to be sure of consideration.

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

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

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation No. 1512-1 (December 15, 1983). This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under that memorandum. The sunset review date established for these regulations is February 1, 1987.

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

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

As set forth in the related notice to 7 CFR Part 3015, Subpart V (48 FR 29116, June 24, 1983), the Federal Crop Insurance Corporation's program and activities are excluded from the provisions of Executive Order No. 12372, requiring intergovernmental consultation with State and local officials.

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

The changes proposed in the Oat Crop Insurance Regulations, to become effective for the 1985 and succeeding crop years, are as follows:

1. Section 1—and "failure of the water supply after planting due to unavoidable causes" as an insurable cause of loss.

2. Section 7—change the date for the end of insurance period in Alaska to September 25.

3. Section 8—eliminate the "7-day residue" provision.

4. Section 9e(2)—state specific quality standards, replacing the grade designation (e.g.; U.S. No. 4) contained in current policies, which inform the insured as to the factors involved in quality determinations.

5. Section 9e(3)—change "mature production" back to "harvested production" becuase of procedural problems in loss adjustment.

6. Section 15d—split Virginia into fall (September 30) and spring (April 15) counties.

In order to provide continuity the proposed amendment herein contains the policy for insuring oats in its entirety and includes the changes itemized above.

The public is invited to submit written comments, data, and opinions on this proposed rule for 30 days after

publication in the **Federal Register**. All comments made pursuant to this action will be available for public inspection in the Office of the Manager during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 427

Corp insurance, Oats.

Proposed Rule

PART 427—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation herewith proposes to amend the Oat Crop Insurance Regulations (7 CFR Part 427), effective for the 1985 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 427 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 427.7(d) is amended by revising the policy therein to read as follows:

§ 427.7 The application and policy.

* * * * *

(d) * * *

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Oat—Crop Insurance Policy

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

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

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

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects;

(4) Plant disease;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) Unavoidable failure of the water supply after planting; unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(7).

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

(1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;

(2) The failure to follow recognized good oat farming practices;

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

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

2. Crop, acreage, and share insured.

a. The crop insured will be oats planted for harvest as grain, oats planted in the same manner for harvest as silage or hay, and grain mixtures in which oats are the predominant grain; which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

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

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

d. We do not insure any acreage:

(1) Planted with flax or vetch;

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

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

(4) Which is destroyed and it is practical to replant to oats but such acreage is not replanted;

(5) Initially planted after the final planting date contained in the actuarial table unless you agree in writing on our form to coverage reduction;

(6) Of volunteer oats; or

(7) Planted to a type or variety of oats not established as adapted to the area or excluded by the actuarial table.

e. Where insurance is provided for an irrigated practice:

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

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

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

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

3. Report of acreage, share, and practice.

You must report on our form:

a. All the acreage of oats in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

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

4. Production guarantees, coverage levels, and prices for computing indemnities.

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

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting application for the crop year as established by the actuarial table.

5. Annual premium.

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

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

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

PREMIUM ADJUSTMENT TABLE [1]—Continued

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

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

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

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

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

(1) The contract of your estate or surviving spouse if you die;

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

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

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

6. Deductions for debt.

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

7. Insurance period.

a. Insurance attaches when the oats are planted except that in counties with an April 15 concellation date, insurance on fall planted oats attaches on April 16 following planting, if there is an adequate stand on this date to produce a normal crop.

b. Insurance ends at the earliest of:

(1) Total destruction of the oats;

(2) Combining, threshing, harvesting for silage or hay, or removal from the field;

(3) Final adjustment of a loss; or

(4) The date shown below of the calendar year in which oats are normally harvested:

(a) Alaska—September 25;

(b) All other states—October 31.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the oats on any unit are damaged and you decide not to further care for or harvest any part of them;

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

(c) You want to harvest the oats for silage or hay. (After such notice if given, we shall appraise the potential grain production. *However*, if we are unable to do so before harvest, you may harvest the crop provided representative samples are left for appraisal purposes); or

(d) After consent to put acreage to another use is given, additional damage occurs.

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

(2) If you anticipate a loss on any unit, you must give us notice:

(a) At least 15 days before the beginning of harvest; or

(b) Immediately, if probable loss is later determined. A representative sample of the unharvested oats (at least 10 feet wide and the entire length of the field) must be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

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

(a) Total destruction of the oats on the unit;

(b) Harvest of the unit; or

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

b. You must obtain written consent from us before you destroy any of the oats which are not to be harvested.

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

9. Claim for indemnity.

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

(1) Total destruction of the oats on the unit;

(2) Harvest of the unit; or

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

b. We will not pay any indemnity unless you:

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

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

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

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

(2) Subtracting therefrom the total production of oats to be counted (see section 9e);

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

(4) Multiplying this result by your share.

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

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

(1) Mature oat production which otherwise is not eligible for quality adjustment will be reduced .12 percent for each .1 percentage point of moisture in excess of 14.0 percent; or

(2) Mature oat production which, due to insurable causes, has a test weight of less than 27 pounds per bushel or, as determined by a licensed grain grader in accordance with the Official United States Grain Standards, contains less than 80 percent sound oats or is smutty, garlicky, or ergoty, will be adjusted by:

(a) Dividing the value per bushel of such oats by the price per bushel of U.S. No. 2 oats; and

(b) Multiplying the result by the number of bushels of such oats.

The applicable price for No. 2 oats will be the local market price on the earlier of the day the loss is adjusted or the day such oats were sold.

(3) Any harvested production from other crops growing in the oats will be counted as oats on a weight basis.

(4) Appraised production to be counted will include:

(a) Potential production lost due to uninsured causes and failure to follow recognized good oat farming practices;

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

(c) Any unharvested production.

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

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

(b) Is harvested; or

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

(6) We may determine the amount of production of any unharvested oats on the basis of field appraisals conducted after the end of the insurance period.

(7) When you have elected to exclude hail and fire as insured causes of loss and the oats are damaged by hail or fire, appraisals for uninsured causes will be made in accordance with Form FCI–78, "Request To Exclude Hail And Fire".

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

f. You will not abandon any acreage to us.

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

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

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the oats are planted for any crop year, any indemnity will be paid to the person[s] we determine to be beneficially entitled thereto.

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

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

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

10. Concealment or fraud.

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

11. Transfer of right to indemnity on insured share.

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

12. Assignment of indemnity.

You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all oats produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: cancellation and termination.

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

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

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

(1) If duducted from an indemnity claim will be the date you sign the claim; or

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

d. The cancellation and termination dates are:

State, County and Cancellation and Termination Dates

New Mexico except Taos County, Oklahoma and Texas—August 31

Alabama; Arkansas; Florida; Georgia; Louisiana; Mississippi; North Carolina; South Carolina; Tennessee and Patrick, Franklin, Pittsylvania, Campbell, Appomattox, Fluvanna, Buckingham, Louisa, Spotsylvania, Caroline, Essex and Westmoreland Counties, Virginia and all counties east thereof—September 30

Arizona; California excpet Del Norte, Humboldt, Lassen, Modoc, Plumas, Shasta, Siskiyou and Trinity Counties—October 31

Del Norte, Humboldt, Lassen, Modoc, Plumas, Shasta, Siskiyou and Trinity Counties, California; Taos County, New Mexico; all other Virginia counties and all other states—April 15.

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

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

16. Contract changes.

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

17. Meaning of terms.

For the purposes of oat crop insurance:

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

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

c. "Crop year" means the period within which the oats are normally grown and is designated by the calendar year in which the oats are normally harvested.

d. "Harvest" of oats on the unit means the completion of combining, threshing or cutting for hay or silage.

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

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

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

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

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

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

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

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

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

18. Descriptive headings.

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

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Approved by the Board of Directors on April 26, 1984.

Dated: June 1, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 84-15391 Filed 6-7-84; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 429

[Amdt. No. 2]

Rye Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Rye Crop Insurance Regulations (7 CFR Part 429), effective for the 1985 and succeeding crop years by: (1) Adding "failure of the water supply after planting due to unavoidable causes" as an insured cause of loss; (2) eliminating the "7-day residue" provision; (3) clarifying specific quality standards stated in the policy; and (4) changing the term "mature production" back to "harvested production" to eliminate procedural problems involving loss adjustment. In addition, FCIC proposes to issue a new subsection in the Rye Crop Insurance Regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring rye, clarifying terminology, add another insured cause of loss, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than July 9, 1984, to be sure of consideration.

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

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

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation No. 1512-1 (December 15, 1983). This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under that memorandum. The sunset review date established for these regulations is February 1, 1987.

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

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

As set forth in the related notice to 7 CFR Part 3015, Subpart V (48 FR 29116, June 24, 1983), the Federal Crop Insurance Corporation's program and activities are excluded from the provisions of Executive Order No. 12372, requiring intergovernmental consultation with State and local officials.

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

The changes proposed in the Rye Crop Insurance Regulations, to become effective for the 1985 and succeeding crop years, are as follows:

1. Section 1—add "failure of water supply after planting due to unavoidable causes" as an insurable cause of loss.

2. Section 8—eliminate the "7-day residue" provision.

3. Section 9e(2)—state the specific quality standards replacing the grade designation (e.g.; U.S. No. 4) contained in current policies, and allowing the insured to know exactly what factors are invovled in quality determinations.

4. Section 9e(3)—change "mature production" back to "harvested production" because of procedural problems in loss adjustment.

In order to provide continuity for the benefit of the reader, the proposed amendment herein contains the policy for insuring rye in its entirety and includes the changes itemized above.

The public is invited to submit written comments, data, and opinions on this proposed rule for 30 days after publication in the **Federal Register**. All

comments made pursuant to this action will be available for public inspection in the Office of the Manager during regular hours, Monday through Friday.

List of Subjects in 7 CFR Part 429

Crop insurance, Rye.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurnce Corporation herewith proposes to amend the Rye Crop Insurance Regulations (7 CFR Part 429), effective for the 1985 and succeeding crop years, in the following instances:

1. The Authority Citation for 7 CFR Part 429 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 429.3 is added to read as follows:

§ 429.3 OMB control numbers.

The information collection requirements in these regulations (7 CFR Part 429) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

3. 7 CFR 429.7(d) is revised to read as set forth below:

§ 429.7 The application and policy.

* * * * *

(d) The application for the 1985 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38; first published at 48 FR 1023, January 10, 1983) and may be amended from time to time for subsequent crop years. The provisions of the Rye Insurance Policy for the 1985 and succeeding crop years, are a follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Rye—Crop Insurance Policy

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

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions. Throughout this policy, "you" and "your" refer to the insured shown on the accepted application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects;

(4) Plant disease;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) Unavoidable failure of the water supply after planting; unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(7).

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

(1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;

(2) The failure to follow recognized good rye farming practices;

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

(4) Any cause not specified in section la as an insured loss.

2. Corp, acreage, and share insured.

a. The corp insured will be rye planted for harvest as grain, grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

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

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

d. We do not not insure any acreage:

(1) Where rye was seeded with vetch or flax or other small grains;

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

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

(4) Which is destroyed and it is practical to replant to rye but such acreage is not replanted;

(5) Initially planted after the final planting date contained in the actuarial table unless you agree in writing on our form to coverage reduction;

(6) Of volunteer rye;

(7) Planted to a type of variety of rye not established as adapted to the area or excluded by the actuarial table; or

(8) Planted with a crop other than rye.

e. Where insurence is provided for an irrigated practice:

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

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

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

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

3. Report of acreage, share, and practice.

You will report on our form:

a. All the acreage of rye in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

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

4. Production guarantees, coverage levels, and prices for computing indemnities.

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

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

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

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

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

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

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

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

(1) The contract or your estate or surviving spouse if you die;

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

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

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

6. Deductions for debt.

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

7. Insurance period.

Insurance attaches when the rye is planted and ends at the earliest of:

a. Total destruction of the rye;

b. Combining, threshing, or removal from the field;

c. Final adjustment of a loss; or

d. October 31 of the calendar year in which rye is normally harvested.

8. Notice of damage or loss.

a. In cae of damage or probable loss:

(1) You must give us written notice if:

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

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

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

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

(2) If you anticipate a loss on any unit, you must give us notice:

(a) At least 15 days before the beginning of harvest; or

(b) Immediately, if probable loss is later determined. a representative sample of the unharvested rye (at least 10 feet wide and the entire length of the field) will be left intact for a period of 15 days from the date of notice, unless we give you written consent to havest the sample.

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

(a) Total destruction of the rye on the unit;

(b) Harvest of the unit; or

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

b. You must obtain written consent from us before you destroy any of the rye which is not to be harvested.

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

9. Claim for indemnity.

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

(1) Total destruction of the rye on the unit;

(2) Harvest of the unit; or

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

b. We will not pay any indemnity unless you:

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

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

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

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

(2) Subtracting therefrom the total production of rye to be counted (see section 9e);

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

(4) Multiplying this result by your share.

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

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

(1) Mature rye production which otherwise is not eligible for quality adjustment will be reduced .12 percent for each .1 percentage point of moisture in excess of 16.0 percent; or

(2) Mature rye production which, due to insurable causes, has a test weight of less than 52 pounds per bushel or, as determined by a licensed grain grader in accordance with the Official United States Grain Standards, contains more than 7 percent damaged kernels; more than 25 percent thin rye; or is smutty, garlicky, or ergoty, will be adjusted by:

(a) Dividing the value per bushel of such rye by the price per bushel of U.S. No. 2 rye; and

(b) Multiplying the result by the number of bushels of such rye.

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

(3) Any harvested production from other crops growing in the rye will be counted as rye on a weight basis.

(4) Appraised production to be counted will include:

(a) Potential production lost due to uninsured causes and failure to follow recognized good rye farming practices;

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

(c) Any unharvested production.

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

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

(b) Is harvested; or

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

(6) We may determine the amount of production of any unharvested rye on the basis of field appraisals conducted after the end of the insurance period.

(7) When you have elected to exclude hail and fire as insured causes of loss and the rye is damaged by hail or fire, appraisals for uninsured causes will be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

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

f. You must not abandon any acreage to us.

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

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

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

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

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

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

10. Concealment or fraud.

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

11. Transfer of right to idemnity on insured share.

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

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all rye produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

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

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

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

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

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

d. The cancellation and termination dates are:

State	Cancellation and termination dates
Minnesota, Nebraska, North Dakota and South Dakota.	Sept. 15.
All other states	Sept. 30.

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

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

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by May 31 preceding the cancellation date.

Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the cotract.

17. Meaning of terms.

For the purpose of rye crop insurance:

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

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

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

d. "Harvest" means the completion of combining or threshing of the rye on the unit.

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

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

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

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

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

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

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

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

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

18. Descriptive Headings.

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

19. Determinations

All determinations required by the policy shall be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20 Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Approved by the Board of Directors on April 26, 1984.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: June 1, 1984.

Approved by:

Merritt W. Sprague

Manager.

[FR Doc. 84-15390 Filed 6-7-84; 8:45 am]

BILLING CODE 3410-08-M

Rural Electrification Administration

7 CFR Part 1765

Construction Certification Program

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend 7 CFR Chapter XVII, REA Regulations, by adding a new Part 1765, Telephone Materials, Equipment and Construction, §§ 1765.1 through 1765.99, to the Code of Federal Regulations (CFR). Sections 1765.1 through 1765.99 will contain the REA policies and procedures presently set forth in REA Bulletin 320–23, Construction Certification Procedures for Designated Telephone Borrowers. Bulletin 320–23 will be rescinded upon final issuance of Part 1765. This proposed action is being taken to comply with an Office of the Federal Register requirement that REA codify its rules in the Code of Federal Regulations (CFR). In addition to codifying the bulletin, the proposed revision would (1) allow REA to designate qualified borrowers to participate in the Construction Certification Program, (2) require that the person responsible for the final inspection of construction be an engineer, experienced in telephony and licensed in the state in which the inspection is to be performed, and (3) simplify and clarify the existing requirements and procedures.

DATE: Public comments must be received by REA no later than August 7, 1984.

ADDRESS: Submit written comments to Joseph M. Flanigan, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 2835, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382–8663.

FOR FURTHER INFORMATION CONTACT: John D. Soma, Staff Engineer, Office of Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 2829, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382–8529. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend 7 CFR Chapter XVII, REA Regulations, by adding a new Part 1765, Telephone Materials, Equipment and Construction, sections 1765.1 through 1765.99. This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. The action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major." This action does not fall within the scope of the Regulatory Flexibility Act. This program is listed in the Catalog of Federal Domestic Assistance as 10.851, Rural Telephone Loans and Loan Guarantees.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping provisions that are included in this proposed rule have been sent to the Office of Management and Budget (OMB) for review and approval.

Background

It is REA policy that, as borrowers gain in experience and maturity, the advice and assistance rendered by REA shall progressively diminish. The Construction Certification Program is one where well-established telephone borrowers who are effectively engineering and administering construction programs on a continuing basis may be approved by REA to carry out REA-financed construction without being required to submit for specific REA approval plans and specifications, engineering contracts, construction contracts, force account proposals, and final close-out documents. Under the existing policy in Bulletin 320–23, the borrower is the one who makes the request for placement in the Construction Certification Program. The borrower's entrance into the program comes after consideration and approval of its request by REA. To date, there are only a few borrowers in the program. The proposed revision of the bulletin will provide REA the authority to place

those borrowers it feels qualified into the Construction Certification Program. This would mean that a good number of borrowers could be asked to assume these postloan responsibilities. The proposed revision also requires that the person who is responsible for all final inspections of construction be an engineer, experienced in telephony and licensed in the state in which the inspection is to be performed. Requiring a licensed engineer to make the final inspection is consistent with accepted engineering practices and provides asurance that the construction complies with applicable specifications and standards and meets appropriate code requirements as to strength and safety.

List of Subjects in 7 CFR Part 1765

Loan programs—communications, Telecommunications, Telephone.

In view of the above, REA proposes to add a new Part 1765, Telephone Materials, Equipment and Construction, §§ 1765.1 through 1765.99, to 7 CFR Chapter XVII. It will read as follows:

PART 1765—TELEPHONE MATERIALS, EQUIPMENT AND CONSTRUCTION

Subpart A—General

Sec.
1765.1–1765.14 [Reserved]

Subpart B—Construction Certification Program

1765.15 Purpose.
1765.16 Requirements.
1765.17 Responsibilities.
1765.18 Procedure.
1765.19 Advance of loan funds.
1765.20 Certification addendum.
1765.21 How to obtain REA forms.
1765.22–1765.99 [Reserved]

Authority: 7 U.S.C. 901 et seq.

Subpart A—General

§§ 1765.1–1765.14 [Reserved]

Subpart B—Construction Certification Program

§ 1765.15 Purpose.

The purpose of this subpart is to set forth REA policies and requirements relating to postloan procedures for those telephone borrowers required to follow the Construction Certification Program.

§ 1765.16 Requirements.

(a) It is REA policy that, as borrowers gain in experience and maturity, the advice and assistance rendered by REA shall progressively diminish. In furtherance of this policy, REA shall designate certain borrowers to fulfill responsibilities for the administration and construction of projects financed by REA-administered loans or loan guarantees. Borrowers so designated will be known as "Certified Borrowers", and the program in which they participate will be known as the "Certification Program".

(b) Borrowers shall be notified during the preloan processing period if they are required to follow the Certification Program. Generally, "A" loan borrowers will not be eligible for construction certification.

(c) Generally, the factors which REA will consider in selecting borrowers for the Certification Program will include:

(1) The experience of the staff of the borrower.

(2) The REA assessment of the borrower's ability to handle the Certification Program requirements considering the size and complexity of the proposed loan project.

(3) The history of the borrower in following REA's policies and procedures.

(4) Other factors deemed relevant by REA.

(d) Except for the changes specifically stated in this subpart, all REA requirements shall apply to Certified Borrowers and must be followed without exception. Failure to comply with applicable requirements may result in an REA decision not to finance a specific project.

(e) REA reserves the right at any time to require submission of construction documents or to rescind construction certification approval.

§ 1765.17 Responsibilities.

(a) Certified Borrowers shall be responsible for the following, without being required to obtain prior REA approval:

(1) Approval of engineering and architectural service contracts.

(2) Approval of plans and specifications.

(3) Approval of price quotations and bids, except for procurement of central office equipment by the two-step negotiated process where the low price bid is not accepted.

(4) Approval of construction contracts and amendments.

(5) Approval of force account proposals (following REA approval of the force account method of construction).

(6) Inspection and certification of construction performed by work order and force account proposals.

(7) Approval of final documents.

(8) Other authorities as may be specifically granted in writing by REA.

(b) Authorities retained by REA:

(1) Approval to deviate from REA requirements, except as provided in (a) above.

(2) Approval of construction projects or amounts not included in the loan.

(3) Approval of force account methods of engineering and construction.

(4) Approval to make significant deviations from the approved work plan.

(5) Approval of interim construction.

(6) Approval to use materials not listed in the List of Materials Acceptable for Use on Telephone Systems of REA Borrowers.

(7) Approval of field trials.

(8) Approval to modify or alter standard forms and contracts.

(9) Approval to open bids when fewer than the required number have been received.

(10) Approval of outside plant layouts.

(11) Other authorities not specifically transferred by this subpart or in writing by REA.

§ 1765.18 Procedure.

(a) Borrowers selected shall be notified in the area coverage design or supplemental loan proposal approval letter or at an earlier time, when necessary.

(b) Certified Borrowers shall be required to appoint a minimum of two individuals as certification officials to be responsible for the proper certification of documents and forms.

(1) The "Certifying Officer" shall be an officer or employee of the Certified Borrower who is authorized to execute binding agreements on behalf of the Certified Borrower. This Certifying Officer shall sign all contracts, amendments, final documents, and the "Certification" on REA Form 158, "Certification of Contract or Force Account Proposal Approval," and REA Form 159, "Summary of Completed Construction."

(2) The "Inspection Certifier" shall be an engineer, experienced in telephony, licensed in the state in which the inspection is to be performed, who will be responsible for all final inspections and will sign the "Inspection—Certification" on REA Form 159. The Inspection Certifier may be an employee of the Certified Borrower or may be the Certified Borrower's consulting engineer.

(3) The "Certification Coordinator" shall administer the Certified Borrower's loan project under the Certification Program and will serve as the official point of contact for REA. The Certifying Officer or Inspection Certifier may also serve as the Certification Coordinator.

(c) Certified Borrowers shall submit and obtain REA approval of a work plan after a loan is approved but before construction and related engineering begin. If the Certified Borrower wishes

to proceed with construction prior to approval of a loan, under interim financing approved by REA, the Certified Borrower shall obtain REA approval of its work plan before construction begins for which interim financing is requested.

(1) The work plan shall provide a description of the proposed construction and methods of purchasing in such detail as to enable REA to monitor the construction program to ensure to its satisfaction that loan purposes are accomplished in an organized construction program.

(2) The work plan shall include the following:

(i) The names and qualifications of the proposed certification officials defined in § 1765.18(b).

(ii) A description of the proposed methods of performing construction, purchasing materials and equipment, and providing engineering services for the loan project.

(iii) A construction schedule and tabulation of estimated costs of work projects to be performed in accomplishing the loan purposes.

(iv) The proposed source of funds for meeting cost overruns if the total estimated cost of work projects exceeds the loan budget.

(v) Certification by the Certified Borrower's President, the Certification Coordinator, and the REA Field Representative that the work plan is accurate and complete.

(d) Under the Certification Program, the Certified Borrower shall follow all standard REA postloan engineering and construction procedures except that the approvals shown in § 1765.17(a) will be made by certification officials rather than REA. The approvals noted in §§ 1765.17(a) (1), (4) and (5) will be reported immediately to REA using REA Form 158. Approval of closeouts, § 1765.17(a) (6) and (7), will be reported immediately on REA Form 159.

(e) Immediately upon receiving notification pursuant to § 1765.16, the Certified Borrower shall develop the internal procedures necessary to meet its responsibilities under the Certification Program, and to provide adequate documentation, satisfactory to REA, that all REA procedures are being followed.

(f) The Certified Borrower shall modify standard REA forms of contract for use under the Certification Program by inserting an executed copy of the Certification Addendum (shown in § 1765.20) in each copy of the contract.

(g) As the construction program progresses, the Certified Borrower shall request, by letter, REA approval of any significant changes in work plan schedules and budgets and in certifying officials.

§ 1765.19 Advance of loan funds.

Advance of loan funds needed to meet the Certified Borrower's current financial obligations are to be requested on REA Form 481, Financial Requirement Statement (FRS), for construction and engineering items supported by appropriate REA Forms 158 and 159 and may be up to the total amount of approved contracts. For items other than construction or engineering, supporting data, as outlined in REA Bulletin 327–1, should be submitted.

§ 1765.20 Certification addendum.

Certification Addendum

Permission has been obtained by the Owner to proceed with this contract under 7 CFR Part 1765, pursuant to which the references in the REA construction document requiring approvals and other actions of the REA Administrator will not apply unless REA gives specific notice in writing to the affected parties that a designated approval(s) or action(s) will be required. Certifications by the Contractor of amounts due and certifications of completions of work under the contract are to be construed to be rendered for the purpose of inducing the Rural Electrification Administration or Rural Telephone Bank to advance funds to the Owner to make, or reimburse the Owner for payments under this contract.

Date _____

Owner _____

By _____

President

Date _____

_____

Contractor

By _____

§ 1765.21 How to obtain REA forms.

REA Forms 158, 159 and 481 may be obtained from the Rural Electrification Administration, Administrative Services Division, Room 0175–S, Washington, DC 20250.

§ 1765.22–1765.99 [Reserved]

Dated: May 23, 1984.

Harold V. Hunter,

Administrator.

[FR Doc. 84–15192 Filed 6–7–84; 8:45 am]

BILLING CODE 3410–15–M

Animal and Plant Health Inspection Service

9 CFR Part 113

[Docket No. 84–036]

Viruses, Serums, Toxins, and Analogous Products; Revision of Standard Requirements for the Detection of Extraneous Agents in Vaccines Prepared Using Cells and Ingredients of Animals Origin; Relaxation of Testing Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The period for receiving public comments on the proposed rulemaking for revising the Standard Requirements for the Detection of Extraneous Agents in Vaccines Prepared Using Cells and Ingredients of Animals Origin is being reopened. The Animal and Plant Health Inspection Service (APHIS) is extending the comment period in response to several requests to do so. The proposed changes are being made to clarify and simplify the original proposal.

DATE: Comments must be received on or before August 7, 1984.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Peter L. Joseph, VS, APHIS, USDA, Room 836, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–7760.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 and have been assigned OMB control number 0579–0013.

Executive Order 12291

These proposed actions have been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 to implement Executive Order 12291 and have been classified as "non-major."

The proposed rules would not have a significant effect on the economy and would not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic or export markets.

Certification Under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. A small entity is defined as a business which is independently owned and operated and is not dominant in the field of veterinary biologics manufacturing.

Alternatives

The alternatives considered are:

1. Do not amend the present regulations. This would continue known inequities in the present regulations and provide no relief to the USDA-licensed biologic industry. Therefore, this alternative was not adopted.

2. Amend the regulations to update and standardize standard procedures for detecting extraneous agents in Master Seeds, cells, and ingredients of animal origin used in the preparation of vaccines. Experience has shown that cell lines used in the preparation of vaccines are stable and have not induced benign or malignant tumors in recipient animals. This alternative relieves the affected industry of some regulatory burden by updating test procedures and by deleting the requirement to test cell lines for tumorigenicity and oncogenicity unless otherwise indicated. Therefore, this alternative was adopted.

Background

Current procedures for testing Master Seeds, cells, and ingredients of animal origin used in the preparation of vaccines are repeated in several parts of the Standard Requirements. Such Master Seeds, cells, and ingredients of animal origin are used almost exclusively in the production of virus vaccines. Many of these testing procedures have been used for a number of years and no longer reflect the state-of-the-art in laboratory testing. Since these methods were codified in the Standard Requirements, new procedures have evolved which are more sensitive and specific for detecting extraneous agents. Newer materials and techniques have been developed for identifying viruses used in the production of biological products. Experience in production of virus vaccines has clarified and increased our knowledge of test methods and types of cell to be used when testing cell lines for purity.

On November 30, 1982, APHIS published in the **Federal Register** (47 FR 53884) a rulemaking notice to revise the Standard Requirements for the Detection of Extraneous Agents in Vaccines Prepared Using Cells and Ingredients of Animal Origin. The purpose of the proposed rulemaking was to amend and update the requirements for the detection of extraneous agents in Master Seeds, cells, and ingredients of animal origin used in the preparation of biological products. The notice proposed to relax the test requirements for tumorogenicity and oncogenicity in 9 CFR 113.52 for cell lines used in making vaccines. Some procedures for testing cells and ingredients of animal origin used in the preparation of vaccines are repeated in several parts of the Standard Requirements. The notice proposed to eliminate the repetition by codifying test procedures in two new Standard Requirements and incorporate, by reference, these procedures in applicable general requirements.

The public comment period for the proposed standards was scheduled to end on January 31, 1983. Several comments were received indicating that the changes as proposed were not sufficiently clear and could in fact increase the testing requirements contrary to the intent. Comments were received indicating an erroneous interpretation that the size of monolayers under subculture specified in 9 CFR 113.51 and 113.52 would be restricted to 75 cm^2. The proposed changes incorporated references to allow for different test systems to be used. Therefore, to further clarify, a change is being made in proposed 9 CFR 113.51 and 113.52 where appropriate to read "* * * all but the last subculture shall result in a new monolayer of at least 75 cm^2 * * *" This would allow for the final monolayer to be in a test system of choice.

Another comment requested that firms which do not manufacture a Rabies Vaccine not be required to test cells for this virus because of the risk to personnel through exposure to a positive control. Firms which do manufacture Rabies Vaccine would normally observe necessary precautions to protect their personnel by immunizing those at risk. Test procedures for rabies virus are not considered necessary in facilities not engaged in research or production of Rabies Vaccine. The Agency is therefore proposing an exemption from such testing in this proposal.

Other comments objected to the use of contaminated ingredients in killed biological products. The proviso in proposed 9 CFR 113.53(c) has, therefore, been removed. The issue will be properly addressed in subsequent revisions to the Standard Requirements. The requirement to test for *Bruoella abortus* in bovine cell lines would be deleted. The possibility of a cell line being contaminated with this organim is negligible. In the original proposal, 9 CFR 113.34 was revised to include hemadsorbing agents. In this new proposal the tests for hemadsorbing agents are more appropriately included in 9 CFR 113.46, Detection of Cytopathogenic and/or Hemadsorbing Agents. This action should help to clarify the proposed revisions. Therefore, 9 CFR 113.34 would remain as it currently occurs in the Standard Requirements. A typographical error is corrected in paragraph (c) by changing .5 percent to 5 percent.

The Agency has incorporated the acceptable changes suggested in the previous comment period and is republishing the proposal. Those changes suggested during the previous comment period which are not included were found to be inconsistent with the intent of the regulations.

The proposed standard procedures in new 9 CFR 113.46 and 113.47 are extracted from existing requirements found in 9 CFR 113.50–113.55. Under this proposal, those sections would be amended to refer back to 9 CFR 113.46 and 113.47. This action would update and standardized test procedures and provide for a single reference in the Standard Requirements. It would also eliminate redundancy in the standards.

In cooperative efforts, Veterinary Services (VS) and licensed manufacturers have benefited over the years from extensive testing of cell lines for tumorigenic and oncogenic properties. Test methods currently used in testing for these properties have never resulted in an unsatisfactory cell line. Furthermore, millions of doses of vaccine have been produced on these cell lines without causing benign or malignant tumorous growth in the recipients. Therefore, it is proposed in these amendments to relax the current requirements for tumorigenicity and oncogenicity unless otherwise indicated.

When standard requirements have been developed by VS through experience with a number of Outlines of Production and/or through the

development of scientific knowledge at the National Veterinary Services Laboratories or elsewhere, such requirements are codified in the regulations. Codification assures uniformity of requirements for licensees and makes information on regulatory standards generally available to the public. These proposed amendments would increase the consistency of results when testing Master Seeds, cells, and ingredients of animal origin used in preparation of vaccines by specifying uniform testing procedures. The type of cell used in testing a cell line for purity would be changed to permit use of the most sensitive cell type. These amendments make uniform requirements available to the general public and applicable to all licensees.

List of Subjects in 9 CFR Part 113

Animal biologics.

PART 113—STANDARD REQUIREMENTS

Accordingly, Part 113, Title 9, Code of Federal Regulations, is amended as follows:

1. Section 113.34 is proposed to be revised as follows:

§ 113.34 Detection of hemagglutinating viruses.

The proposed change to this section would be eliminated and the standard would remain as it occurs in 9 CFR, except for a correction in paragraph (c): Change ".5 percent" to "5 percent."

2. Sections 113.46 and 113.47 are proposed to be added as follows:

§ 113.46 Detection of cytopathogenic and/or hemadsorbing agents.

The tests for detection of cytopathogenic and/or hemadsorbing agents provided in this section shall be conducted when prescribed in an applicable Standard Requirement or in the filed Outline of Production for a product.

(a) *Test for cytopathogenic agents.* One or more monolayers that are at least 6 cm^2 and at least 7 days from the last subculture shall be tested as provided in this paragraph.

(1) Stain each monolayer with a suitable cytological stain.

(2) Examine the entire area of each stained monolayer for evidence of inclusion bodies, abnormal number of giant cells, or other cytopathology indicative of cell abnormalities attributable to an extraneous agent.

(b) *Test for hemadsorbing agents.* One or more monolayers that are at least 6 cm^2 and at least 7 days from the last subculture shall be tested as provided in this paragraph.

(1) Wash the monolayer with several changes of phosphate buffered saline.

(2) Add an adequate volume of a 0.2 percent red blood cell suspension to uniformly cover the surface of the monolayer. Suspensions of washed guinea pig, human type "O" and chicken red blood cells shall be used. These suspensions may be mixed prior to adding to the monolayer or they may be used separately on separate monolayers.

(3) Incubate the monolayer at 4° C for 30 minutes, wash with phosphate buffered saline, and examine for hemadsorption.

(4) If no hemadsorption is apparent, repeat step (b)(2) of this section and incubate the monolayers at 20–25° C for 30 minutes, wash with phosphate buffered saline, and examine again for hemadsorption. If desired, separate monolayers may be used for each incubation temperature.

(c) If specific cytopathology or hemadsorption attributable to an extraneous agent is found, the material under test is unsatisfactory and shall not be used to prepare biological products. If an extraneous agent is suspected because of cytopathology or hemadsorption and cannot be eliminated as a possibility by adding testing, the material under test is unsatisfactory.

§ 113.47 Detection of extraneous agents by the fluorescent antibody technique.

The test for detection of extraneous agents by the fluorescent antibody technique provided in this section shall be conducted when prescribed in an applicable Standard Requirement or in a filed Outline of Production for a product.

(a) Monolayers, at least 7 days after subculturing, shall be processed and stained with the appropriate antiviral fluoresceinconjugated antibody as specified in paragraph (b) of this section.

(1) At least 12 monolayers shall be required for each specific virus listed for each type of cells to be tested as prescribed in paragraph (b) of this section.

(i) At the time of the last subculturing, four test monolayers shall be inoculated with approximately 100 $FAID_{50}$ of the specific virus as positive controls.

(ii) Four additional test monolayers shall be the "material under test."

(iii) At least four monolayers of the same type of cell as the test monolayer shall be prepared separately with cells that have been tested as prescribed in §§ 113.51 or 113.52 (whichever is applicable) as negative controls.

(2) Each group of four monolayers shall have a total area of at least 6 cm^2.

(3) Positive control monolayers may be fixed before 7 days if fluorescence is enhanced by so doing. Monolayers that are so treated shall be stained at the same time as the material under test.

(b) The antiviral fluorescein-conjugated antibody to be used shall depend on the type of cells required for testing for extraneous agents as specified in an applicable Standard Requirement or in a filed Outline of Production. Specific antiviral fluorescein-conjugated antibody shall be applied to each type of cell specified for the test in accordance with the following list. Additional antiviral fluorescein-conjugated antibody may be specified for use by the Deputy Administrator. Specific antiviral fluorescein-conjugated antibody to be applied to cell type not listed shall be as specified by the Deputy Administrator. When a specific antiviral fluorescein-conjugated is listed for application to more than one type of cells, it need only be applied to the most susceptible cell type used in propagation of the potential extraneous agent(s).

(1) Canine cells shall be tested for:
(i) Canine distemper virus;
(ii) Canine parvovirus;
(iii) Canine coronavirus;
(iv) Reovirus;
(v) Rabies virus; and
(vi) Bovine virus diarrhea virus.

(2) Feline cells shall be tested for:
(i) Feline panleukopenia virus;
(ii) Rabies virus;
(iii) Bovine virus diarrhea virus; and
(iv) Coronavirus.

(3) Bovine cells shall be tested for:
(i) Bovine virus diarrhea virus;
(ii) Bovine parvovirus; and
(iii) Bovine adeovirus I and V.

(4) Porcine cells shall be tested for:
(i) Transmissible gastroenteritis virus;
(ii) Porcine adenovirus;
(iii) Porcine parvovirus; and
(iv) Bovine virus diarrhea virus.

(5) Vero cells shall be tested for reovirus when not tested for in canine cells.

(6) Firms that do not have Rabies virus on premises either for research or production purposes are exempt from the requirement for testing for this virus.

(c) After staining, each group of four monolayers shall be examined for the presence of specific fluorescence attributable to the presence of extraneous agents.

(1) If the material under test shows any evidence of specific virval fluorescence, it is unsatisfactory; *Provided,* That, if specific fluorescence attributable to virus being tested for is absent in the positive control monolayers, the test is inconclusive and may be repeated.

(2) If the fluorescence of the monolayers inoculated with the specific virus as positive controls is equivocal, or if the negative monolayers show equivocal fluorescence indicating possible viral contamination, or both, the test shall be declared inconclusive, and may be repeated; *Provided*, That, if the test is not repeated, the material under test shall be regarded as unsatisfactory.

3. Sections 113.51, 113.52, 113.53, and 113.55 are proposed to be revised as follows:

§ 113.51 Requirements for primary cells used for production of biologics.

Primary cells used to prepare biological products shall be derived from normal tissue of healthy animals. When prescribed in an applicable Standard Requirements or in the filed Outlined of Production, each batch of primary cells used to prepare a biological product shall be tested as prescribed in this section. A batch of primary cells found unsatisfactory by any prescribed test shall not be used. A serial of biological product shall not be released if produced from primary cells that are found unsatisfactory by any prescribed test.

(a) Final container samples of completed product or samples of the final pool or harvested materials or samples of each subculture of cells used to prepare the biological product shall be shown free of mycoplasma as prescribed in § 113.28. The sample for testing shall consist of a least 75 cm^2 of actively growing cells or the equivalent in harvest fluids; *Provided*, That all sources of cells in the batch of primary cells are represented.

(b) Final container samples or completed produce or samples of the final pool of harvested materials or samples of each subculture of cells used to prepare the biological product shall be shown free of bacteria and fungi as prescribed in § 113.26 or § 113.27.

(c) A monolayer at least 75 cm^1 from each batch of primary cells or each subculture of primary cells used to prepare a biological product shall be shown free of extraneous agents as prescribed in this paragraph.

(1) The test monolayer shall be maintained using the media (with additives) and under conditions similar to those used to prepare bioligical products.

(i) Monolayers of avian origin shall be maintained for at least 14 days and shall be subcultured at least once during the maintenance period. All but the last subculture shall result in a new monolayer of at least 75 cm^2. The last subculture shall meet the minimum area requirement specified in §§ 113.46 and 113.47.

(ii) Monolayers not of avian origin shall be maintained for at least 28 days and shall be subcultured at least twice during the maintenance period. All but the last subculture shall result in a new monolayer of at least 75 cm^2. The last subculture shall meet the minimum area requirement specified in §§ 113.46 and 113.47.

(2) Monolayers shall be examined regularly throughout the required maintenance period for evidence of the precence of cytopathogenic agents. If evidence of cytopathogenic agent is found, the batch of primary cells is unsatisfactory.

(3) At the conclusion of the required maintenance period, monolayers shall be tested for:

(i) Cytopathogenic and/or hemadsorbing agents as prescribed in § 113.46;

(ii) Extraneous agents by the fluorescent antibody technique as prescribed in § 113.47.

§ 113.52 Requirements for cell lines used for production of biologics.

When prescribed in an applicable Standard Requirement or in a filed Outlined of Production each cell line used to prepare a biological product shall be tested as prescribed in this section. A cell line found unsatisfactory by and prescribed test shall not be used. A serial or biological product shall not be released if produced from a cell line that is found unsatisfactory by any prescribed test.

(a) *General requirements.* (1) A complete record of the cell line shall be kept, such as, but not limited to, the source, passage history, and medium used for propagation.

(2) A Master Cell Stock (MSC) shall be established at a specified passage level for each cell line. The passage level and identity of the MCS and the highest passage level (MCS+n) intented for use in the preparation of a biological product shall be specified in the Outline of Production for the product.

(3) Sufficient 1.0 ml or larger aliquots of MCS and MCS + n shall be prepared, kept in a frozen state, and made available to Veterinary Services(VS) upon request dor performing the tests prescribed in this section.

(4) Each lot of cells shall monitored for the characteristics determined to be normal for the cell line, such as, but not liminted to, microscopic appearance, growth rate, acid production, or other observable features.

(b) The MCS shall be shown to be of the same species of origin as that reported in paragraph (a)(1) of this section by the following method:

(1) At least four monolayers with a total area of at least 5 cm^2 shall be grown to at least 80 percent confluency using medium that does not contain additives from the species of origin of the MCS.

(2) The monolayers shall be removed from their media, processed, stained, and examined.

(i) At least two monolayers shall be stained with an antispecies fluorescein-conjugated antibody unrelated to the species of origin of the MCS.

(ii) At least two monolayers shall be stained with an antispecies flouresceinconjugated antibody specific to the species of origin of the MCS.

(iii) All monolayers shall be examined for evidence of specific fluorescence.

(3) If specific fluorescence is not found in the monolayers stained with the conjugate specific to the species of origin of the MCS, the cell line is unsatisfactory and shall not be used for vaccine production.

(4) If nonspecific fluorescence is found in the monolayers stained with conjugate from an unrelated species of origin or other results make the test results equivocal, the procedure shall be repeated until either specific fluorescence is found only in the monolayers stained with conjugate specific to the species of origin of the MCS and not in the control monolayers or specific fluorescence cannot be identified and the MCS is declared unsatisfactory.

(5) Alternate tests to determine the species of origin of the MCS may be used if approved by VS.

(c) The MCS and either each subculture of cells used to prepare a biological product or the final pool of harvested material (with or without the stabilizer) or final container samples of completed product for each serial of such product shall be shown to be free of mycoplasma as prescribed in § 113.28. The sample for testing shall consist of at least 75 cm^2 of actively growing cells or the equivalent, in harvest fluids. The cells shall represent all sources of cells in the batch.

(d) The MCS and each subculture used to prepare a biological product or the final pool of harvested material for each serial of such product shall be tested for bacteria and fungi as prescribed in § 113.26. If bacteria or fungi are found in the MCS, the MCS shall not be used. If bacteria or fungi are found in a subculture, the subculture shall not be used.

(e) A monolayer at least 75cm^2 from each MCS shall be shown free of

extraneous agents as prescribed in this paragraph.

(1) The test monolayer shall be maintained for at least 28 days using the media (with additives) intended for growth and maintenance and under conditions similar to those used to prepare biological products.

(2) Cells shall be subcultured at least two times during the maintenance period. All but the last subculture shall result in at least one new monolayer of at least 75 cm^2. The last subculture shall meet the minimum area requirement specified in §§ 113.46 and 113.47 and paragraph (f) of this section.

(3) Monolayers shall be examined regularly throughout the 28-day maintenance period for evidence of the presence of cytopathogenic agents. If evidence of cytopathogenic agent is found, the MCS is unsatisfactory.

(4) At the conclusion of the 28-day maintenance period, monolayers shall be tested for:

(i) Cytopathogenic and/or hemadsorbing agents as prescribed in § 113.36; and

(ii) Extraneous agents by the fluorescent antibody technique as prescribed in § 113.47.

(f) At the conclusion of the 28-day maintenance period provided in paragraph (e) of this section, at least one monolayer of at least 75 cm^2 and each subculture used to produce product shall also be shown free of extraneous agents as prescribed in this paragraph.

(1) Alternately freeze and thaw the monolayer(s) three times. Centrifuge the disrupted cells at no greater than 2,000 x g for no more than 15 minutes to remove cellular debris. Divide the supernatant into equal aliquots and dispense 1.0 ml onto each of at least one monolayer (at least 75 cm^2) of:

(i) Vero (African green monkey) cell line;

(ii) Embryonic cells, neontal cells, or a cell line of the same species of origin as the MCS if different than provided in paragraph (f)(1)(i) of this section;

(iii) Embryonic cells, neonatal cells, or a cell line of the species for which the vaccine is recommended if different than provided in paragraphs (f)(1) (i) and (ii) of this section; and

(iv) Embryonic cells, neonatal cells, or a cell line of bovine origin if not specified in paragraphs (f)(1) (i), (ii), and (iii) of this section.

(2) The monolayers of cells specified in paragraphs (f)(1) (i), (ii), (iii), and (iv) of this section shall be maintained for at least 14 days after receipt of the aliquot of disrupted MCS. Monolayers shall be subcultured at least once during the maintenance period. All but the last subculture shall result in a new monolayer of at least 75 cm^2. The last subculture shall meet the minumum area requirement specified in §§ 113.46 and 113.47.

(3) Monolayers shall be examined regularly throughout the 14-day maintenance period for evidence of the presence of cytopathogenic agents. If evidence of a cytopathogenic agent is found, the MCS is unsatisfactory.

(4) At the conclusion of the 14-day maintenance period, monolayers shall be tested for:

(i) Cytopathogenic and/or hemadsorbing agents as prescribed in § 113.46; and

(ii) Extraneous agents by the fluorescent antibody technique as prescribed in § 113.47.

(g) The karyology of cell lines used in the production of biologics shall be examined as follows. A minimum of 50 mitotic cells shall be examined at both the MCS and MCS+n. The modal number in the MCS+n shall not exceed plus or minus 15 minus 15 percent of the modal number of the MCS. Any marker chromosomes present in the MCS shall persist at the MCS+n. If the modal number exceeds the limits and/or the marker chromosomes do not persist (through the MCS+n passage level), the cell line shall not be used for vaccine production.

(h) If direct or indirect evidence exists that a cell line which is intended for use in the preparation of a vaccine may induce malignacies in the species for which the product is intended, that cell line shall be tested for tumorogenicity/oncogenicity by a method acceptable to VS.

§ 113.53 Requirements for ingredients of animal origin used for production of biologics.

Each lot of ingredient of animal origin which is not subjected to heat sterilization or other sterilization methods acceptable to Veterinary Services (VS), such as, but not limited to serum and albumin, used to prepare a biological product shall be tested as prescribed in this section by the licensee or a laboratory acceptable to VS. Results of all tests shall be recorded by the testing laboratory and made a part of the licensee's records. A lot of ingredient found unsatisfactory by any prescribed test shall not be used to prepare a biological product. A serial of biological product shall not be released if produced using an ingredient that is found unsatisfactory by any prescribed test.

(a) Samples of each lot of ingredient of animal origin which is not subjected to heat sterilization, used to prepare a biological product shall be shown free of mycoplasma by the method prescribed in § 113.28.

(b) Samples of each lot of ingredient of animal origin which is not subjected to heat sterilization or other sterilization methods acceptable to VS used to prepare a biological product shall be shown free of bacteria and fungi as prescribed in § 113.26.

(c) Samples of each lot of ingredient of animal origin, except porcine trypsin, which is not subjected to heat sterilization or other viricidal procedure acceptable to VS used in the preparation of biological products shall be tested as prescribed in this paragraph:

(1) Monolayers at least 75 cm^2 of Vero (African green monkey) cell line and of primary cells or a cell line of the same species of origin as the ingredient shall be used in the test. Cell lines used shall have been found satisfactory when tested as prescribed in § 113.52 and primary cells used shall have been found satisfactory when tested as prescribed in § 113.51.

(2) At least 3.75 ml of the ingredient shall be used in the growth medium for the preparation of at least 75 cm^2 test monolayers. The ingredient shall also be used in the growth medium when monolayers are subcultured. If the ingredient being tested is cytotoxic when tested in this manner, other procedures may be used if approved by VS.

(3) The test monolayers shall be maintained for at least 28 days.

(4) Cells shall be subcultured at least two times during the maintenance period. All but the last subculture shall result in at least one new monolayer of at least 75 cm^2.

(5) Monolayers shall be examined regularly throughout the 28-day maintenance period for evidence of cytopathogenic agents. If evidence of a cytopathogenic agent is found, the ingredient is unsatisfactory.

(6) At the conclusion of the 28-day maintenance period, monolayers shall be tested for:

(i) Cytopathogenic and/or hemadsorbing agents as prescribed in § 113.46; and

(ii) Extraneous agents by the fluorescent antibody technique as prescribed in § 113.47.

(d) Each lot of porcine trypsin which has not been treated to inactivate porcine parvovirus (PPV) in a manner acceptable to VS shall be tested for PPV as prescribed in this paragraph.

(1) Not less than 5.0 grams of trypsin shall be dissolved in a volume of phosphate buffered saline sufficient to fill a centrifuge angle head. After centrifuging for 1 hour at 80,000 x g, the

pellet material shall be reconstituted in distilled water and inoculated into a flask containing 75 cm^2 of a 30 to 50 percent confluent monolayer culture of primary porcine cells or a porcine cell line of proven equal PPV susceptibility. An additional flask of cells shall be held as a negative control.

(2) The test and control monolayers shall be maintained for at least 14 days and subcultured at least once during the maintenance period.

(3) At the end of the 14-day maintenance period, and 4 to 7 days after the last subculturing, monolayers shall be tested for the presence of porcine parvovirus by the fluorescent antibody technique as prescribed in § 113.47(c).

(e) A sample of serum from each donor horse used to produce a lot of equine serum used in the preparation of biological products recommended for use in horses shall be tested at a laboratory approved by Veterinary Services using the Coggins test for equine infectious anemia antibodies. If antibodies to equine infectious anemia are found, the lot of serum is unsatisfactory.

§ 113.55 Detection of extraneous agents in Master Seed Virus.

Each Master Seed Virus (MSV) shall be tested as prescribed in this section. A MSV found unsatisfactory by any prescribed test shall not be used. A serial of biological product shall not be released if produced from a MSV that is found unsatisfactory by any prescribed test.

(a) At least a 1.0 ml aliquot per cell culture of MSV shall be dispensed onto monolayers (at least 75 cm^2 in area) of:

(1) Vero (African green monkey) cell line;

(2) Embryonic cells, neonatal cells, or a cell line of the species for which the vaccine is recommended; and

(3) Embryonic cells, neonatal cells, or a cell line of the species of cells in which the MSV is presently being propagated if different than prescribed in paragraphs (a)(1) and (a)(2) of this section. Cell lines used shall have been found satisfactory when tested as prescribed in § 113.52 and primary cells used shall have been found satisfactory when tested as prescribed in § 113.51. If the MSV is cytopathic for or causes hemadsorption in the cells in which it is to be tested, the MSV shall be neutralized with specific antibody-free blocking sera supplied or approved by Veterinary Services (VS) or counteracted by a method approved by VS.

(b) At least one monolayer of each cell type used in the test shall be maintained as an uninoculated control.

(c) Each monolayer shall be maintained for at least 14 days.

(d) Cells shall be subcultured at least once during the maintenance period. All but the last subculture shall result in at least one new monolayer at least 75 cm^2. The last subculture shall meet the minimum area requirement specified in §§ 113.46 and 113.47.

(e) Monolayers shall be examined regularly throughout the 14-day maintenance period for evidence of cytopathogenic agents. If evidence of a cytopathogenic agent is found, the MSV is unsatisfactory.

(f) At the conclusion of the 14-day maintenance period, monolayers shall be tested for:

(1) Cytopathogenic and/or hemadsorbing agents as prescribed in § 113.46;

(2) Extraneous agents by the fluorescent antibody technique as prescribed in § 113.47.

(37 Stat. 832–833; 21 U.S.C. 151–158)

Done at Washington, D.C., this 5th day of June 1984.

D. F. Schwindaman,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 84-15478 Filed 6-7-84; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

Modification of Protection Requirements for Spent Fuel Shipments

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering amending its regulations for the physical protection of irradiated reactor fuel in transit. The issue under consideration is one of safeguards rather than safety. The amendments would take into account new data from a research program and from other sources that indicate that the consequences of successful sabotage of an irradiated fuel shipment in a heavily populated area would be small compared to the consequence estimates that prompted issuance of the current rule. For certain spent fuel shipments, these amendments would provide continued protection against sabotage, while at the same time relieving the licensee of non-essential requirements.

DATE: Comment period expires September 10, 1984.

ADDRESSES: Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of comments on the proposed rule may be examined and copied for a fee at the NRC Public Document Room, 1717 H Street NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Carl B. Sawyer, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commision, Washington, DC 20555, Telephone: 301–427–4186.

SUPPLEMENTARY INFORMATION:

Background

The NRC carries out a continuing series of studies to aid in determining the measures that are needed to protect radioactive material, including irradiated (spent) fuel, against sabotage. During the mid-1970s, studies (NUREG–0194, "Calculations of Radiological Consequences from Sabotage of Shipping Casks for Spent Fuel and High-Level Waste," February 1977; and NUREG–0170, "Final Environmental Statement on the Transportation of Radioactive Material by Air and Other Modes," December 1977), estimated the health effects of a radiological release in a non-urban area resulting from a high-explosive assault of a spent fuel cask. The estimated risks were not considered to be substantive enough to warrant regulatory action. A subsequent study by Sandia Laboratories included a chapter on the sabotage of spent fuel in urban areas of high population density (SAND 77–1927, "Transport of Radionuclides in Urban Environs: A Working Draft Assessment"). This study suggested that the sabotage of spent fuel shipments had the potential for producing serious radiological consequences in areas of high population density. The Commission concluded that, in order to protect health and minimize danger to life and property (sections 161b and 161i(3) of the Atomic Energy Act of 1954, as amended), it was prudent and desirable to require certain interim safeguards measures for spent fuel shipments. The focus of concern was on possible successful acts of sabotage in densely populated urban areas. Because of the possibility that spent fuel shipments could be hijacked and moved from low population areas to high population areas, the interim requirements applied to all shipments, even though the

planned shipment route did not pass through a densely populated urban area. The interim requirements were to be in effect until the results of confirmatory research became available and were analyzed.

The interim rule, which set forth physical protection requirements in 10 CFR 73.37, was issued on June 15, 1979, and was made effective on July 3, 1979. The rule was issued without benefit of public comment, but at the time of publication public comment was invited. Afte reviewing the public comments and after taking into account its experience in administering the rule, the NRC, on June 3, 1980, published amendments to the rule. The amendments were made effective on July 3, 1980, and the amended rule is currently in effect as 10 CFR 73.37(a) through (e).

Related Research

SAND 77–1927, which prompted issuance of the protection requirements, contained estimates which were unavoidably subject to large uncertainties due to a lack of technical data. A later draft of the Sandia report ("Transportation of Radionuclides in Urban Environs: Draft Environmental Assessment") was published by the NRC as NUREG/CR–0743. Although this draft predicted less serious consequences, a significant degree of uncertainty still remained that could be resolved only by further study and experiments.

Investigators at that time agreed and continue to agree (1) that consequences of an act of sabotage would be a direct function of the quantity of spent fuel that would be released in respirable form, and (2) that the only credible means of malevolent generation of respirable particles would be through the use of a large quantity (tens to hundreds of pounds) of high explosive skillfully applied. Little information was available to aid in predicting the response of spent fuel and spent fuel casks to explosive sabotage.

The NRC and the Department of Energy (DOE) responded to this need for technical data by sponsoring separate but coordinated experimental programs. Both programs were designed to yield information about the release from a specified reference sabotage event, which was defined as follows. Saboteur skills were specified as those of an experienced military or commercial explosive demolition specialist. Familiarity with a wide range of kinds and configurations of explosives was assumed. Use of up to hundreds of pounds of military or commecial explosives was permitted. For the special case of shaped charges, use of the U.S. Army M3A1 was assumed. It is the largest shaped charge readily available. An M3A1 causes damage through formatin of a high pressure particulate jet which may be a fraction of an inch in diamter and has the capability to penetrate two or more feet of metal, eroding everything in its path. From the outset, it was expected that a shaped charge would be more efficient than other configurations in producing respirable particles. For that reason the M3A1 was designated as the reference explosive. The refernece cask was specified as a single-assembly cask. The specificaton is conservative since a single-assembly cask has smaller dimensions than a multiassembly cask and is, therefore, more likely to yield a greater quantity of respirable particles (per assembly) in response to a given level of explosive sabotage.

A series of experiments using model (small-scale) explosives against simulated casks containing irradiated fuel characterized the NRC-sponsored program. These experiments used pressurized water reactor (PWR) fuel with a burnup of approximately 30,000 megawatt days per metric ton of heavy metal and approximately six-and-a-half-year cooling. Measurement of the quantity of released material revealed the fraction that was made up of particles of respirable size (those having a diameter of less than four microns). Upward scaling permitted the data to take into account the effect of the reference explosive and a full-scale cask. Scaling led to the conclusion that less than nine grams of spent fuel would be released in respirable form if the reference charge were used successfully against a cask containing a single PWR spent fuel assembly. Using results of the METRAN computer code for health conseuences (one of two health consequence codes used in SAND 77–1927 and NUREG/CR–0743) as set forth in Table 5–6 of NUREG/CR–0743 and assuming 150-day rather than six-and-a-half-year cooling, reserachers found that the average radiological consequence of a release in a heavily populated area such as New York City would be no early fatalities and less than one (0.4) latent cancer fatality. Early fatalities are those that occur within one year after exposure to the radioactive material. Latent cancer fatalities are those that occur at any time following the exposure and could result from the intitial exposure or from any long-term exposure to low levels of contamination.

The average consequence values just cited were selected as being the most representative of the values that were calculated for the specified release. Either higher or lower consequence values can be obtained, depending on the circumstances that are assigned. The following is an example from among the higher values that can be obtained from the data. For the most densely populated area studied (up to 200,000 persons per square mile), at evening rush hour on a business day, and in the most unfavorable location for a release, the calculated radiological consequence (peak consequence) based on data from Table 5–4 of NUREG/CR–0743 is no early fatalities and less than three (2.9) latent cancer fatalities.

The results of an explosive sabotage experiment vary from experiment to experiment, and only a limited number of experiments can be performed. The results of the NRC-sponsored program are based on four scaled experiements using irradiated fuel, and the largest measured release value was used to derive the nine-gram value cited. In addition, a number of supporting tests were performed to establish shaped charge jet characteristics and jet-to-fuel-pin interaction.

Results of the NRC-sponsored research program (as well as those of the DOE program to be discussed subsequently) assume sabotage of a single-assembly cask, while the original SAND 77–1927 and NUREG/CR–0743 estimates assume a three-assembly cask. For the levels of release under consideration here, the releases and the health consequences for a three-assembly cask are calculated to be, at worst, double those for a single-assembly cask. The presence of additional assemblies in a cask would increase the likely release, but only in proportion to the number of assemblies that lie in the roughly straight line path of the jet. For more than three PWR assemblies (a fully loaded rail cask could contain 10 PWR assemblies) the upper bound of release would likely increase roughly in proportion to the square root of the total number of assemblies contained in a cask. On the basis of energy release from the explosive, it is expected that the number of fatalities from a sabotage explosion would be greater than the number of radiologically induced fatalities.

Explosive charges other than shaped charges were considered. In other experiments, scaled charges representing full-scale charges of up to several hundred pounds of explosive did not breach the cask's inner containment components. Accordingly, such full-scale charges appear unlikely to produce any release of spent fuel and hence unlikely to cause radiological consequences.

The program sponsored by DOE included one full-scale and several small-scale experiments. The full-scale experiments used a reference charge against a full-scale cask containing a single unirradiated surrogate fuel assembly. Again the quantity of material released from the cask was measured, and the released quantity was analyzed to determine what fraction was composed of respirable-sized particles. About three grams of respirable surrogate fuel was released. On the basis of the results of small-scale fuel characterization experiments which had been conducted separately, it was determined that a release of three grams of surrogate fuel was equivalent to a maximum release of 17 grams of irradiated fuel. Using the CRAC computer code for health consequences (the second of the computer codes used in SAND 77–1927 and NUREG/CR–0743 and a code which generally predicts higher health consequences than the METRAN code) and again assuming 150-day cooling, researchers found that the average radiological consequence of a 17-gram release in a heavily populated area such as New York City would be no early fatalities and about 2 latent cancer fatalities.[1] The peak consequences appearing in the computer runs were no early fatalities and about 7 latent cancer fatalities. Values of average or peak consequences should be doubled to account for the case of a three-assembly truck cask.

Conceivably, an adversary could use more than one shaped charge in attacking a cask, and that possibility was considered. For shaped charges the size of the reference charge, the likely result is that the release would be in proportion to the number of charges used. The use of larger shaped charges is conceivable but less credible. These types of charges would probably have to be custom-made, thereby introducing a formidable new problem for an adversary. There is no known technology that would allow a disproportionately large increase in production of respirable particles with credible increase in a saboteur's explosive resources.

Most consequence calculations discussed herein are based on fuel subjected to burnup of 33,000 megawatt days per metric ton of heavy metal (MWd/MT) at a power density of 40 kilowatts per kilogram of heavy metal (KW/Kg), which is termed reference fuel. The possible transport of spent fuel subjected to higher burnup was considered, although these shipments are not now being made. For fuel subjected to 40,000 MWd/MT (which is typical of the higher burnups being considered) at a power density of 36.4 KW/Kg, the calculated consequences of successful sabotage are about 45 percent higher than the consequences of successful sabotage of reference fuel.

Additional information on the NRC-sponsored program can be found in a report entitled "Final Report On Shipping Cask Sabotage Source Term Investigation." Additional information on the DOE-sponsored program can be found in a report entitled "An Assessment of the Safety of Spent Fuel Transportation in Urban Environs." A peer review of both research programs was carried out by the U.S. Army's Ballistic Research Laboratory. The review focused on the interaction between explosives, cask, and fuel and on the experimental techniques used. The conclusions in the peer review report generally confirm the reasonableness of the approaches taken in the research, and based on the assumptions of the research approach, confirmed the estimated release levels. The two research reports, the peer review report, and SAND 77–1927 are available for inspection at the NRC Public Document Room, 1717 H Street NW., Washington, DC. NUREG/CR–0743 is available from the NRC/GPO Sales Program, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Conclusions

For the following reasons, the Commission concludes that moderation of the current interim rule (10 CFR 73.37) for the protection of spent fuel shipments against sabotage is justified:

1. Issuance of the interim rule was based chiefly on consequence estimates set forth in SAND 77–1927. A baseline estimate, a high estimate, and a low estimate were provided. At the time the rule issuance was under consideration, the high consequence estimate was based on 14,000 grams of respirable release for a truck cask containing three fuel assemblies and on 47,500 grams of respirable release for a rail cask. At the time, the high-estimate releases could not be ruled out. The calculated average consequences for truck cask sabotage were summarized as several tens of early fatalities and hundreds of latent cancer fatalities. The calculated average consequences for a rail cask were summarized as hundreds of early fatalities and thousands of latent cancer fatalities. The research recently completed has shown that the likely respirable release from sabotage and the resulting consequences are but a tiny percentage of the estimated values which originally prompted issuance of the rule. Accordingly, the original basis for the rule is no longer valid.

2. The value of consequence now predicted (no early fatalities and about four latent cancer fatalities average for reference basis sabotage of a three-assembly cask) is obtained only when a set of assumptions very favorable to the saboteur are made. The effects of assumptions less favorable to a saboteur are discussed below:

a. *Fuel burnup and cooling.* Consequence calculations are based on reference fuel cooled for 150 days. Because of lower burnup and longer cooling, assemblies currently being shipped typically contain a radioactive material inventory 0.2 to 0.5 as hazardous as the assumed inventory for reference fuel.

b. *Population density.* The release of radioactive material was postulated to take place within an area with population density in the range between 62,000 and 200,000 persons per square mile. Very few (perhaps only one) locations in the U.S. are characterized by this population density. Consequences decline markedly for lower population density.

c. *Lifetime of respirable particles.* A respirable particle tends to adhere to the first sizeable particle it encounters or to serve as a condensation site for vapors (such as water), thus possibly limiting its lifetime to one that is shorter than that necessary for human inhalation and deep deposition in the lung. In an actual sabotage, products of the explosion would undoubtedly provide numerous larger-than-respirable particles that would act as agglomeration sites for respirable particles. In both sets of experiments, the products of the explosion were isolated from the cask to keep the measurement problems manageable. Water particles (fog-like droplets) would also serve as agglomeration sites. Finally, water vapor or materials vaporized by the explosive earlier do not account for a water jacket or annulus of wet material present in all truck casks now in use. An experiment has shown that the presence of water (water jacket and water-filled cavity) between the explosive and the fuel reduces the quantity of respirable material released by a factor of 40.

Simultaneous occurrence of worst- or near-worst-case values for each of these factors, plus an assumption of successful sabotage appears remote in the extreme.

[1] The current CRAC code that is cited here (sometimes referred to as CRAC 2) is a modified version of the code that was used in SAND 77–1927 and NUREG/CR–0743. The modified version predicts consequences a few percent higher than the earlier version; the estimated consequences are based on this modified version.

Calculated consequences reported herein are reduced by factors of up to hundreds if values other than the most favorable are assigned.

3. Although the experiments have reduced the uncertainty in the quantity of material likely to be released as a result of successful sabotage, there are limitations to the conclusions of the program that must be taken into account. The reduced consequences described herein are necessarily subject to several assumptions, including that of a reference explosive. While the shaped charge selected for the explosive threat represents a very severe threat, even more severe threats cannot be ruled out if an adversary is granted protracted control of a shipment and unhindered movement. In a similar vein, consequence modeling assumptions more severe than those postulated in NUREG/CR-0743 can also be conjectured (e.g., localized areas, such as stadiums, with extremely high population densities), if completely unrestricted movement of the shipment and unrestrained use of sabotage resources against the shipment are allowed. For these reasons a set of moderate requirements that would continue to provide a significant level of protection against protracted loss of control of a shipment and unhindered movement of a shipment by a saboteur is being considered. The requirements should (a) deny an adversary easy access to shipment location information; (b) provide for early detection of malevolent moves against or loss of control of a shipment; (c) provide a means to quickly summon assistance from local law enforcement authorities; and (d) provide a means to impede unauthorized movement of a truck shipment into a heavily populated area.

Summary of the Proposed Rule

A rule is proposed that takes into account the new information and conclusions which have emerged from the research program. The important features of the proposed rule are:

1. The performance requirements for protection of spent fuel shipments have been modified to emphasize protection against sabotage with high consequence. High consequence refers to the levels of consequence that prompted issuance of the original interim rule. For a truck shipment, high consequence refers to tens of early fatalities and hundreds of latent cancer fatalities.

2. For shipment of spent fuel cooled less than 150 days, the current requirements would continue to apply, because detailed consequence calculations for such fuel have not been carried out.

3. For shipments of spent fuel cooled 150 days or more, a new set of moderate requirements would apply that are consistent with the experimentally determined level of consequence. The requirements call for a shipment to be accompanied by an unarmed escort (who may also serve as driver, rail employee, or ship's officer) who would carry out prescribed security procedures. In addition, present requirements for protection of shipment schedule information, onboard communications (all transport modes), and immobilization (truck mode only) would be retained.

Among other requirements considered no longer needed (for shipments of fuel cooled 150 days or more) are those for route surveys and advance coordination with local law enforcement agencies (LLEAs). New DOT requirements for routing (49 CFR 177.825) issued in the interest of safety and recently put in force apply to NRC licensees and require them to use routes consistent with NRC safeguards routing policy. With respect to LLEA coordination, a separate NRC rule [the present § 73.37(f)] requires the notification of governors (or designated state officials) whenever spent fuel is to be transported within a state to enable the state to contribute to the safety, security, and ease of transport of the shipment. State LLEAs typically are informed of impending shipments through this process.

Environmental Impact: Negative Declaration

The promulgation of these amendments would not result in any activity that affects the environment. Accordingly, the Commission has determined under the National Environmental Quality guidelines and the criteria of 10 CFR 51.5(d) that neither an environmental impact statement nor environmental impact appraisal to support a negative declaration for the proposed amendments to Title 10 is required.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) by reducing the burden. This rule has been submitted to the Office of Management and Budget for review of the proposed revised paperwork requirements.

Regulatory Flexibility Certification

Based on the information available at this stage of the rulemaking proceeding and in accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), a significant economic impact upon a substantial number of small entities. The rule, if promulgated, would apply to licensees who transport or deliver to a carrier for transport a shipment of spent fuel in a quantity in excess of 100 grams. Typical of the licensees who deliver spent fuel to carrier for transport are nuclear power reactor operators, independent spent fuel storage pool operators, and research institutions. None of the licensees who deliver spent fuel to a carrier for transport are known to be small entities. Licensees who transport spent fuel are typically large carriers who specialize in the transport of radioactive materials and other hazardous materials and who have many employees. No small entities are known to be within this licensee group.

The NRC has estimated the cost impact of these amendments upon the licensed industry. According to these estimates licensees would incur the following costs, assuming continuation of the current approximately 135 shipments annually. One-time costs for the proposed amendments have already been expended due to the same requirements under the present interim rule. Annual maintenance cost of equipment required by the proposed amendments is estimated at $14,000. Annual planning and administration cost is estimated at $7,000. Total cost to licensees is therefore estimated at $21,000 annually.

One savings to industry under the proposed amendments would be the elimination of about $27,000 expended annually for armed escorts presently required under the interim rule. Simplification of administration is estimated to result in an additional saving of $13,000 annually. Further information regarding these estimates is set forth in a document entitled "Modification of Protection Requirements for Spent Fuel Shipments: Regulatory Analysis" and is available for inspection and copying in the NRC Public Document Room, 1717 H Street NW., Washington, D.C.

Any small entity subject to this regulation which determines that, because of its size, it is likely to bear a disproportionate adverse economic impact should notify the Commission of this in a comment that indicates:

(a) The licensee's size in terms of annual income or revenue and number of employees;

(b) How the proposed regulation would result in a significant economic burden upon the licensee as compared to that on a larger licensee; and

(c) How the proposed regulations could be modified to take into account

the licensee's differing needs of capabilities.

Public Comment Solicited

Although it welcomes public comment on any aspect of the proposed regulation, the Commission particulary solicits comment on the following topics:

1. Is more research justified for safegurads of shipments of spent fuel cooled less than 150 days before shipment?
2. Should the NRC simplify its safeguards regulations by prohibiting shipment of fuel cooled less than 150 days before shipment?
3. Are the NRC cost estimates in accord with licensee experience?

List of Subjects in 10 CFR Part 73

Hazardous materials—Transportation, Incorporation by reference, Nuclear materials, Packaging and containers, Penalty, Reporting requirement.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, notice is hereby given that adoption of the following amendments to 10 CFR Part 73 is contemplated.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. The authority citation for Part 73 is revised to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 210, 88 Stat. 1242, as amended, sec. 204, 88 Stat. 1245 (42 U.S.C. 5841, 5844).

Sections 73.37 (g) and (h) are also issued under sec. 301, Pub. L. 96-295, 94 stat. 789 (42 U.S.C. 5841 note).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §73.21, 73.37(h), 73.55 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 73.20, 73.24, 73.25, 73.26, 73.27 73.37, 73.40, 73.45, 73.50, 73.55, 73.67 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 73.20 (c)(1), 73.24 (b)(1), 73.26 (b)(3), (h)(6), and (k)(4), 73.27 (a) and (b), 73.37 (g) and (h), 73.40 (b) and (d), 73.46 (g)(6) and (h)(2), 73.50 (g)(2), (3)(iii)(b) and (h), 73.55 (h)(2), and (4)(iii)(B), 73.70, 73.71, 73.72 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 73.37 is amended as follows:

a. Paragraphs (a)(1)(i), (a)(2)(iii), and (b)–(e) are revised.

b. Existing paragraphs (f) and (g) are redesignated as paragraphs (g) and (h) respectively and are revised.

c. A new paragraph (f) is added.

§ 73.37 Requirements for physical protection of irradiated fuel in transit.

(a) *Performance objectives.*

(1) * * *

(i) Minimize the possibilities for high consequence radiological sabotage of spent fuel shipments; and

* * * * *

(2) * * *

(iii) Impede attempts at high consequence radiological sabotage of spent fuel shipments or attempts to illicitly move spent fuel shipments containing materials with high consequence potential, until response forces arrive.

* * * * *

(b) *General requirements for protection of shipment of spent fuel cooled for less than 150 days.* The licensee, in order to achieve the performance objectives of paragraph (a) of this section, shall provide for a physical protection system that has been established, maintained, or arranged for fuel that has been used as part of an assembly to sustain nuclear fission in a self-supporting chain reaction at any time during the 150-day period before the date on which the fuel is loaded aboard a transport vehicle for transport. This physical protection system must include the following:

* * * * *

(c) *Shipments by road of spent reactor fuel cooled less than 150 days.* In addition to the provisions of paragraph (b) of this section, the physical protection system for any portion of a spent fuel shipment subject to paragraph (b) of this section that is by road must provide that:

* * * * *

(d) *Shipments by rail of spent reactor fuel cooled less than 150 days.* In addition to the provisions of paragraph (b) of this section, the physical protection system for any portion of a spent fuel shipment subject to paragraph (b) of this section that is by rail must provide that:

* * * * *

(e) *Shipments by sea of spent reactor fuel cooled less than 150 days.* In addition to the provisions of paragraph (b) of this section, the physical protection system for any portion of a spent fuel shipment subject to paragraph (b) of this section that is by sea must provide that:

* * * * *

(f) *Requirements for protection of shipments of spent fuel cooled 150 days or more.* To achieve the performance objectives of paragraph 73.37(a) of this section, a physical protection system established, maintained, or arranged for by the licensee for fuel which has not been used as part of an assembly to sustain nuclear fission in a self-supporting chain reaction at any time during the 150-day period before the date on which the fuel is loaded aboard the transport vehicle for transport shall:

(1) Provide for notification of the Nuclear Regulatory Commission in advance of each shipment, in accordance with § 73.72 of this part;

(2) Include procedures for coping with circumstances that threaten deliberate damage to a spent fuel shipment and with other safeguards emergencies;

(3) Provide that shipments are planned so that scheduled intermediate stops are avoided to the extent practicable;

(4) Provide for at least one escort, who may be a shipment vehicle operator or an officer of the shipment vessel, and who maintains visual surveillance of the shipment during periods when the shipment vehicle is stopped, or the shipment vessel is docked;

(5) Assure that the escort has been familiarized with, and is capable of implementing the security procedures;

(6) Include instructions for each escort that, upon detection of the abnormal presence of unauthorized persons, vehicles or vessels in the vicinity of a spent fuel shipment, or upon detection of a deliberately induced situation that has the potential for damaging a spent fuel shipment, the escort will:

(i) Determine whether or not a threat exists;

(ii) Assess the extent of the threat, if any;

(iii) Inform local law enforcement agencies of the threat and request assistance; and

(iv) Implement the procedures developed in accordance with paragraph (f)(2) of this section;

(7) Provide, for shipments by road, a capability for an escort to communicate with local law enforcement agencies through the use of the following equipment located on the transport vehicle:

(i) citizens band (CB) radio; and

(ii) radiotelephone or other NRC-approved equivalent means of two-way voice communication;

(8) Provide, for shipments by road, NRC-approved features that permit immobilization of the cab or cargo-carrying portion of the vehicle;

(9) Provide, for shipments by rail, a capability for an escort to communicate with local law enforcement agencies through the use of a radiotelephone or other NRC-approved equivalent means of two-way voice communication, which must be available on the train; and

(10) Provide, for shipments by water in U.S. territory, a capability for an escort to communicate with local law

enforcement agencies through the use of radiotelephone or other NRC-approved equivalent means of two-way voice communication.

(g) Prior to the transport of spent fuel within or through a state a licensee subject to this section shall notify the governor or the governor's designee. The licensee shall comply with the following criteria in regard to a notification.

(1) The notification must be in writing and sent to the office of each appropriate governor or the governor's designee. A notification delivered by mail must be postmarked at least 7 days before transport of a shipment within or through the state. A notification delivered by messenger must reach the office of the governor or the governor's designee at least 4 days before transport of a shipment within or through the state. A list of mailing addresses of governors and governor's designees was published in the **Federal Register** on June 7, 1982 (Vol. 47, No. 109, pages 24671–24673). An updated list will be published annually in the **Federal Register** on or about June 30.

(2) The notification must include the following information:

(i) The name, address, and telephone number of the shipper, carrier and receiver;

(ii) A description of the shipment as specified by the Department of Transportation in 49 CFR 172.202 and 172.203(d);

(iii) A listing of the routes to be used within the state; and

(iv) A statement that the information described below in § 73.37(g)(3) is required by NRC regulations to be protected in accordance with the requirements of § 73.21.

(3) A licensee shall provide the following information on a separate enclosure to the written notification along with a statement that the information is required by NRC regulations to be protected in accordance with the requirements of § 73.21.

(i) The estimated date and time of departure from the point of origin of the shipment;

(ii) The estimated date and time of entry into the governor's state;

(iii) For the case of a single shipment whose schedule is not related to the schedule of any subsequent shipment, a statement that schedule information must be protected in accordance with the provisions of § 73.21 until at least 10 days after the shipment has entered or originated within the state; and

(iv) For the case of a shipment in a series of shipments whose schedules are related, a statement that schedule information must be protected in accordance with the provisions of § 73.21 until 10 days after the last shipment in the series has entered or originated within the state and an estimate of the date on which the last shipment in the series will enter or originate within the state.

(4) A licensee shall notify by telephone or other means a responsible individual in the office of the governor or in the office of the governor's designee of any schedule change that differs by more than 6 hours from the schedule information previously furnished in accordance with paragraph (g)(3) of this section, and shall inform that individual of the number of hours of advance or delay relative to the written schedule information previously furnished.

(h) State officials, state employees, and other individuals, whether or not licensees of the Commission, who receive schedule information of the kind specified in paragraph (g)(3) of this section shall protect that information against unauthorized disclosure as specified in § 73.21.

Dated at Washington, DC, this 5th day of June, 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84-15466 Filed 6-7-84; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 55

[Notice No. 530]

Information Gathering on Safe Handling of Explosives Materials in the Fireworks Industry

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Request for comments.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is responsible under 18 U.S.C. Chapter 40 for protecting interstate and foreign commerce against interference and interruption by reducing the hazard to persons and property arising from misuse and unsafe or insecure storage of explosives materials. Accordingly, regulations have been promulgated in 27 CFR Part 55, Subpart K, which prescribe standards for the storage of explosives materials.

Nevertheless, accidental explosions causing death, injuries and property damage have occurred at fireworks manufacturing/assembly facilities. Therefore, the Bureau is soliciting suggestions from members of the explosives industry and other interested persons as to whether more effective safety standards are needed in the regulations in order to reduce the hazard to the general public. Suggestions should be forwarded to the address set forth below.

ATF will not recognize any material as confidential. Any materials submitted may be disclosed to the public. Any material which the transmitter considers to be confidential or inappropriate for disclosure should not be included in the suggestion. The name of the person submitting the suggestion is not exempt from disclosure.

DATE: There is no official comment deadline.

FOR FURTHER INFORMATION CONTACT: Arthur Cunn, Firearms and Explosives Operations Branch, 202–566–7591.

ADDRESS: Chief, Firearms and Explosives Operations Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 189, Washington, DC 20044.

Copies of this notice, and all suggestions received pursuant thereto, are available for public inspection during normal business hours at: Office of Public Affairs and Disclosure, Room 4407, Federal Building, 12th and Pennsylvania Avenue NW., Washington, DC 20226.

Signed: June 1, 1984.

Stephen E. Higgins,

Director.

[FR Doc. 84-15476 Filed 6-7-84; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Public Comment Procedures and Opportunity for Public Hearing on Proposed Modifications to the Iowa Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and for requesting a public hearing on the substantive adequacy of program amendments submitted by Iowa as amendements to the State's permanent

regulatory program (hereinafter referred to as the Iowa program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendments consist of proposed changes to the Iowa regulations concerning subsidence notification, performance bond amounts, and special permit application requirements for prime farmland.

This notice sets forth the times and locations that the Iowa program and the proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed for the public hearing.

DATES: Written comments not received by 4:30 p.m., July 9, 1984, will not necessarily be considered in the decision on whether the proposed amendments should be approved and incorporated into the Iowa program.

A public hearing on the proposed amendments has been scheduled for June 28, 1984. Any person interested in speaking at the hearing should contact Mr. Richard Rieke at the address or telephone number listed below by June 21, 1984. If no person has contacted Mr. Rieke by that date to express an interest in the hearing, the hearing will not be held. If only one person requests the opportunity to speak at the public hearing, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public hearing is scheduled for 10:00 a.m. at the Kansas City Field Office, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

Written comments and requests for a hearing should be directed to Mr. Richard Rieke, Director, Kansas City Field Office, Office of Surface Mining, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106; Telephone: (816) 374–5527.

Copies of the Iowa program, the proposed modifications to the program, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the OSM Field Office listed above and at the OSM Headquarters Office and the Office of the State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays.

Office of Surface Mining, Room 5124, 1100 L Street NW., Washington, D.C. 20240;

Iowa Department of Soil Conservation, Mines and Minerals Division, Wallace State Office Building, Des Moines, Iowa 50319.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Rieke, Director, Kansas City Field Office, Office of Surface Mining, Fifth Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106; Telephone: (816) 374–5527.

SUPPLEMENTARY INFORMATION:

I. Background

The Iowa program was conditionally approved by the Secretary of the Interior on January 21, 1981 (46 FR 5885). The approval was made effective April 10, 1981. Information pertinent to the general background, revisions, modifications, and amendments to the Iowa program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Iowa program can be found in the January 21, 1981 **Federal Register.**

II. Submission of Revisions

By letters dated May 8, 1984, Iowa submitted proposed program amendments consisting of:

(1) An amendment to Iowa subrule 4.523(63), *subsidence control; public notice,* to adopt by reference 30 CFR 817.122, as promulgated June 1, 1983. The rule concerns notice to surface owners of underground mining activities and would give underground mine operators some flexibility in providing notice;

(2) An amendment to Iowa subrules 4.41(1), 4.42, 4.322(3), and 4.332(3), to provide revised provisions on the amount and duration of performance bonds including a methodology for determining bond amounts; and

(3) An amendment to Iowa subrule 4.322(14) to delete the 10-acre prime farmland exemption which was inadvertently retained when the Iowa program was approved in 1981.

The full text of the proposed amendments is available for review at the addresses listed above. Upon request to OSM's Field Office Director, each person may receive, free of charge, one single copy of the proposed program amendments. The Director now seeks public comment on whether the proposed amendments are no less effective than the Federal regulations. If approved, the amendments will become part of the Iowa program.

III. Procedural Requirements

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 915

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: June 5, 1984.

J. Lisle Reed,

Acting Director, Office of Surface Mining.

[FR Doc. 84–15434 Filed 6–7–84; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OAR–FRL 2605–2]

Federal Assistance Limitations; State of Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule; extension of the public comment period.

SUMMARY: On May 4, 1984, USEPA proposed to limit certain federal funding assistance for Cook, Lake, DuPage, Kane, St. Clair, and Madison Counties in Illinois for the failure of the State of Illinois to submit a State Implementation Plan for these counties which considers each of the requirements contained in section 172 of the Clean Air Act (49 FR

19039). At the request of the State of Illinois, the public comment period is being extended until June 15, 1984, to allow a reasonable opportunity to comment on matters which may arise in the course of the public hearings on this proposed rule.

DATE: Comments must be received on or before June 15, 1984.

ADDRESSES: Comments should be submitted to: Gary V. Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch, Region V, U.S. Environmental Protection Agency (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, (312) 886–6035.

Dated: May 30, 1984.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 84–15406 Filed 6–7–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. 6604]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed modified base flood elevation listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance—flood plains.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alaska	Bethel (City), Bethel Division	Kuskokwin River	At the intersection of Main Street and 1st Avenue	*17
Maps available for inspection at Planning Department, City Complex, Bethel, Alaska.				
Send comments to the Honorable John Guinn, P.O. Box 368, Bethel, Alaska 99559.				
Connecticut	Jewett City, Borough, New London County	Quinebaug River	At upstream corporate limits	*100
			At downstream corporate limits	*85
		Pachaug River	At upstream corporate limits	*129
			Confluence with Quinebaug River	*86
Maps available for inspection at the City Hall, School Street, Jewett City, Connecticut.				
Send comments to the Honorable Stanley Drobiak, Borough Warden, City Hall, Jewett City, Connecticut 06351.				
Connecticut	North Stonington, Town, New London County	Shunock River	Confluence with Pawcatuck River	*23
			Voluntown Road (upstream side)	*30
			Approximately 50 feet upstream of State Route 617	*55
			State Route 184 (upstream side)	*85
			Approximately 1.6 miles upstream of State Route 184 (upstream side of footbridge).	*88
			Dam (upstream side)	*115
			Rocky Hollow Road (upstream side)	*131
			Approximately .9 mile upstream of Main Street	*139
		Green Fall River	Approximately 400' downstream of downstream corporate limits.	*50

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			State Route 184 (upstream side)	*55
			Approximately 170 feet upstream of Ashaway-Clarks Falls Road.	*71
			Clarks Falls Dam (downstream side)	*78
		Pawcatuck River	Downstream corporate limits	*23
			Approximately 400 feet upstream of Boom Bridge Road.	*26
			Upstream corporate limits	*28
		Whitford Brook	Downstream corporate limits	*80
			Upstream corporate limits	*88
			Approximately .3 miles upstream from upstream corporate limits.	*91

Maps available for inspection at the Town Clerk's Office, Stonington, Connecticut.

Send comments to the Honorable James M. Spelinan, First Selectman of the North Stonington Town Council, P.O. Box 352, Stonington, Connecticut 06378.

Connecticut	Sterling, Town, Windham Country	Moosup River	Dowstream corporate limits	*283
			Upstream of Abandoned Railroad	*288
			At confluence of East and West Branches of Moosup River.	*295
			Approximately 30 feet upstream of State Route 14A	*336
			Approximately 20 feet downstream of footbridge	*341
			Approximately 890 feet upstream of footbridge	*343
		East Branch Moosup River	At confluence with Moosup River	*295
			Upstream of State Route 14	*296
			Approximately 315 feet upstream of State Route 14	*304
		West Branch Moosup River	At confluence with Moosup River	*295
			Downstream of Church Street	*298
			Approximately 95 feet upstream of Church Street	*304

Maps available for inspection at the Town Clerk's Office, Oneco, Connecticut.

Send comments to Honorable Robert Jordan, First Selectman of the Town of Sterling, P.O. Box 157, Route 14A, Oneco, Connecticut 06373.

District of Columbia	Washington	Potomac River	Downstream corporate limits	*11
			Confluence of Anacostia River	*11
			Downstream side of Richmond Fredericksburg and Potomac Railroad.	*12
			Confluence of Rock Creek	*16
			Upstream side of Key Bridge	*19
			Approximately .75 mile upstream of Key Bridge	*21
			Approximately 1.7 miles upstream of Key Bridge	*26
			Approximately 1.0 mile downstream of Chain Bridge	*32
			Upstream corporate limits	*43
		Anacostia River	Confluence with Potomac River	*11
			Upstream side of CONRAIL bridge	*12
			Upstream side of Metro Orange Line	*14
			Upstream corporate limits	*16
		Rock Creek	Confluence with Potomac River	*16
			Downstream side of P Street	*30
			Confluence of creek along Normanstone Drive	*41
			Upstream side of 2nd upstream crossing of National Zoo Roadway.	*57
			Confluence of Broad Branch	*74
			Upstream side of second upstream crossing of Beach Drive above confluence of Broad Branch.	*92
			Upstream side of Rapids bridge	*107
			Approximately .4 mile downstream of Joyce Road	*1
			Downstream side of Joyce Road	*150
			Confluence of Pinehurst Run	*165
			Upstream corporate limits	*181
		Creek along Normanstone Drive	Confluence with Rock Creek	*41
			Downstream side of 1st upstream crossing of Normanstrone Drive.	*61
			Downstream side of 29th Street	*84
			Downstream side of 30th Street	*101
			Approximately 200 feet upstream of 5th upstream crossing of Normanstone Drive.	*124
			Approximately 225 feet upstream 6th upstream crossing of Normanstone Drive.	*150
		East Creek A	Downstream corporate limits	*165
			Approximately 1,000 feet upstream of corporate limits	*168
			Approximately 0.4 mile upstream of corporate limits	*170
		East Creek B	Upstream side of Glennbrook Road	*240
			Approximately 700 feet upstream Glennbrook Road	*263
			Upstream side of 5th upstream Dirt Driveway	*283
			Approximately 830 feet upstream of 5th upstream Dirt Driveway.	*317
		Fort Dupont Creek	Approximately 100 feet upstream of Chessie System	*24
			Approximately 50 feet downstream of Minnesota Avenue.	*29
		Broad Branch	Approximately .57 mile upstream of confluence with Rock Creek.	*102
			Approximately 850 feet downstream of Grant Road	*122
			Downstream side of Grant Road	*147
			Downstream side of 27th Street	*170
			Approximately 800 feet upstream of 27th Street	*181
		Watts Branch	Confluence with Anacostia River	*14
			Downstream side of Kenilworth Avenue	*20

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream side of 48th Street	*40
			Upstream side of 55th Street	*67
			Downstream side of 61st Street	*85
			Downstream side of Southern Avenue	*94
		Melvin Hazen Branch	Approximately 400 feet upstream of Connecticut Avenue.	*209
			Approximately .27 mile upstream of Connecticut Avenue.	*215
			Approximately .4 mile upstream of Connecticut Avenue.	*247
		Fenwick Branch	Confluence with Rock Creek	*175
			Confluence of Tributary of Fenwick Branch	*190
			Approximately .5 mile upstream of confluence with Rock Creek.	*198
			Approximately .7 mile upstream of confluence with Rock Creek.	*211
			Upstream corporate limits	*235
		Tributary to Fenwick Branch	Confluence with Fenwick Branch	*190
			Approximately .27 mile upstream of confluence with Fenwick Branch.	*210
			Approximately .48 mile upstream of confluence with Fenwick Branch.	*232
		Pope Branch	Upstream side of Fairlawn Avenue	*20
			Approximately 250 feet downstream of Branch Avenue	*41
			Approximately 200 feet upstream of Branch Avenue	*59
			Approximately .33 mile upstream of Branch Avenue	*95
			Approximately .63 mile upstream of Branch Avenue	*153
		Pinehurst Run	Upstream side of Oregon Avenue	*208
			Approximately 0.3 mile upstream of Oregon Avenue	*230
			Approximately 0.6 mile upstream of Oregon Avenue	*252
		Barnaby Run	Downstream corporate limits	*24
			Downstream side of South Capitol and Southern Avenue.	*42
			Upstream corporate limits	*49
		Oxon Run	Downstream corporate limits	*22
			Upstream side of Atlantic Avenue	*47
			Downstream side of Wheeler Road	*69
			Approximately 0.5 mile upstream of Wheeler Road	*85
			Upstream corporate limits	*107

Maps available for inspection at the Department of Consumer and Regulatory Affairs, Building and Land Regulation Administration, 614 H Street, N.W., Washington, D.C., and the Martin Luther King Library, 9th & G Streets, N.W., Washington, D.C.

Send comments to Honorable Marion Barry, Mayor of Washington, D.C., District Building, 1324 E Street, N.W., Washington, D.C. 20001.

Idaho	Kooskia (City), Idaho County	Middle Fork Clearwater River	Intersection of Fall Street and Ping Street	*1,255
		South Fork Clearwater River	50 feet upstream of centerline of B Street	*1,247
		South Fork Clearwater River—Without Consideration of Levee.	Intersection of 1st Avenue and Main Street	*1,250

Maps available for inspection at City Hall, Kooskia, Idaho.

Send comments to Honorable Greg Smith, P.O. Box 126, Kooskia, Idaho 83539.

Illinois	Unincorporated areas of Douglas County	Kaskaskia River	Downstream county boundary	*643
			Upstream county boundary	*677
		"A" Creek	At mouth	*646
			Just downstream road 200E	*652
		West Fork Creek	At mouth	*652
			Just downstream road 100E	*653
		Lake Fork Creek	At mouth	*652
			Just downstream of U.S. Route 36	*657
		Bear Creek	At mouth	*652
			Just downstream of U.S. Route 36	*663
		Dry Fork Creek	At mouth	*655
			Just downstream road 1350N	*673
		Embarras River	Just upstream of U.S. Route 36	*641
			About 3,400 feet upstream of Sycamore Street	*651
		Jordan Slough	Within community	*650
		West Ditch	Within community	*651
		Hayes Branch	Just upstream of Prairie Street	*650
			About 3,250 feet upstream of North Line Road	*652
		Scattering Fork	About 1,350 feet downstream of Egyptian Trail Road	*648
			About 750 feet upstream of Egyptian Trail Road	*651

Maps available for inspection at the County Clerk's Office, Douglas County Courthouse, Tuscola, Illinois.

Send comments to Honorable Virgil Luth, Chairman, Douglas County Board, Douglas County Courthouse, Tuscola, Illinois 61953.

Illinois	Vallage of Erie Whiteside County	Rock River	About 1.2 miles downstream of Erie Road	*592
			About 0.78 mile upstream of Erie Road	*594

Maps available for inspection at the Villiage Clerk's Office, Erie, Illinois.

Send comments to Honorable Clifford Warkins, Jr., Village President, Village of Erie, 901 8th Street, P.O. Box 87, Erie, Illinois 61250.

Illinois	Unincorporated Areas of Wabash County	Wabash River	At downstream county boundary	*387
			At upstream county boundary	*414

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the County Clerk's Office, Wabash County Courthouse, Mt. Carmel, Illinois.				
Send comments to Honorable W. Karl Herrick, Chairman, Wabash County Board, Wabash County Courthouse, Mt. Carmel, Illinois 62863.				
Kansas	City of Colwich, Sedgwick County	Cowskin Creek	About 3,100 feet downstream of State Highway 96	*1,369
			About 2,100 feet upstream of State Highway 96	*1,374
Maps available for inspection at the City Clerk's Office, City Hall, Colwich, Kansas.				
Send comments to Honorable La Vina Keiter, Mayor, City of Colwich, City Hall, Colwich, Kansas 67030.				
Louisiana	Calcasieu Parish Unincorporated	Sabine River	Cutoff Island	*9
			U.S. Route 90	*11
			Pruitt Bluff	*17
			Cooper Lake	*19
			Approximately 2.5 miles upstream of Cooper Lake	*20
		Gulf of Mexico	Intersection of Intracoastal Waterway & Vinton Drainage Canal.	*7
			Vinton Canal east of Ged Lake	*7
			Clear Marais	*9
		Bayou Chopique	At confluence of Spring Gully	*9
			Dugas Road (downstream side)	*10
		Calcasieu River	At Calcasieu Ship Channel	*12
			Moss Lake	*11
			Indian Marias	*10
			Coon Island	*9
			Downstream of confluence with West Fork Calcasieu River.	*10
		Intracoastal Waterway	At State Route 384	*12
Maps available for inspection at the Office of Parish Planning and Development, Calcasieu Parish Police Jury, Lake Charles, Louisiana.				
Send comments to Honorable John Vaughn, President of the Calcasieu Parish Police Jury, P.O. Box 1583, Lake Charles, Louisiana 70602.				
Maine	Dixfield, Town, Oxford County	Webb River	U.S. Route 2 (upstream side)	*419
			Kingdom Road bridge (upstream side)	*430
			Confluence with Aunt Hanna Brook	*434
			Upstream corporate limits	*437
Maps available for inspection at the Town Hall, Dixfield, Maine.				
Send comments to Honorable Donald L. Willard, Jr., Dixfield Town Manager, P.O. Box 0, Main Street, Dixfield, Maine 04224.				
Maine	Limerick, Town, York County	Little Ossipee River	Downstream corporate limits	*296
			Upstream of Flowage Dam	*312
			State Route 5 (upstream side)	*318
			At confluence of Pendexter Brook	*327
			Clarks Road, extended	*347
			Upstream corporate limits	*374
Maps available for inspection at the Town Hall, Limerick, Maine.				
Send comments to Honorable Fred Lane, Chairman of the Board of Selectmen, Town Hall, Limerick, Maine 04848.				
Maine	Lisbon, Town, Androscoggin County	Androscoggin River	Confluence of Little River	*83
			Worumbo Mill Dam (upstream side)	*108
			Confluence of Sabattus River	*115
			Upstream corporate limits	*124
		Sabattus River	At confluence with Androscoggin River	*115
			Mill Street (upstream side)	*158
			Webster Road (upstream side)	*174
			Upstream corporate limits	*188
		No Name Brook	Confluence with Sabattus River	*186
			Upstream corporate limits	*189
		Barker Brook	Confluence with Sabattus River	*159
			Ridge Road (upstream side)	*161
		Salmon Brook	Corporate limits	*138
			Approximately 200 feet upstream of corporate limits	*138
Maps available for inspection at the Town Clerk's Office, Lisbon, Maine.				
Send comments to Honorable John Bubier, Lisbon Town Manager, P.O. Box 8, Lisbon Falls, Maine 04252.				
Maine	North Berwick, Town, York County	Great Works River	Downstream corporate limits	*104
			Upstream side of North Berwick Dam	*126
			Downstream side of Cardmill Dam	*144
			Upstream side of Oak Woods Road	*179
			Upstream side of Roberts Road	*190
			Upstream side of Bauneg Beg Dam	*210
			Upstream side of Sand Pond Road	*225
			Upstream corporate limits	*227
Maps available for inspection at the Town Clerk's Office, Town Office Building, Main Street, North Berwick, Maine.				
Send comments to Honorable Stanley Thompson, Chairman of the Board of Selectmen, Town Official Building, Main Street, North Berwick, Maine 03906.				
Maine	Sanford, Town, York County	Great Works River	Downstream corporate limits	*210
			Upstream side of Sand Pond Road	*225
			Upstream side of Mill Road	*234
			Upstream side of Twombly Road	*248
		Goodall Brook	At confluence with Great Works River	*238
			Upstream side of Berwick Road	*257

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Town Clerk's Office, Sanford, Maine.				
Send comments to Honorable Dana Johnson, Chairman of the Sanford Board of Selectmen, Hutchinson Street, Sanford, Maine 04073.				
Maine	Waterboro, Town, York County	Little Ossipee River	Downstream corporate limits	*290
			Upstream of Little Ossipee Flowage Dam	*312
			Upstream State Route 5	*318
			Upstream corporate limits	*355
		Little Ossipee Lake	Entire shoreline	*313
Maps available for inspection at the Town Clerk's Office, Town Hall, Waterboro, Maine.				
Send comments to Honorable Andrew Woodsone, Jr., Chairman of the Board of Selectmen, Town Hall, Waterboro, Maine 04087.				
Maryland	Mardela Springs, Town, Wicomico County	Nanticoke River	Entire length of Baron Creek	*6
Maps available for inspection at the Town Hall, Station Street, Mardela Springs, Maryland.				
Send comments to Honorable Milton Catlin, President of the Mardela Springs Town Commission, P.O. Box 248, Mardela Springs, Maryland 21837.				
Maryland	Sharptown, Town, Wicomico County	Nanticoke River	Entire shoreline within community	*6
Maps available for inspection at the Town Hall, Sharptown, Maryland.				
Send comments to Honorable Ralph Cordrey, President of the Sharptown Council, P.O. Box 338, Town Hall, Sharptown, Maryland 21861.				
Massachusetts	Lincoln, Town, Middlessex County	Sudbury River	Downstream corporate limits	*122
			Approximately 2,800 feet upstream of South Great Road.	*122
		Farrar Pond Brook	Confluence with Farrar Pond	*122
			Upstream of second Earth Dam	*164
		Farrar Pond/Pole Brook	Confluence with Sudbury River	*122
			Approximately 300 feet downstream of Concord Road	*146
			Lincoln Road (upstream side)	*169
		Hobbs Brook	Downstream corporate limits	*173
			Approximately 2,000 feet upstream of Mill Street	*182
		Stony Brook	Approximately 970 feet downstream of Tower Road	*169
			Tower Road (upstream side)	*176
			Bailfield Road (upstream side)	*208
			Approximately 600 feet upstream of Sandy Pond Road	*236
		Valley Road	Entire shoreline within corporate limits	*176
Maps available for inspection at the Clerk's Office, Lincoln, Massachusetts.				
Send comments to Honorable William Hinchey, Executive Secretary of the Town of Lincoln, Town Offices Building, Lincoln Road, Lincoln, Massachusetts 01773.				
Massachusetts	Manchester, Town, Essex County	Massachusetts Bay	Shoreline 600 feet south of Harbor Street extended	*17
			Shoreline at Proctor Street extended	14
			Shoreline at Pickworth Point	*22
			Shoreline at Cobb Avenue extended	*18
			Shoreline 1,600 feet north of Beach Street extended	*30
			Entire shoreline of Kettle Cove	*14
			Shoreline at Butler Avenue extended at Magnolia Harbor.	*15
Maps available for inspection at the Building Inspector's Office, Town Hall, Manchester, Massachusetts.				
Send comments to Honorable Paul Cullinane, Chairman of the Manchester Board of Selectmen, Town Hall, Manchester, Massachusetts 01944.				
Massachusetts	Millis, Town, Norfolk County	Charles River	Downstream corporate limits	*123
			Main Street (upstream side)	*124
			Approximately 2,900 feet downstream of Norfolk Road	*125
			Norfolk Road (upstream side)	*127
			Approximately 240 feet upstream of Pleasant Street	*129
			Approximately 80 feet upstream of Myrtle Street	*136
			Upstream corporate limits	*38
		Bogastow Brook	At confluence with Charles River	*123
			Approximately 180 feet upstream of Orchard Street by Partridge Hill.	*131
			Ridge Street (upstream side)	*134
			Orchard Street by School House Hill (upstream side)	*143
			Upstream corporate limits	*145
Maps available for inspection at the Selectmen's Office, Town Hall, Millis, Massachusetts.				
Send comments to Honorable Hindy Rosenfeld, Chairman of the Board of Selectmen, Town Hall, 64 Exchange Street, Millis, Massachusetts 02054.				
Massachusetts	Provincetown, Town, Barnstable County	Atlantic Ocean	Shoreline 400 feet north of Race Point	*18
			Shoreline approximately 2.5 miles north of Race Point	*15
			Shoreline 800 feet west of eastern corporate limits	*14
		Cape Cod Bay	Entire shoreline of Herring Cove	*15
			Shoreline at Foss Road extended	*18
			Shoreline approximately 500 feet east of Snail Road extended.	*13
			Shoreline at Cook Street extended	*16
			Shoreline at Nickerson Road extended	*15
Maps available for inspection at Building Inspector's Office, Town Hall, Provincetown, Massachusetts.				
Send comments to Honorable Mary Jo Abellar, Chairwoman of the Provincetown Board of Selectmen, Town Hall, Provincetown, Massachusetts 02657.				
Missouri	City of Hartville, Wright County	Woods Fork Gasconade River	About 900 feet downstream of State Highway 38	*1,142
			About 3,950 feet upstream of State Highway 38	*1,152

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Merchantile-Wright County Bank, Hartville, Missouri.				
Send comments to Honorable Charles Armstrong, Mayor, City of Hartville, c/o Merchantile-Wright County Bank, Hartville, Missouri 65667.				
Missouri	Unincorporated Areas of Jasper County	Spring River	About 1.85 miles downstream of confluence with City Branch.	*923
			About 2.26 miles upstream of State Highway 96	*952
		Center Creek	About 1,500 feet upstream of confluence with Spring River.	*830
			Just downstream of Joplin Street	*855
			About 1,600 feet downstream of Kansas City Southern Railroad.	*867
			About 1.91 miles upstream of U.S. Highway 71	*921
			About 1.88 miles downstream of Burlington Northern	*1,069
			About 0.63 mile upstream of Business Loop 44	*1,091
		Turkey Creek	Missouri-Kansas State Boundary	*835
			About 100 feet downstream of Lone Elm Road	*916
			About 200 feet upstream of Lone Elm Road	*921
			Just downstream of Kansas City Southern Railroad	*928
			About 0.78 mile downstream of U.S. Highway 66	*994
			Just downstream of County Road (about 0.61 mile downstream of Interstate 44).	*1,042
			Just upstream of County Road (about 0.60 mile downstream of Interstate 44).	*1,047
			Just downstream of County Highway FF	*1,074
		Coon Creek	About 3,800 feet downstream of Missouri Pacific Railroad.	*914
			About 2,150 feet upstream of U.S. Highway 71	*916
		Opossum Creek	About 0.92 mile downstream of Missouri Pacific Railroad.	*911
			About 1.16 miles upstream of U.S. Highway 71	*943
		Pleasant Creek	At confluence with Center Creek	*906
			About 3.30 miles upstream of U.S. Highway 71	*1,004
		Bens Branch	At confluence with Center Creek	*908
			Just downstream of Section Line Road (about 0.43 mile downstream of U.S. Highway 71 and 66).	*946
			Just upstream of Section Line Road (about 0.43 mile downstream of U.S. Highway 71 and 66).	*953
			Just downstream of County Highway HH	*982
		Mine Branch	At confluence with Center Creek	*899
			About 1.0 miles upstream of confluence with Center Creek.	*921
		Route 37 Creek	Just upstream of Interstate 44	*1,065
			About 0.71 mile upstream of State Highway 37	*1,144
		Swifty Creek	At confluence with Center Creek	*1,082
			At upstream county boundary	*1,139
		City Branch	At confluence with Spring River	*934
			Just downstream of Mound Street	*940
		Carter Branch	Just upstream of 13th Street	*993
			Just downstream of County Highway E	*1,019
Maps available for inspection at the County Clerk's Office, Jasper Couny Courthouse, Carthage, Missouri.				
Send comments to Honorable Byron Fly, Sr., Presiding Judge, Jasper County, Jasper County Courthouse, Carthage, Missouri 64836.				
Missouri	Unincorporated Areas of Laclede County	Goodwin Hollow	At confluence with Atchley Branch	*1,109
			About 150 feet downstream of State Route 64	*1,156
			At confluence with Liberty Branch	*1,189
		Atchley Branch	At mouth	*1,109
			About 4,200 feet upstream of Rolling Hills Road	*1,178
		Azvre Hills Branch	At mouth	*1,144
			Just downstream of Rolling Hills Road	*1,177
		Radio Tower Branch	At mouth	*1,158
			About 1,800 feet upstream of Dillworth Road	*1,195
		Liberty Branch	At confluence with Goodwin Hollow	*1,189
			Just downstream of Interstate 44	*1,245
		Dry Auglaize Creek	About 2.48 miles downstream of Wire Road	*1,126
			About 760 feet upstream of confluence with Holman Branch.	*1,185
		Holman Branch	At mouth	*1,182
			About 1,900 feet upstream of mouth	*1,191
		Bear Creek	About 2,800 feet downstream of Abo Road	*1,135
			Just downstream of Abo Road	*1,158
			About 350 feet upstream of Abo Road	*1,164
			About 1,400 feet upstream of Mill Creek Road	*1,232
		North Cobb Creek	About 1.06 miles downstream of confluence with Highland Park Branch.	*1,142
			Just downstream of Lilly Street	*1,244
		Highland Park Branch	At mouth	*1,171
			Just downstream of High Street	*1,216
		Beacon Branch	At mouth	*1,193
			Just downstream of Lilly Street	*1,234
Maps available for inspection at the County Clerk's Office, Laclede County Courthouse, Lebanon, Missouri.				
Send comments to Honorable Jack McCulloch, Presiding Judge, Laclede County, Laclede County Courthouse, Lebanon, Missouri 65536.				
Missouri	Unincorporated Areas of Nodaway County	Hundred and Two River	Just upstream of Norfolk and Western Railway	*974
			About 4,300 feet upstream of confluence of North Tributary.	*986

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 1,300 feet downstream of confluence of West Fork Hundred and Two River.	*1,028
			At confluence of East Fork Hundred and Two River	*1,040
		East Fork Hundred and Two River	About 300 feet upstream of Burlington Northern Railroad.	*1,044
		North Tributary Hundred and Two River.	At mouth	*984
			About 8,820 feet upstream of County Highway CC	*1,038
		South Tributary Hundred and Two River.	At mouth	*982
			Just downstream of South Depot Road	*1,020
			Just upstream of South Depot Road	*1,026
			Just downstream of South Hester Road	*1,039
			About 400 feet upstream of South Hester Road	*1,048
		Nodaway River	About 5,000 feet downstream of confluence of Mill Creek.	*912
			About 1,700 feet upstream of confluence of North Branch Nodaway River.	*920

Maps available for inspection at the County Clerk's Office, Nodaway County Courthouse, Maryville, Missouri.

Send comments to Honorable Edward R. Dobbins, Presiding Judge, Nodaway County, Nodaway County Courthouse, Maryville, Missouri 64468.

Missouri	City of Oronogo, Jasper County	Center Creek	About 3,000 feet downstream of Burlington Northern Railroad.	*887
			About 6,800 feet upstream of Third Street	*898

Maps available for inspection at City Hall, Oronogo, Missouri.

Send comments to Honorable J. D. Mahurin, Mayor, City of Oronogo, 501 E. Central, Oronogo, Missouri 64855.

Missouri	Village of Redings Mill, Newton County	Shoal Creek	About 2,300 feet downstream of State Highway 86	*909
			About 2,700 feet upstream of State Highway 86	*912

Maps available for inspection at the City Clerk's Office, Box 68, Route 4, Joplin, Missouri.

Send comments to Honorable David Edwards, President, Redings Mill Village Board, Box 72A, Route 4, Joplin, Missouri 64801.

New Jersey	Aberdeen, Township, Monmouth County	Matawan Creek	At downstream corporate limits	*20
			Approximately 360 feet downstream of upstream corporate limits	*30
		Mohingson Brook	Confluence with Matawan Creek	*12
			Upstream side of Main Street	*22
			Upstream side of CONRAIL	*38
			Upstream side of Lloyd Road	*54
			Upstream corporate limits	*88
		Gravelly Run	At downstream corporate limits	*22
			Downstream side of State Route 34	*28
			Upstream side of Mill Road	*42
			At upstream corporate limits	*66
		Raritan Bay	Shoreline at confluence of Whale Creek	*18
			Shoreline at South Concourse, Drive extended	*17
			Shoreline at confluence of Matawan Creek	*17

Maps available for inspection at the Township Municipal Building, 1 Aberdeen Square, Aberdeen New Jersey.

Send comments to Honorable Mark Coren, Township Manager of Aberdeen, 1 Aberdeen Square, Aberdeen, New Jersey 07747.

New Jersey	Monroe, Township, Middlesex County	Millstone River	Downstream corporate limits	*96
			Upstream side of Applegarth Road	*101
			Upstream side of Jamesburg-Perrineville Road	*114
			Upstream corporate limits	*118
		Bentley's Brook	Confluence with Millstone River	*102
			Upstream side Bentley Road	*103
			Approximately .5 mile upstream of State Route 33	*103
		Manalapan Brook	Downstream corporate limits	*22
			Upstream side Daniel Road	*25
			Upstream side Old Forge Road	*29
			Corporate limits downstream of Railroad Avenue	*45
			Upstream side of Lake Manalapan Dam	*53
			Upstream side of Schoolhouse Road	*62
			Upstream side of Gravel Hill-Hoffman Station Road	*66
			Upstream side of Gravel Hill-Spotswood Road	*70
			Upstream corporate limits	*77
		Matchaponix Brook	Downstream corporate limits	*19
			Upstream side Old Texas Road	*34
			Upstream side Rue Road	*45
			Upstream side Old Bridge-Englishtown Road	*52
			Upstream corporate limits	*56
		Barclay's Brook	Upstream side Forge Street	*55
			Upstream side New Street	*59
			Upstream side State Street	*62
			Downstream side State Home Road	*67
			Upstream side State Home Road	*82
		Wigwam Brook	Corporate limits	*86

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Tributary to Cranbury Brook	Approximately 600 feet upstream dam	*110
			Confluence with Cranbury Brook	*103
			Upstream side Farm Road	*107
			Upstream side Union Valley-Gravel Hill Road	*113
		Clear Brook	Confluence with Cranbury Brook	*96
			Upstream side Applegarth Road	*106
			Upstream side Clear Brook Drive	*108
			Downstream side Union Valley-Half Acre Road	*119
			Approximately 600 feet upstream of Union Valley-Half Acre Road.	*125
		Cranbury Brook	Corporate limits	*95
			Upstream side Applegarth Road	*98
			Upstream side Cranbury Station-Union Valley Road	*101
			Upstream side Federal Road	*106
			Upstream side Long Street Road	*111
		Cedar Brook	Corporate limits	*110
			Downstream side Applegarth Road	*117
		Tributary to Manalapan Brook	Confluence with Manalapan Brook	*41
			Upstream side Jamesburg-Helmetta Road	*43
			Downstream side Mott Avenue	*50
		Shallow Brook	Corporate limits	*126
			Downstream side New Jersey Turnpike	*130
		Sawmill Brook	Downstream side Spotswood-Cranbury Road	*39

Maps available for inspection at the Municipal Complex, Perrineville Road, Jamesburg, New Jersey.

Send comments to Honorable Peter T. Garibaldi, Mayor of the Township of Monroe, Municipal Complex, Perrineville Road, Jamesburg, New Jersey 08831.

New York	Greenville, Town, Orange County	Rutgers Creek	At downstream corporate limits	*657
			Logtown Road (downstream side)	*767
			Dam (upstream side)	*784
			Minisink Turnpike (upstream side)	*820

Maps available for inspection at the Town Hall, Middletown, New York.

Send comments to Honorable Marguerite Roeper, R.D. 2, Box 490, Port Jervis, New York 12771.

New York	Wawayanda, Town, Orange County	Wallkill River	At downstream corporate limits	*366
			Approximately 1 mile upstream of downstream corporate limits.	*368
			Upstream side of Maple Avenue	*382
		Rutgers Creek	Approximately .86 mile downstream of Lower Road	*387
			At Lower Road	*398
			Upstream side of Carter Road	*418
			Upstream side of Ridgebury Road	*449
			Upstream side of State Route 284	*450

Maps available for inspection at the Town Hall, Richbury Hill Road, Slate Hill, New York.

Send comments to Honorable Bryce Flynn, Wawayanda Town Supervisor, Town Hall, Box 124, Richbury Hill Road, Slate Hill, New York 10973.

North Carolina	Town of Atlantic Beach, Carteret County	Atlantic Ocean	Intersection of East Broadwalk Street and South Greenville Avenue.	*10
			Approximately 400 feet south of the intersection of West Atlantic Boulevard and Charlotte Avenue.	*14
		Bogue Sound	Intersection of State Highway 58 and Brooks Avenue	*7

Maps available for inspection at Building Inspector's Office, Town Hall, Salter Path Road, Atlantic Beach, North Carolina 28512.

Send comments to Mayor Gary Plough or Thomas F. Price, Building Inspector, Town Hall, P.O. Box 10, Atlantic Beach, North Carolina 28512.

North Carolina	Town of Emerald Isle, Carteret County	Atlantic Ocean/Bogue Sound	Along northern shoreline from eastern corporate limits to 19th Street.	*7
			Along northern shoreline from 19th Street to Kelly Lane.	*8
			About 150 feet south of intersection of Sound Drive and East View Drive.	*9
			Along northern shoreline from Kelly Lane to Old Ferry Road.	*9
			At the intersection of Coast Guard Road and Reed Drive.	*9
			Along northern shoreline from Old Ferry Road to about 600 feet northeast of the intersection of Coast Guard Road and Bay Court.	*10
			At Channel Drive cul-de-sac	*12
			At the intersection of Emerald Drive and the northern corporate limits.	*12
		Atlantic Ocean	About 100 feet north of southern shoreline from the eastern corporate limits to about 200 feet west of 1st Street.	*11
			About 100 feet south of intersection of 2nd Street and Ocean Drive.	*12
			About 150 feet north of southern shoreline, just east of Bogue Inlet Drive.	*12
			Just east of Surf Scooter Court cul-de-sac	*12
			A Catamaran Court cul-de-sac	*12
			At the intersection of Channel Drive and Station Street	*12
			About 150 feet north of southern shoreline just west of Bogue Inlet Drive.	*13
			Along the southern shoreline from eastern corporate limits to the intersection of West Summerplace Circle and Ocean Drive.	*16
			Along the southern shoreline from the intersection of Fawn Drive and Ocean Drive to the western corporate limits.	*16
			Along the southern shoreline from the intersection of West Summerplace Circle and Ocean Drive to the intersection of Fawn Drive and Ocean Drive.	*17

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Town Hall, Route 1, Emerald Isle, North Carolina. Send comments to Honorable Pete Allen, Major, Town of Emerald Isle, Town Hall, Route 1, Emerald Isle, North Carolina 28557.				
North Carolina	Town of Indian Beach, Carteret County	Atlantic Ocean	About 100 feet north of southern shoreline (both land tracts).	*11
			Along southern shoreline (both land tracts)	*16
		Atlantic Ocean/Bogue Sound	Along northern shoreline of the eastern land tract of Indian Beach.	*6
			Along northern shoreline of the western land tract of Indian Beach.	*7
Maps available for inspection at the Town Hall, Indian Beach, North Carolina. Send comments to Honorable C. Neil Vester, Mayor, Town of Indian Beach, Town Hall, P.O. Box 306, Indian Beach, North Carolina 28557.				
North Carolina	City of Jacksonville, Onslow County	Brick Kiln Branch	Approximately 200 feet downstream of State Highway 24.	*12
			Just upstream of State Highway 24	*14
		Brinson Creek	Just downstream of Seaboard Coastline Railroad	*5
			Just downstream of U.S. Highway 17	*8
		Burnt House Branch	Approximately 50 feet downstream of Hargett Street	*10
			Just upstream of Highway 24	*17
		Dotey's Branch	Just upstream of Dewitt Street	*12
			Just upstream of Gum Branch Road	*23
		Little Creek	Just downstream of Decatur Road	*11
			Just downstream of Souix Drive	*18
		Mill Creek	Just downstream of Doris Avenue	*12
			Just upstream of Gum Branch Road	*19
		Mill Creek North	Just upstream of Forest Grove Avenue	*13
			Approximately 1,000 feet upstream of Dewitt Street	*18
		New River	Just upstream of Old Bridge Street	*7
		Northeast Creek	Just upstream of Pine Green Road	*14
		Northeast Creek Tributary	Just downstream of Courtland Drive	*15
			Just downstream of Country Club Drive	*22
		Sandy Run Branch	Just upstream of Onslow Drive	*11
			Just downstream of Bell Fork Road	*25
		Scales Creek	Just upstream of State Highway 24	*11
			Just upstream of Camp Lejune Railroad	*24
		Socoe Creek	Just downstream of Barn Street	*12
			Just upstream of Barn Street	*15
Maps available for inspection at City Hall, 211 Johnson Boulevard, Jacksonville, North Carolina 28540. Send comments to Mayor A. D. Guy or Patrick Thomas, City Manager, City Hall, P.O. Box 128, Jacksonville, North Carolina 28540.				
North Carolina	Unincorporated Areas of Pender Country	Bear Den Branch	Just downstream of U.S. Highway 42	*47
		Bill Branch	Approximately 500 feet downstream of State Highway 53.	*39
			Just upstream of State Highway 53	*46
		Bull Branch	Just downstream of State Road 1001	*53
			Just upstream of State Road 1302	*60
		Bulltail Creek	Just upstream of State Road 1211	*65
		Burgaw Creek	Just downstream of State Raod 1509	*20
			Just upstream of the Seaboard Coast Line Railroad	*36
		Buxton Branch	Just downstream of U.S. Highway 421	*46
		Colvins Creek	Just upstream of State Road 1100	*50
			Just downstream of State Road 1201	*63
		Crooked Run	Just upstream of State Road 1332	*61
			Just downstream of State Road 1319	*64
		Doctors Creek	Just downstream of State Road 1304	*51
		Dry Branch	Just downstream of U.S. Highway 421	*51
		Guffords Branch	Just downstream of Old Burgaw Road (SR 1400)	*22
		Horse Branch	Just upstream of State Road 1345	*39
			Just upstream of State Route 1339	*51
		Horse Branch Tributary	Just downstream of State Road 1345	*42
		Jones Creek	Just downstream of Lake Ann Dam	*53
			Approximately 400 feet upstream of Lake Ann Dam	*60
			Just downstream of State Road 1201	*66
		Lewis Creek	Just upstream of NC 117	*27
		Long Creek	Just downstream of State Highway 210	*10
		Mill Branch	Just downstream of State Road 1128	*29
			Just upstream of State Highway 53	*66
		Moores Creek	Just downstream of North Carolina Highway 210	*14
			Approximately 5,000 feet upstream of U.S. Highway 421.	*60
		Mulberry Branch	Just downstream of State Highway 210	*17
		N.E. Cape Fear River	Just upstream of State Highway 53	*20
			At Croons Bridge Road (SR 1318)	*24
		Rileys Creek	Approximately 1,700 feet south of the intersection of NC 210 and Old Burgaw Road.	*12
		Rockfish Creek	Approximately 1,400 feet downstream of Proposed Interstate Highway 40.	*26
		Sills Creek	Just upstream of State Road 1324	*51
		Sills Creek Tributary No. 1	Just downstream of State Road 1325	*66
		Sills Creek Tributary No. 1	Approximately 450 feet downstream of State Road 1328.	*60
		Taylor Branch	Just downstream of a Private Dam	*47
			Just upstream of a Private Dam	*51
		Tuckahoe Branch	Just downstream of State Road 1207	*58
		Atlantic Ocean	Approximately 1,000 feet south of the intersection of SR 1603 and SR 1582.	*12
		Topsail Sound	Intersection of SR 1561 and SR 1563	*8
			Intersection of Sound View Drive and Fairway Drive	*10
Maps available for inspection at Administrative Building, Burgaw, North Carolina 28425. Send comments to Mr. Gordon Jones, Chairman, Pender County Board of Pender County Commissioners or Mr. Howard Holley, Finance Office, County Courthouse, P.O. Box 4, Burgaw, North Carolina.				
North Carolina	Town of Pine Knoll Shores, Carteret County	Atlantic Ocean	Along shoreline	*14
		Bogue Sound	Along shoreline at Hoffman inlet	*7

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximate 10,000 feet west of Pine Knoll Boulevard (extended) along shoreline.	*6

Maps available for inspection at Town Hall, Pine Knoll Boulevard, Atlantic Beach, North Carolina 28512.
Send comments to Mayor Kenneth Haller or Kenneth Hanan, Town Commissioner, Town Hall, % Town of Pine Knoll Shores, P.O. Box 757, Atlantic Beach, North Carolina 28512.

North Carolina	Town of Surf City, Pender County	Atlantic Ocean	Along shoreline	*16
			Approximately 100 feet south of intersection of Hispaniola Lane and North Carolina Highway 50.	*11
			Approximately 550 feet south of intersection of New River Drive and Pender Avenue.	*11
		Topsail Sound	At the intersection of New River Drive and Pender Avenue.	*7
			At the intersection of Topsail Drive and Roland Avenue.	*8
			Approximately 600 feet north of intersection of Hispano Lane and North Carolina Highway 50.	*10

Maps available for inspection at Town Hall, North New River Drive, Surf City, North Carolina 28445.
Send comments to Mayor Joseph Paliotti or Michael Lord, Town Manager, Town Hall, P.O. Box 475, Surf City, North Carolina 28445.

North Carolina	Town of Topsail Beach, Pender County	Atlantic Ocean	Along shoreline at Inlet Drive (extended)	*17
			Along shoreline at Barwick Avenue (extended)	*16
		Topsail Sound	Along shoreline at Sunset Avenue	*10

Maps available for inspection at Town Hall, 820 South Anderson Boulevard, Topsail Beach, North Carolina 28445.
Send comments to Mayor Milton R. Oppegaard or Jim Patterson, Building Inspector, Town Hall, P.O. Box 89, Topsail Beach, North Carolina 28445.

Ohio	City of Defiance, Defiance County	Maumee River	About 0.36 mile downstream of Domersville Road	*677
			About 1.1 miles upstream of Norfolk Southern Railway	*680
		Auglaize River	At mouth	*679
			About 0.93 mile upstream of Jefferson Street	*682

Maps available for inspection at the City Engineer's Office, City County Building, Defiance, Ohio. Send comments to Honorable W. Thomas Wiseman, Mayor, City of Defiance, City County Building, 324 Perry Street, Defiance, Ohio 43512.

Ohio	City of Hamilton, Butler County	Great Miami River	About 3.5 miles downstream of Pershing Street	*566
			Just downstream of U.S. Route 127	*592

Maps available for inspection at the Planning Director's Office, Municipal Building, High and Monument Streets, Hamilton, Ohio. Send comments to Honorable Robert L. Weigel, Mayor, City of Hamilton, Municipal Building, High and Monument Streets, Hamilton, Ohio 45011.

Ohio	City of Napoleon, Henry County	Maumee River	About 1.6 miles downstream of Detroit Toledo and Ironton Railroad.	*655
			About 2.3 miles upstream of Perry Street	

Maps available for inspection at the Municipal Building, 255 Riverview Avenue, Napoleon, Ohio.
Send comments to Honorable Robert G. Heft, Mayor, City of Napoleon, Municipal Building, 255 Riverview Avenue, P.O. Box 151, Napoleon, Ohio 43545.

Ohio	Village of Powell Delaware County	Olentangy River	At downstream corporate limits	*774
			At upstream corporate limits	*775

Maps available for inspection at the Village Hall, 5 N. Liberty Street, Powell, Ohio.
Send comments to Honorable J. Thomas Cantwell, Mayor, Village of Powell, Village Hall, 5 N. Liberty Street, P.O. Box 124, Powell, Ohio 43065.

Ohio	Village of West Liberty, Logan County	Mad River	About 2,100 feet downstream of U.S. Route 68	*1,082
			About 300 feet upstream of Baird Street	*1,091
		Mud Run	Just downstream of Sidney Street	*1,081
			Just downstream of State Route 245	*1,084
			Just upstream of State Route 245	*1,089
			About 1,400 feet upstream of State Route 245	*1,089
		Macochee Creek	At confluence with Mad River	*1,088
			About 1,300 feet upstream of confluence with Mad River.	*1,088

Maps available for inspection at the Village Hall, West Liberty, Ohio.
Send comments to Honorable Richard Zerkle, Mayor, Village of West Liberty, Village Hall, West Liberty, Ohio 43357.

Tennessee	Town of Farragut, Knox County	Little Turkey Creek	Just downstream of Turkey Creek Drive. (Flooding at this location is affected by backwater from Tennessee River).	*815
			Approximately 160 feet upstream of Virtue Road	*856
			Just downstream of Kingston Pike	*900
		North Fork Turkey Creek	Just upstream of Kingston Pike	*881
			Just downstream of Grigsby Chapel Road	*935
		Turkey Creek	Approximately 110 feet upstream of Turkey Creek Drive.	*816
			Approximately 180 feet downstream of Kingston Pike	

Maps available for inspection at Town Hall, 1428A Kingston Pike, Farragut, Tennessee 37933.
Send comments to Mayor Robert H. Leonard or Jack S. Hamlett, Town Administrator, Town Hall, P.O. Box 22190, Farragut, Tennessee 37933.

Texas	Unincorporated areas of Aransas County	Gulf of Mexico	South of San Jose Island along eastern shoreline	*10
			South of San Jose Island along western shoreline	*8
		Aransas Bay	Along the southern shoreline of Mud Island	*7
			Along shoreline at Jay Bird Point	*6
			East of Aransas County Airport along the shoreline	*6
			Along eastern shoreline of Traylor Island	*12
		Mesquite Bay	Along shoreline of Roddy Island	*8
		San Antonio Bay	East of Thomas Pond along shoreline	*7
		St. Charles Bay	Along shoreline at Black Jack Point	*10
			South of Buquentine Dam	*11
		Aransas Bay/St. Charles Bay	Along shoreline of Goose Island	*10
		Copano Bay	Along shoreline at Shell Point	*10
			Along shoreline at Redfish Point	*5
		Port Bay	At Swan Lake	*7

PROPOSED BASE (100-YEAR) FLOOD BASE—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Office of Leonard Sepcht, Flood Plain Administrator, Aransas County Courthouse, 301 N. Live Oaks, Rockport, Texas 78382.				
Send comments to Judge John Wendell or Mr. Leonard Sepcht, Flood Plain Administrator, Aransas County Courthouse, 301 N. Live Oaks, Rockport, Texas 78382.				
Texas	City of Aransas Pass, Aransas, Nueces and San Patricio Counties.	Gulf of Mexico/Redfish Bay	Intersection of Highland Avenue and State Highway 361.	*10
			Intersection of the State Highway 35 and Young Avenue.	
Maps available for inspection at City Hall, 600 West Cleveland Street, Aransas Pass, Texas 78336.				
Send comments to Mayor Tommy Knight or Don Guynes, City Inspector, City Hall, P.O. Drawer X, Aransas Pass, Texas 78336.				
Texas	City of Bayside, Refugio County	Copano Bay	Along shoreline at Driscoll Ave (extended)	*10
			Along western shoreline at Black Point	*9
Maps available for inspection at Bayside Community Building, Bayside, Texas 78340.				
Send comments to Mayor Tom Buchanan, Mayor of the City of Bayside, General Delivery, Bayside, Texas 78340.				
Texas	Unincorporated areas of Calhoun County	Little Chocolate Bayou	Just downstream of U.S. 87	*16
		Lynn Bayou	Approximately 300 feet downstream of Oakglen Drive	*15
		Cox's Creek	Just downstream of State Highway 35	*15
		Espiritu Santo Bay	At the intersection of runways at Port O'Conner Airport.	*9
		Gulf of Mexico	Matagorda Island Air Force Base	*7
		San Antonio Bay	At the cul de sac of Bay Avenue (Approximately 1,900 feet west of the City of Seadrift western corporate limits).	*8
			At the intersection of State Highway 185 and the eastern corporate limits of the City of Seadrift.	*8
		Hynes Bay	Confluence of North Guadalupe River with South Guadalupe River.	*12
		Chocolate Bay	At the intersection of Chocolate Bayou and State Highway 238.	*11
			At the intersection of Chocolate Bayou and State Highway 35.	*11
		Matagorda Bay	At the Historical Monument at the end of State Highway 316.	*15
		Keller Bay	At the intersection of State Highway 172 extended and the shoreline.	*15
		Lavaca Bay	The shoreline at the northeast end of the State Highway 35 bridge over Lavaca Bay.	*15
		Mesquite Bay	Intersection of the runways at American Liberty Oil Company Airport.	*6
		San Antonio Bay/Guadalupe Bay/Mission Bay.	Mouth of South Guadalupe River at Guadalupe Bay	*12
		Green Lake	State Highway 35 crossing at Hog Bayou	*11
		Guadalupe Bay	At the tip of Foster Point	*12
		Cavallo Pass	Mouth of Saluria Bayou at Cavallo Pass	*11
		Powderhorn Lake	Farm Market 1289 crossing at Coloma Creek	*12
		Cox Bay/Lavaca Bay	Cox Creek Lake Dam	*15
		Keller Bay/Carancahua Bay/Matagorda Bay.	At the intersection of State Highway 172 extended and the shoreline.	*15
Maps available for inspection at Calhoun County Courthouse, 211 S. Ann Street, Port Lavaca, Texas 77979.				
Send comments to Judge Wyatt or Mary Lois McMahan, Calhoun County Clerk, County Courthouse, 211 S. Ann Street, Port Lavaca, Texas 77979.				
Texas	Euless, City, Tarrant County	Little Bear Creek	Approximately 900 feet upstream of confluence with Big Bear Creek.	*511
			North Main Street (upstream side)	*525
			At Industrial Boulevard	*538
			At upstream corporate limits	*546
		Blessing Branch	Approximately 8,500 feet upstream of confluence with West Fork Trinity River.	*540
			Fuller Wiser Road (upstream side)	*554
			North Main Street (upstream side)	*574
		Sulphur Branch	At downstream corporate limits	*493
			At upstream corporate limits	*506
		Hurricane Creek	At downstream corporate limits	*501
			Marlene Drive (upstream side)	*521
			At upstream corporate limits	*537
		Stream HC-1	Confluence with Hurricane Creek	*515
			Kynette Drive (upstream)	*535
			Upstream corporate limits	*546
		Boyd Branch	At downstream corporate limits	*515
			State Route 10 (upstream side)	*540
			Approximately 950 feet upstream of Villa Road	*549
Maps available for inspection at the City Hall, Euless, Texas.				
Send comments to Honorable Harold Samuels, Mayor of the City of Euless, 201 North Ector Drive, Euless, Texas 76039.				
Texas	City of Ingleside, San Patricio County	Kinney Bayou	Just upstream of Eighth Street	*12
			Just downstream of Live Oak Street	*13
		Combined flooding effects from Kinney Bayou and Corpus Christi Bay.	Approximately 550 feet west of intersection of Port Avenue and FM 1069.	*9
Maps available for inspection at the City Hall, 501½ San Angelo Street, Ingleside, Texas 78362.				
Send comments to Mayor Jennings Herrington or Joe Miller, City Inspector, City Hall, P.O. Drawer 400, Ingleside, Texas 78362.				
Texas	Unincorporated areas of Nueces County	Nueces River (Part 1)	Aproximately 400 feet upstream of FM 666	*35
		Nueces River (Part 2)	Approximately 21,000 feet upstream of Missouri Pacific Railroad.	*15
		Oso Creek	Just upstream of FM 2444	*15
			Approximately 2,800 feet upstream of State Highway 286.	*20
		Oso Creek Tributary No. 5	Approximately 900 feet upstream of FM 2244	*24
			Approximately 600 feet upstream of County Road 47	*31

PROPOSED BASE (100-YEAR) FLOOD BASE—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Oso Creek Tributary No. 6	Approximately 900 feet upstream of County Road 26	*19
		Oso Creek Tributary No. 14	Approximately 700 feet upstream of McGloin Road	*44
		Ditch A	Approximately 500 feet downstream of Bauer Road	*75
		Ditch B	Approximately 1,100 feet upstream of Timber Bridge	*81
		Ditch BN	Just upstream of State Highway 44	*80
		Ditch C	Just downstream of City of Robstown Corporate limits. Approximately 5,500 feet upstream of FM 1694.	*67
		Ditch F	Approximately 5,480 feet upstream of confluence with Ditch A.	*81
		Carretta Creek	Just upstream of U.S. Highway 77 Bypass. Just upstream of City of Bishop Corporate limits (Approximately 1,450 feet upstream of North Avenue F).	*57
		North Carretta Creek	Approximately 550 feet upstream of East 6th Street	*51
		Laguna Madre	At Matanza Windmill	*11
		Gulf of Mexico/Laguna Madre	At Yorktown Boulevard over Oso Creek	*10
		Corpus Christi Bay	At Mustang Island Road Bridge over Newport Pass	*10
		Nueces Bay	At Navigation Boulevard Bridge over Tule Lake Channel.	*12
		Oso Bay	6,000 feet south of Nasa tracking station	*12
Maps available for inspection at the Nueces County Engineer's Office, County Courthouse, 901 Leopard Street, Corpus Christi, Texas 78401.				
Send comments to Judge Robert Barnes or Mr. Jerald Seals, Nueces County Engineer, County Courthouse, 901 Leopard Street, Corpus Christi, Texas 78401.				
Texas	City of Port Aransas, Nueces County	Corpus Christi Bay	At the intersection of Avenue G and 6th Street	*8
		Gulf of Mexico	Avenue G extended at shoreline	*10
Maps available for inspection at the City Hall, P.O. Drawer, I, Port Arthur, Texas 78373.				
Send comments to Mayor Brown or Ms. Joyce Pulich, City Manager, City Hall, P.O. Drawer I, Port Aransas, Texas 78373.				
Texas	City of Port Lavaca, Calhoun County	Little Chocolate Bayou	Just upstream of State Highway 35	*13
		Lynn Bayou	Approximately 500 feet upstream of Oakglen Drive	*16
		Lavaca Bay	Shoreline at Cypress Street (extended)	*16
Maps available for inspection at Office of Public Works, City Hall, Port Lavaca, Texas 77979.				
Send comments to Mayor Kenneth Lester or Tommie Hargrover, Director of Public Works, City Hall, P.O. Box 105, Port Lavaca, Texas 77979.				
Texas	Unincorporated areas of Refugio County	Mission River	Approximately 600 feet downstream of Missouri Pacific Railroad.	*35
		Blanco Creek	Just downstream of State Highway 202	*53
		Copano Bay/Mission Bay	Just east of FM 2678 on Mission River	*8
		St. Charles Bay	Just south of the intersection of State Highway 35 and State Highway 774.	*10
		San Antonio Bay	Approximately 250 feet east of Farm to Market Road 2040 just north of Aransas County Line.	*8
		Hynes Bay	At the outermost tip of McDowell Point	*8
		San Antonio Bay/Guadlupe, Bay/Mission, Lake/Green Lake.	Just west of Calhoun County line on State Highway 35	*11
Maps available for inspection at Refuge county Judge's Office, County Courthouse, Room 104, Refugio, Texas 78377.				
Send comments to Judge Ginger Fagan, Refugio County Judge, Refugio County Courthouse, Room 104, Refugio, Texas 78377.				
Texas	City of Rockport, Aransas County	Gulf of Mexico/Aransas Bay	Along shoreline at Water Street	*7
		Gulf of Mexico/Little Bay	Along shoreline at Concho Street extended east of Austin Street.	*6
Maps available for inspection at City Hall, 319 North Broadway, Rockport, Texas 78382.				
Send comments to Mayor C. H. Mills or Herman Johnson, City Manager, City Hall, P.O. Box 1058, Rockport, Texas 78382.				
Texas	Unincorporated areas of San Patricio County	Hondo Creek	Just downstream of FM 54	*44
			Just upstream of FM 50	*74
		Taft Creek A	Approximately 600 feet upstream of Southern Pacific Railroad.	*53
		Taft Creek B	Just upstream of FM 102	*41
		Jack Green Hollow	Approximately 900 feet upstream of NcNally Road	*140
		Nueces River (Part 1)	Approximately 400 feet upstream of FM 666	*35
		Nueces River (Part 2)	Just upstream of Missouri Pacific Railroad	*12
		Chiltipin Creek	Just downstream of U.S. Route 77	*48
		Peter's Swale	Approximately 400 feet upstream of FM 42	*70
			Approximately 100 feet upstream of U.S. Highway 77 (upstream crossing).	*73
		Nueces Bay	At the south end of Highway FM 1074 at the county limits.	*16
			At the Mouth of Nueces River at Nueces Bay	*16
			Just downstream of Missouri Pacific Railroad	*14
		Corpus Christi Bay	At the mouth of Gum Hollow with Corpus Christi Bay	*15
			At the mouth of an unnamed stream just east of the City of Portland with Corpus Christi Bay.	*15
			At the mouth of Kinney Bay with Ingleside Cove	*8
		Red Fish Bay	Just upstream of State Highway 35, 1,000 feet east of intersection of Highway FM 1069 and FM 2725 on an extension line of FM 1069.	*9
		Copano Bay/Mission Bay/Port Bay	Just downstream of Highway FM 881	*8
Maps available for inspection at County Courthouse, 400 W. Sinton, Rm 105, Sinton, Texas 78387.				
Send comments to Judge Edmondson, San Patricio County Courthouse, Room 105 or Mr. Julius Petirus, Jr., Consultant County Engineer, Kings Thomas Building, Sinton, Texas 78387.				
Washington	Sumas (city), Whatcom County	Johnson Creek	25 feet upstream from the centerline of Sumas Avenue.	*40
		Bone Creek	25 feet upstream from the centerline of Hovel Road	*38
Maps available for inspection at City Hall, Sumas, Washington.				
Send comments to Honorable Robert A. Mitchell, City Hall, Sumas, Washington 98295.				
West Virginia	Anawalt, Town, McDowell County	Tug Fork	Downstream corporate limits	*1,640
			Approximately 0.7 mile upstream of Johnson Street bridge.	*1,668

PROPOSED BASE (100-YEAR) FLOOD BASE—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream side of Norfolk and Western Railway bridge (2nd upstream crossing).	*1,688
			Upstream corporate limits	*1,707
		Little Creek	Upstream side of Railroad Avenue bridge	*1,688
			Upstream corporate limits	*1,700

Maps available for inspection at the Town Hall, Anawalt, West Virginia.

Send comments to Honorable John Dillon, Mayor of the Town of Anawalt, Anawalt Town Hall, Anawalt, West Virginia 24808.

West Virginia	Gary, City, McDowell County	Tug Fork	Downstream corporate limits	*1,371
			U.S. Steel Building (upstream side)	*1,400
			At confluence of Sandlick Creek	*1,411
			Maintenance Road 49 (upstream side)	*1,430
			Payton Place Road (upstream side)	*1,450
			Most upstream corporate limits	*1,470
		Sandlick Creek	At confluence with Tug Fork	*1,411
			Approximately 170 feet downstream of County Route 13/2.	*1,451

Maps available for inspection at the City Hall, Gary, West Virginia.

Send comments to Honorable Ron Estep, Mayor of the City of Gary, City of Gary, Box 310, Gary, West Virginia 24836.

West Virginia	Kanawha County	Kanawha River	Approximately .25 mile downstream of county boundary.	*587
			At confluence of Davis Creek	*592
			Upstream side of Marmet Locks and Dam	*601
			At State Route 61 spur bridge	*606
			Approximately .15 mile downstream of London Lock & Dam #3.	*617
			At upstream county boundary	*625
		Pocatalico River	At downstream county boundary	*601
			Approximately .4 mile upstream of County Road 7	*609
			Approximately 800 feet downstream of County Road 21/7.	*616
			At confluence of Tupper Creek	*624
			Approximately .3 mile upstream of County Road 21	*631
			Approximately 800 feet upstream of County Road 33 (1st upstream crossing).	*646
			Approximately 1,000 feet upstream of County Road 33 (2nd upstream crossing).	*656
			Approximately 200 feet downstream of upstream county boundary.	*672
		Rocky Fork	At confluence with Pocatalico River	*603
			At State Route 622 (2nd crossing)	*610
			At County Road 5/13	*629
			Approximately 50 feet downstream of State Route 62	*660
			Approximately 50 feet upstream of Dam Road	*693
		Tupper Creek	At confluence with Pocatalico River	*624
			Approximately 600 feet downstream of confluence of Legg Fork.	*629
			Approximately 200 feet upstream of Interstate Route 77 (1st upstream crossing).	*645
			Approximately 100 feet upstream of County Road 29	*663
			Approximately 70 feet downstream of County Road 24	*688
			Approximately .46 mile downstream of County Road 21/25.	*713
			Approximately 40 feet downstream of County Road 21/25.	*738
			Downstream side of parking lot culverts	*748
			Upstream side of County Road 21	*791
			Approximately 860 feet upstream of County Road 21	*797
		Legg Fork	At confluence with Tupper Creek	*629
			Downstream side of County Road 28/2	*639
			Approximately 130' upstream of County Road 28	*657
			Approximately .93 mile upstream of County Road 28	*677
			At confluence of Huggard Branch	*700
		Huggard Branch	At confluence with Legg Fork	*700
			Approximately .46 mile upstream of confluence with Legg Fork.	*730
			At 1st upstream Access Road	*761
			Approximately 90' downstream of 2nd upstream Access Road.	*782
			Approximately .33 mile upstream of 2nd upstream Access Road.	*808
		Coal River	At confluence with Kanawha River	*588
			Approximately 6.0 miles upstream of confluence with Kanawha River.	*600
			At confluence of Smith Creek	*612
			Approximately 1,000 feet upstream of State Route 214	*625
			Approximately 1.1 miles upstream of State Route 214	*627
		Smith Creek	At confluence with Coal River	*612
			Approximately 100 feet downstream of County Road 9 (2nd upstream crossing).	*625
			Approximately 75 feet upstream of County Road 12 (1st upstream crossing).	*635
			AT County Road 12 (2nd upstream crossing)	*645
			At confluence of Little Smith Creek	*678
			Approximately 775 feet downstream of County Road 12 (3rd upstream crossing).	*715
			At County Road 12 (4th upstream crossing)	*750
			Approximately 100 feet upstream of County Road 12 (5th upstream crossing).	*790
			Approximately 700 feet upstream of County Road 12 (6th upstream crossing).	*820
		Little Smith Creek	At confluence with Smith Creek	*678
			Approximately 120 feet upstream of County Road 9/3	*698
			Approximately .61 mile upstream of County Road 9/3	*733

PROPOSED BASE (100-YEAR) FLOOD BASE—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 1.29 miles upstream of County Road 9/3.	*769
			Approximately 1.82 miles upstream of County Road 9/3.	*820
			Approximately 2.22 miles upstream of County Road 9/3.	*870
			Approximately 2.44 miles upstream of County Road 9/3.	*909
		Davis Creek	At downstream county boundary	*592
			At State Route 214	*604
			Approximately 1.4 miles downstream of County Road 20 (1st upstream crossing).	*626
			Approximately 200 feet downstream of County Road 20 (1st upstream crossing).	*648
			At County Road 20/5	*665
			At County Road 23 (1st upstream crossing)	*683
			Approximately 50 feet downstream of confluence of Kanawha Fork.	*709
		Tyler Creek	Approximately .22 mile downstream of county boundary.	*598
			Upstream side of County Road 5/6	*605
			Upstream side of State Route 62 (2nd upstream crossing).	*632
			Approximately 100 feet upstream of confluence of Landers Creek.	*655
		Twomile Creek	At downstream county boundary	*603
			Approximately 100 feet upstream of confluence of Edens Fork.	*609
			Approximately 50 feet upstream of 2nd upstream Access Road.	*621
			Approximately 60 feet upstream of County Road 21/14.	*640
			Approximately .30 mile downstream of County Road 21/13.	*661
			Approximately 65 feet downstream of County road 21/13.	*682
			Approximately 540 feet downstream of County Road 21 (2nd upstream crossing).	*700
			Approximately 150 feet upstream of County Road 21 (2nd upstream crossing).	*717
			Approximately 50 feet downstream of County Road 21 (3rd upstream crossing).	*745
			Approximately 860 feet upstream of County Road 21 (4th upstream crossing).	*775
			Approximately .3 mile upstream of County Road 21 (4th upstream crossing).	*805
		Edens Fork	At confluence with Twomile Creek	*609
			Upstream side of County Road 27 (1st upstream crossing).	*615
			Upstream side of County Road 27/1	*627
			Upstream side of County Road 27/4	*646
			Upstream side of County Road 27 (2nd upstream crossing).	*656
			Approximately 1 mile upstream of County Road 27 (2nd upstream crossing).	*705
			At County Road 27 (3rd upstream crossing)	*739
			Approximately .28 mile upstream of County Road 27 (4th upstream crossing).	*787
		Elk River	At downstream county boundary	*595
			At confluence of Coopers Creek	*609
			At confluence of Little Sandy Creek	*612
			At confluence of Blue Creek	*619
			At Old Queen Shoals bridge	*634
			At upstream county boundary	*649
		Elk Twomile Creek	At confluence with Elk River	*595
			Upstream side of Greenbriar Street (1st upstream crossing).	*610
			Downstream side of County Road 46 (1st upstream crossing).	*637
			Upstream side of County Road 46 (3rd upstream crossing).	*664
			Approximately 200 feet upstream of County Road 46 (7th upstream crossing).	*717
		Coopers Creek	At confluence with Elk River	*609
			Approximately 100 feet downstream of confluence of Bens Fork.	*627
			Approximately 250 feet upstream of County Road 119/14.	*648
			Downstream side of County Road 28	*659
			Approximately .77 mile upstream of County Road 28	*677
		Little Sandy Creek	At confluence with Elk River	*612
			Approximately 300 feet upstream of Interstate 79 (1st upstream crossing).	*620
			Approximately 800 feet downstream of County Road 39.	*639
			Approximately 300 feet upstream of County Road 43/14.	*658
			Approximately 60 feet upstream of County Road 43/6	*667
		Blue Creek	At confluence with Elk River	*619
			Upstream side of Access Road	*624
			Approximately 130 feet downstream of confluence of Lower Threemile Fork.	*630
		Big Sandy Creek	At downstream county boundary	*630
			Approximately 750 feet upstream of confluence of Thorofare Run.	*631
		Thorofare Run	At confluence with Big Sandy Creek	*631

PROPOSED BASE (100-YEAR) FLOOD BASE—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream side of County Road 59 (1st upstream crossing).	*687
			Upstream side of County Road 59 (2nd upstream crossing).	*742
			Approximately .74 mile upstream of County Road 59 (2nd upstream crossing).	*845
		Campbells Creek	At confluence with Kanawha River	*598
			Upstream side of County Road 73 (1st upstream crossing).	*611
			Upstream side of County Road 73/3	*626
			Upstream side of County Road 73/5	*637
			Upstream side of County Road 73 (2nd upstream crossing).	*656
			Upstream side of County Road 73/8	*695
			Upstream side of County Road 73 (3rd upstream crossing).	*712
			Approximately 400 feet downstream of confluence of Eightmile Hollow.	*794
		Lens Creek	Approximately 850 feet upstream of confluence with Kanawha River.	*620
			Upstream side of County Road 68	*627
			At confluence of Ring Hollow	*674
			At confluence of Fourmile Fork	*688
			Approximately .63 mile above confluence of Fourmile Fork.	*720
			Upstream side of 9th upstream Access Road	*751
			Approximately .77 mile above 9th upstream Access Road.	*804
		Witcher Creek	At confluence with Kanawha River	*604
			Upstream side of County Road 70 (2nd upstream crossing).	*613
			Approximately .5 mile downstream of confluence of Laurel Fork.	*672
			Approximately 100 feet downstream of confluence of Left Fork.	*701
		Fields Creek	At confluence with Kanawha River	*604
			Upstream side of County Road 77/1	*621
			Upstream side of Delta Route 14	*652
			Upstream side of Delta Route 13	*672
			Approximately .60 mile upstream of Delta Route 13	*701
		Cabin Creek	At confluence with Kanawha River	*607
			Upstream side of County Road 79/3 (1st upstream crossing).	*633
			Upstream side of County Road 79/4 (2nd upstream crossing).	*666
			Upstream side of County Road 79/3 (3rd upstream crossing).	*692
			Upstream side of Chessie System (5th upstream crossing).	*720
			Upstream side of County Road 74	*745
			Upstream side of Chessie System (7th upstream crossing).	*801
			Downstream side of County Road 79/3 (4th upstream crossing).	*848
			Upstream side of County Road 76 (1st upstream crossing).	*907
			Upstream side of County Road 76 (2nd upstream crossing).	*1,029
			Upstream side of Chessie System (12th upstream crossing).	*1,066
			Upstream side of County Road 76 (3rd upstream crossing).	*1,130
		Kellys Creek	At downstream county boundary	*632
			Upstream side of County Road 81 (1st upstream crossing).	*670
			Upstream side of County Road 81/6	*710
			Upstream side of Kellys Creek and Northwestern Railroad (2nd upstream crossing).	*752
			Approximately .76 mile downstream County Road 81 (2nd upstream crossing).	*790
			Upstream side County Road 81 (2nd upstream crossing).	*845
			At confluence of Hurricane Fork	*863
		Hurricane Fork	At confluence with Kellys Creek	*863
			Upstream side of County Road 81	*919
			Approximately .60 mile upstream of County Road 81	*997
		Paint Creek	At confluence with Kanawha River	*614
			Upstream side of County Road 83/2	*624
			Upstream side of County Road 83/3	*650
			Upstream side of County Road 83/1	*689
			Upstream side of County Road 83	*695
			Downstream side of Interstate Route 77	*718
		Hughes Creek	At confluence with Kanawha River	*616
			Upstream U.S. Route 60	*622
			Approximately 1.07 miles upstream of U.S. Route 60	*670
		East Bank Tributary	At confluence with Kanawha River	*610
			Approximately 80 feet upstream of upstream county boundary.	*620
		Upper Creek	Approximately .72 mile upstream of confluence with Kanawha River.	*722
			At upstream county boundary	*736

Maps available for inspection at the Planning Commission, Kanawha County Courthouse, 409 Virginia Street East, Charleston, West Virginia.

Send comments to Honorable F. Douglas Stump, President of the Kanawha County Commissioners, Kanawha County Courthouse, 409 Virginia Street East, Charleston, West Virginia 25301.

West Virginia	Keystone, Town, McDowell County	Elkhorn Creek	Downstream corporate limits	*1,623
			Norfolk and Western Railway, bridge (upstream side)	*1,668

PROPOSED BASE (100-YEAR) FLOOD BASE —Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream corporate limits	*1,675
			Approximately 0.15 mile upstream of corporate limits	*1,682

Maps available for inspection at the City Hall, Keystone, West Virginia.

Send comments to Honorable Joseph McPeak, Mayor of the Town of Keystone, P.O. Box Drawer C, Keystone, West Virginia 24852.

West Virginia	Kimball, Town, McDowell County	Elkhorn Creek	Downstream corporate limits	*1,478
			At confluence of Laurel Branch	*1,485
			Upstream corporate limits	*1,497

Maps available for inspection at the City Hall, Welch, West Virginia.

Send comments to Honorable Jack Premo, Mayor of the Town of Kimball, General Delivery, Welch, West Virginia 24801.

West Virginia	Mabscott, Town, Raleigh County	Whitestick Creek	Downstream corporate limits	*2,284
			Upstream side of North Hill Street	*2,290
			At Mill Road	*2,325

Maps available for inspection at the Town Hall, Mabscott, West Virginia.

Send comments to Honorable Emmett Crum, Mayor of the Town of Mabscott, P.O. Box 176, Mabscott, West Virginia 25871.

West Virginia	Northfork, Town, McDowell County	Elkhorn Creek	Downstream corporate limits	*1,690
			Norfolk and Western Railway bridge (downstream side).	*1,710
			Confluence of North Fork	*1,718
			Approximately 686 feet upstream of upstream corporate limits.	*1,733

Maps available for inspection at the City Hall, Central Avenue, Northfork, West Virginia.

Send comments to Honorable Benny Capparelli, Major of the Town of Northfork, P.O. Box 497, Central Avenue, Northfork, West Virginia 24868.

Wisconsin	Village of Loganville, Sauk County	Narrows Creek	Downstream corporate limits	*914
			Upstream corporate limits	*914

Maps available for inspection at the Village Clerk's Office, Village Hall, Loganville, Wisconsin. Send comments to Honorable Bob Judkins, Village President, Village of Loganville, Village Hall, P.O. Box 95, Loganville, Wisconsin 53943.

Wisconsin	City of Reedsburg, Sauk County	Baraboo River	About 3.95 miles downstream of Chicago and North Western Railroad.	*877
			About 0.60 miles upstream of confluence of Hobbs Creek.	*881
		Hay Creek	Mouth at Baraboo River	*880
			About 3,200 feet upstream of mouth	*880

Maps available for inspection at the Zoning Administrator's Office, City Hall, 134 S. Locust, Reedsburg, Wisconsin. Send comments to Honorable John W. Bernien, Mayor, City of Reedsburg, City Hall, 134 S. Locust, Reedsburg, Wisconsin 53959.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19867; and delegation of authority to the Administrator)

Issued: May 30, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84–15271 Filed 6–7–84; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 67

[Docket No. FEMA–6605]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed modified base flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

DATES: The period for comment will be ninety (90) days following the second publication of the proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Brian R. Mrazik, Ph. D. Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authoirty has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a

local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The proposed modified base flood elevations for selected locations are:

PROPOSED MODIFIED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
California	Pleasanton (City of) Alameda County.	Alamo Canal	Intersection of Payne Court and Holland Drive		*321
		Arroyo De La Laguna	Upstream edge of Interstate Highway 680 crossing	*321	*318
		Arroyo Del Valle	Upstream edge of Stanley Boulevard crossing	*345	*345
		Arroyo Mocho	Downstream edge of Hopyard Road crossing	*323	*320
		Chabot Canal	Upstream edge of West Las Positas Boulevard crossing.	*323	*321
		Pleasanton Canal	Upstream edge of Hopyard Road crossing	*322	*321
		Tassajara Creek	30 feet downstream from the Southern Pacific Railroad crossing.	*332	*329
		Hewlett Canal	100 feet downstream from the Southern Pacific Railroad crossing.	(1)	*325
	Maps available for inspection at the Public Works Department, 200 Bernal Avenue, Pleasanton, California.				
	Send comments to the Honorable Robert Butler, Mayor, City of Pleasanton, P.O. Box 520, Pleasanton, California 94566.				
Georgia	Unincorporated Areas of Columbia County.	Savannah River	At county line	*164	*164
			Just upstream of Stevens Creek Dam	*200	*195
			Just upstream of State Highway 28	*204	*202
			About 0.33 miles upstream of confluence of Uchee Creek.	*208	*206
		Watery Branch	Mouth at Savannah River	*200	*196
			About 1,650 feet upstream of Point Comfort Road	*201	*201
		Watery Branch Tributary	At confluence with Watery Branch	*201	*197
			About 140 feet upstream of confluence with Watery Branch.	*201	*201
		Jones Creek	Mouth at Savannah River	*201	*198
			About 4,950 feet upstream of mouth at Savannah River.	*201	*201
		Bettys Branch	Mouth at Savannah River	*205	*204
			About 3,200 feet upstream of Bettys Branch Road	#205	*205
		Uchee Creek	Mouth at Savannah River	*207	*205
			About 6,400 feet upstream of Washington Road	*209	*209
			About 9,700 feet upstream of Washington Road	*213	*213
	Maps available for inspection at the Planning Department, P.O. Box 11024, Martinez, Georgia 30907.				
	Send comments to Honorable Larry S. Prather, Chairman, Board of Commissioners, Columbia County, P.O. Box 11024, Martinez, Georgia 30907.				
Illinois	Unincorporated Areas of Cook County.	Butterfield Creek	Approximately 0.4 mile upstream of Central Avenue	*696	*695
			Approximately 1 mile upstream of Central Avenue	*696	*695
	Maps available for inspection at the Cook County Building and Zoning Department, Room 309, Richard Daley Center, Chicago, Illinois.				
	Send comments to Honorable George W. Dunne, President, Board of Commissioners, Cook County, County Building, Room 537, 118 North Clark Street, Chicago, Illinois 60602.				
Illinois	City of Harvey, Clay County	Dixie Creek	Just upstream of Dixie Highway	(2)	*606
			About 1,300 feet upstream of Rockwell Street	(2)	*607
		Calumet Union Drainage Ditch	About 2,000 feet downstream of Halsted Street	*609	*600
			About 1,600 feet upstream of Wood Street	*610	*609
		Shallow Flooding (Ponding from Calument Union Drainage Ditch).	At intersection of Wood Street and 147th Street	*604	*604
			At intersection of Lincoln Avenue and 151st Street	*606	*604
			At intersection of Halsted Avenue and 157th Street	*606	*604
		Shallow Flooding (Overflow from Calument Union Drainage Ditch).	At intersection of Vine Avenue and 153rd Street	*606	*605
			At intersection of Ashland Avenue and 155th Street	*607	*606
			At intersection of Honore Avenue and 156th Street	*608	*607
			At intersection of Wood Street and 159th Street	*609	*609
	Maps available for inspection at the Building and Planning Department, 15320 Broadway Avenue, Harvey, Illinois.				
	Send comments to Honorable David Johnson, Mayor, City of Harvey, 15320 Broadway Avenue, Harvey, Illinois 60426.				
Missouri	City of Liberty, Clay County	Cates Branch	Just upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*797	*797
			Approximately 0.04 mile downstream of State Highway 291.	*807	*806
			Just upstream of State Highway 291	*821	*817
			Just upstream of Birmingham Road	*838	*820
			Approximately 0.06 mile upstream of Birmingham Road.	*838	*826
			Just upstream of Burlington Northern Railroad	*843	*832
			Approximately 0.05 mile upstream of Mill Street	*851	*852
		Little Shoal Creek (Trident No. 3)	Approximately 0.09 mile downstream of High Drive	*790	*790
			Approximately 0.28 mile upstream of High Drive	*835	*834

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Community Development Office, 3rd Floor, 101 East Kansas Street, Liberty, Missouri.					
Send comments to Honorable K. Russell Weather, Mayor, City of Liberty, P.O. Box 159, Liberty, Missouri 64068.					
New Jersey	Boonton, Town, Morris County	Rockaway River	Downstream corporate limits	*195	*196
			Upstream of weir located just upstream of Greenbank Road.	*199	*200
			At foot of spillway on Boonton Reservoir Dam	*209	*212
			Interstate 287 upstream side	*368	*370
			Upstream side of Morris Avenue	*372	*376
			Upstream side of West Main Street	*485	*487
			Upstream corporate limits	*487	*489
Maps available for inspection at the Town Hall, 100 Washington Street, Boonton, New Jersey.					
Send comments to Honorable Emidio Cacciabeve, Mayor of the Town of Boonton, 100 Washington Street, Boonton, New Jersey 07005.					
New Jersey	Boonton, Township, Morris County.	Rockaway River	Downstream corporate limits	*485	*489
			Upstream side of dam located upstream of North Main Street.	*496	*498
			Upstream side of Powerville Road	*496	*499
			Confluence of Beaver Brook	*498	*502
			Upstream corporate limits	*498	*503
		Beaver Brook	Confluence with Rockaway River	*498	*502
		Unnamed Creek	Confluence with Beaver Brook	*500	*502
Maps available for inspection at the Municipal Building, R.D. 1—Tylerville Road, Boonton, New Jersey.					
Send comments to Honorable Earl Moran, R.D. 1, Box 201, Boonton, New Jersey 07005.					
New Jersey	Cape May, City, Cape May County.	Atlantic Ocean	Approximately 100 feet northwest of the intersection of Beach Avenue and Wilmington Avenue.	*14	*10
Maps available for inspection at the City Hall, 643 Washington Street, Cape May, New Jersey.					
Send comments to Honorable Arthur Blomkvest, Mayor of the City of Cape May, 643 Washington Street, Cape May, New Jersey 08204.					
New Jersey	Monmouth Beach, Borough Monmouth County.	Atlantic Ocean	South corporate limits	*16	*14
			North corporate limits	*16	*14
Maps available for inspection at the Borough Building, 22 Beach Road, Monmouth Beach, New Jersey.					
Send comments to Honorable Louis P. Sodano, Mayor of the Borough of Monmouth Beach, 22 Beach, New Jersey 07750.					
New York	Greenport, Village Suffolk County.	Greenport Harbor	Shoreline of Stirling Basin	*11	*8
			Manor Place	*10	*8
			Monsell Place	*9	*8
			Shoreline from Stirling Basin to Railroad Station	*11	*10
			Front Street	*9	*8
			Shoreline from Railroad Station to Fanning Point	*11	*8
Maps available for inspection at the Village Offices, 236 Third Street, Greenport, New York.					
Send comments to Honorable George W. Hubbard, Mayor of the Village of Greenport, 236 Third Street, Greenport, New York 11944.					
North Carolina	Town of Cary, Wake County	Black Creek Tributary A	About 1,200 feet downstream of West Dynasty Drive	*335	*335
			About 500 feet downstream of North Carolina State Road 1652.	*358	*349
			About 50 feet upstream of North Carolina State Road 1652.	*358	*356
Maps available for inspection at the Planning Department, 316 N. Academy, Cary, North Carolina.					
Send comments to Honorable Harold Ritter, Mayor, Town of Cary, P.O. Box 1147, Cary, North Carolina 27511.					
North Carolina	City of Raleigh, Wake County	Walnut Creek	Just upstream of State Road 2551	*182	*176
			About 2.2 miles upstream of State Road 2551	*183	*182
		Crabtree Creek	At confluence with Neuse River	*184	*178
			About 200 feet downstream of U.S. Highway 64	*199	*199
			About 700 feet upstream of Wake Forest Road	*214	*214
		Neuse River	At confluence of Crabtree Creek	*184	*178
			About 1,000 feet downstream of Milburn Dam	*188	*180
			About 2.5 miles upstream of Milburn Dam	*193	*188
		Perry Creek	At confluence of Perry Creek East Branch	*202	*196
			About 0.6 mile downstream of U.S. Highway 1	*210	*210
		Perry Creek East Branch	At confluence with Perry Creek	*202	*196
			About 750 feet downstream of Fox Road	*203	*203
		Walnut Creek	About 0.45 mile downstream of Rock Quarry Road	*214	*214
			Just upstream of Rock Quarry Road	*222	*223
			Just downstream of Wilmington Street	*235	*237
			Just downstream of South Saunders Street	*242	*244
			About 1,400 feet upstream of Lake Wheeler Road	*257	*258
			Just downstream of Lake Raleigh Dam	*269	*270
		Rocky Branch	At confluence with Walnut Creek	*234	*236
			Just upstream of Fayetteville Street	*243	*243
		Wildcat Branch	At confluence with Walnut Creek	*233	*235
			Just downstream of Norfolk Southern Railway	*234	*235
		Southwest Prong of Beaverdam Creek.	Just upstream of Cambridge Road	*268	*266
			Just downstream of Brooks Avenue	*279	*280
Maps available for inspection at the Planning Department, 110 S. McDowell Street, Raleigh, North Carolina.					
Send comments to Honorable Avery C. Upchurch, Mayor, City of Raleigh, P.O. 590, Raleigh, North Carolina 27602.					
North Carolina	Unincorporated Areas of Wake County.	Ledge Creek—Basin 1, Stream 1	Just upstream of State Road 1900	*253	*262
			At county boundary	*257	*262

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		Unnamed Stream—Basin 1, Stream 9.	At confluence with Ledge Creek-Basin 1, Stream 1	*252	*262
			Just upstream of State Road 1901	*262	*262
		Newlight Creek—Basin 3, Stream 1.	At confluence with Neuse River-Basin 15, Stream 1	*245	*262
			Just upstream of State Road 1909	*250	*262
			About 1,850 feet upstream of State Road 1910	*262	*262
			About 6,100 feet upstream of State Road 1912	*371	*371
		Unnamed Stream—Basin 3, Stream 3.	At confluence with Newlight Creek-Basin 3, Stream 1	*246	*262
			Just upstream of State Road 1918	*247	*262
			About 3,050 feet upstream of State Road 1918	*256	*262
		Unnamed Stream—Basin 3, Stream 6.	At confluence with Newlight Creek-Basin 3, Stream 1	*255	*262
			About 1,950 feet upstream of confluence with Newlight Creek-Basin 3, Stream 1.	*262	*262
			About 6,850 feet upsteam of confluence with Newlight Creek-Basin 3, Stream 1.	*306	*306
		Buckhorn Branch—Basin 3, Stream 9.	At confluence with Newlight Creek-Basin 3, Stream 1	*261	*262
			About 700 feet upstream of confluence with Newlight Creek-Basin 3, Stream 1.	*262	*262
			About 7,700 feet upstream of confluence with New light Creek—Basin 3, Stream 1.	*299	*299
		Horse Creek—Basin 4, Stream 1	At confluence with Neuse River—Basin 15, Stream 1	*230	*262
			Just upstream of State Road 98	*236	*262
			About 3,000 feet downstream of State Road 1923	*262	*262
			About 1,950 feet upstream of State Road 1909	*338	*338
		Unnamed Stream—Basin 4, Stream 3.	About 2,000 feet upstream of confluence with Horse Creek—Basin 4, Stream 1.	(3)	*336
			About 5,600 feet upstream of confluence with Horse Creek—Basin 4, Stream 1.	(3)	*379
		Water Fork—Basin 4, Stream 7	At confluence with Horse Creek—Basin 4, Stream 1	*236	*262
			At confluence with Lowery Creek—Basin 4, Stream 10	*248	*262
			About 1,000 feet upstream of confluence with Lowery Creek—Basin 4, Stream 10.	*255	*262
		Lowery Creck—Basin 4, Stream 10	At confluence with Water Fork—Basin 4, Stream 7	*248	*262
			About 2,700 feet upstream of confluence with Water Fork—Basin 4, Stream 7.	*262	*262
			Just upstream of State Road 1909	*378	*378
		Unnamed Stream—Basin 4, Stream 13.	At confluence with Lowery Creek—Basin 4, Stream 10	(3)	*284
			About 5,200 feet upstream of confluence with Lowery Creek—Basin 4, Stream 10.		(3) D*341
		Richland Creek—Basin 5, Stream 1.	At confluence with Neuse River—Basin 15, Stream 1	*211	*203
			About 6,500 feet upstream of confluence with Neuse River—Basin 15, Stream 1.	*211	*211
			About 850 feet upstream of U.S. Route 1	*234	*234
		Smith Creek—Basin 6, Stream 1	Just upstream of State Road 2045	*206	*200
			Just upstream of State Road 2044	*207	*207
			About 2,800 feet upstream of State Road 2049	*233	*233
		Toms Creek—Basin 7, Stream 1	At confluence with Neuse River—Basin 15, Stream 1	*205	*199
			About 500 feet upstream of State Road 2044	*205	*205
			About 3,850 feet upstream of State Road 2049	*276	*276
		Hodges Creek—Basin 8, Stream 1	At confluence with Neuse River—Basin 15, Stream 1	*198	*191
			About 300 feet upstream of State Road 2049	*198	*198
			About 900 feet upstream of State Road 2228	*223	*223
		Powell Creek—Basin 8, Stream 7	At confluence with Hodges Creek—Basin 8, Stream 1	*198	*193
			Just upstream of State Road 2049	*200	*200
			About 7,200 feet upstream of State Road 2226	*261	*261
		Beaverdam Creek—Basin 12, Stream 1.	At confluence with Neuse River—Basin 15, Stream 1	*190	*185
			Just upstream of dam	*195	*195
			Just upstream of State Road 2228	*236	*236
		Poplar Creek—Basin 13, Stream 1	At confluence with Neuse River—Basin 15, Stream 1	*174	*169
			Just upstream of State Road 2601	*175	*175
			About 8,100 feet upstream of State Road 1007	*212	*212
		Neuse River—Basin 15, Stream 1	At downstream county boundary	*169	*164
			Just upstream of U.S. Route 64	*187	*180
			Just downstream of Falls Dam (about 900 feet upstream of State Road 2000).	*214	*205
			Just upstream of Falls Dam (about 1,000 feet upstream of State Road 2000).	*214	*262
			At upstream county boundary	*256	*262
		Unnamed Stream—Basin 15, Stream 7.	At confluence with Neuse River—Basin 15, Stream 1	*178	*173
			About 3,800 feet downstream of State Road 1007	*178	*178
			Just upstream of State Road 2601	*236	*236
		Unnamed Stream—Basin 15, Stream 8.	At confluence with Unnamed Stream—Basin 15, Stream 7.	*178	*176
			About 400 feet upstream of confluence with Unnamed Stream—Basin 15, Stream 7.	*178	*178
			Just upstream of State Road 2511	*216	*216
		Unnamed Stream—Basin 15, Stream 9	At confluence with Neuse River—Basin 15, Stream 1	*179	*174
			About 1,650 feet upstream of confluence with Neuse River—Basin 15, Stream 1.	*179	*179
			Just upstream of State Road 2552	*208	*208
		Walnut Creek—Basin 15, Stream 10.	At confluence with Neuse River—Basin 15, Stream 1	*183	*177
			At confluence with Big Branch—Basin 15, Stream 14	*184	*184
		Mango Creek—Basin 15, Stream 11.	At confluence with Neuse River—Basin 15, Stream 1	*185	*179
			Just upstream of Norfolk Southern Railway	*187	*187
			About 7,100 feet upstream of Norfolk Southern Railway.	*226	*226
		Unnamed Stream—Basin 15, Stream 22	At confluence with Neuse River—Basin 15, Stream 1	*195	*189

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			About 2,650 feet upstream of confluence with Neuse River—Basin 15, Stream 1.	*195	*195
			Just upstream of State Road 2049	*220	*220
		Unnamed Stream—Basin 15, Stream 25.	At confluence with Neuse River—Basin 15, Stream 1	*200	*194
			About 2,200 feet upstream of confluence with Neuse River—Basin 15, Stream 1.	*200	*200
			Just upstream of State Road 2049	*250	*250
		Perry Creek—Basin 15, Stream 26.	At confluence with Neuse River—Basin 15, Stream 1	*203	*196
			About 4,200 feet upstream of State Road 2006	*203	*203
			About 10,300 feet upstream of confluence with Neuse River—Basin 15, Stream 1.	*216	*216
		Perry Creek East Branch—Basin 15, Stream 27.	At confluence with Perry Creek—Basin 15, Stream 26	*203	*197
			About 700 feet downstream of State Road 2042	*203	*203
			About 1,350 feet upstream of State Road 2132	*314	*314
		Unnamed Stream—Basin 15, Stream 28.	Just downstream of Berkshire Downs Drive	*203	*205
			About 3,500 feet upstream of Berkshire Downs Drive		
		Honeycutt Creek—Basin 15, Stream 31.	At confluence with Neuse River-Basin 15, Stream 1	*214	*262
			Just upstream of State Road 2002	*262	262
			Just upstream of State Road 2010	*253	*262
			About 3,400 feet upstream of State Road 2010	*262	*262
			Just upstream of State Road 2005	*303	*303
		Unnamed Stream—Basin 15, Stream 32.	At confluence with Honeycutt Creek—Basin 15, Stream 31.	*241	*262
			About 2,400 feet upstream of confluence with Honeycutt Creek—Basin 15, Stream 31.	*262	*262
			Just upstream of State Route 2010	*280	*280
		Cedar Creek—Basin 15, Stream 34.	At confluence with Neuse River—Basin 15, Stream 1	*229	*262
			Just upstream of State Road 2002	*249	*262
			About 3,400 feet upstream of State Road 2002	*262	*262
			About 3,100 feet upstream of State Road 2005	*335	*335
		Upper Barton Creek—Basin 16, Stream 1.	At confluence with Neuse River—Basin 15, Stream	*237	*262
			Just upstream of State Road 1005	*240	*262
			About 1,900 feet downstream of State Road 1844	*262	*262
			Just upstream of State Road 1841	*361	*361
		Unnamed Stream—Basin 16, Stream 2.	At confluence with Upper Barton Creek—Basin 16, Stream 1.	*248	*262
			About 3,350 feet upstream of confluence with Upper Barton Creek—Basin 16, Stream 1.	*262	*262
			Just upstream of State Road 50	*334	*334
		Lower Barton Creek—Basin 17, Stream 1.	At confluence with Neuse River—Basin 15, Stream 1	*236	*262
			About 3,600 feet downstream of State Road 1834	*262	*262
		Lower Barton Creek—Basin 17, Stream 1.	Just upstream of Countrywood Drive	*297	*300
			About 250 feet upstream of State Road 1826	*386	*386
		Unnamed Stream—Basin 17, Stream 4.	At confluence with Lower Barton Creek—Basin 17, Stream 1.	*293	*293
			Just upstream of Carrington Drive	*296	*295
			Just upstream of State Road 1831	*363	*363
		Richland Creek—Basin 18, Stream 3.	About 5,600 feet downstream of State Road 1650	(2)	*278
		Unnamed Stream—Basin 18, Stream 8.	At confluence with Sycamore Creek—Basin 18, Stream 6.	*359	*359
			Just upstream of Unnamed Road	*391	*389
			Just upstream of State Road 1837	*447	*447
		Crabtree Creek—Basin 18, Stream 9.	At confluence with Neuse River—Basin 15, Stream 1	*184	178
			About 3,200 feet upstream of confluence with Neuse River—Basin 15, Stream 1.	*187	*183
		Stirrup Iron Creek—Basin 18, Stream 12.	At confluence with Crabtree Creek—Basin 18, Stream 9.	*277	*277
			Just upstream of State Road 3015	*282	*281
			At county boundary	*302	*321
		Unnamed Stream—Basin 18, Stream 13.	At confluence with Stirrup Iron Creek—Basin 18, Stream 12.	*289	*287
			About 200 feet downstream of State Road 1002	*289	*289
			Just upstream of dam	*316	*316
		Bagwell Branch—Basin 20, Stream 10.	At confluence with Swift Creek—Basin 20, Stream 1	(2)	*241
			About 2,500 feet upstream of confluence with Swift Creek—Basin 20, Stream 1	(2)	*241
		Unnamed Stream—Basin 20, Stream 20.	At confluence with Swift Creek—Basin 20, Stream 1	(2)	*298
			About 3,500 feet upstream of confluence with Swift Creek—Basin 20, Stream 1	(2)	*321
		Unnamed Stream Basin 22, Stream 20.	At confluence with Terrible Creek—Basin 22, Stream 19.	(2)	*268
			About 5,250 feet upstream of confluence with Terrible Creek—Basin 22, Stream 19.	*(2)	*312
Maps available for inspection at the Planning Department, County Courthouse, 316 Fayetteville Mall, Raleigh, North Carolina.					
Send comments to Honorable Carl G. Johnson, County Manager, Wake County, P.O. Box 550, Raleigh, North Carolina 27602.					
Ohio	City of Dayton, Montgomery County.	Great Miami River	About 2.6 miles downstream of Conrail	(2)	*726
			About 1,000 feet upstream of Little York Road	(2)	*773
		Mad River	At mouth	(2)	*740
			Just downstream of State Route 444	(2)	*788
		Stillwater River	At mouth	(2)	*745
			About 3,000 feet upstream of Ridge Avenue	*747	*747
		Wolf Creek	At mouth	(2)	*738
			About 6,500 feet upstream of Gettysburg Avenue	(2)	*790

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the Department of Planning, City Hall, 101 West Third Street, Dayton, Ohio.					
Send comments to Honorable Paul R. Leonard, Mayor, City of Dayton, 101 West Third Street, P.O. Box 22, Dayton, Ohio 45401.					
Ohio	City of Westerville, Franklin and Delaware Counties.	Alum Creek	About 0.5 mile downstream of West Schrock Road	*793	*798
			About 500 feet upstream of West Schrock Road	*797	*801
			About 0.9 mile upstream of Park Road	*810	*812
		Big Walnut Creek	Within community	(2)	*829
Maps available for inspection at Building Department, City Hall, 21 South State Street, Westerville, Ohio.					
Send comments to Honorable Maynard Dils, City Manager, City of Westerville, 21 South State Street, Westerville, Ohio 43081.					
Oklahoma	Oklahoma City, City Canadian, Cleveland, McClain, Oklahoma, & Pottawatomie Counties.	Spring Creek West Branch	Downstream side of Hefner Road	*1,196	*1,195
			Upstream side of Hefner Road	*1,198	*1,196
			NW 108th Street (downstream side)	*1,197	*1,195
			NW 108th Street (upstream side)	*1,198	*1,196
			Approximately 520 feet upstream NW 108th Street	*1,198	*1,197
			Approximately 1,060 feet upstream NW 108th Street	*1,203	*1,198
			Approximately 100 feet downstream of Council Road	*1,211	*1,209
		Canadian River Tributary 1	Approximately 1,600 feet upstream of 119th Street SW	*1,211	*1,210
			Downstream side of 112th Street SW	*1,218	*1,214
			Upstream side of 112th Street SW	*1,218	*1,217
			Upstream side of 111th Street SW	*1,220	*1,218
			Approximately 100 feet upstream 111th SW	*1,220	*1,219
		Tributay of Canadian River Tributary 1.	Western Avenue (upstream side)	*1,202	*1,203
Maps available for inspection at the City Hall, 200 North Walker Street, Suite 302, Oklahoma City, Oklahoma.					
Send comments to Honorable Andy Coats, Mayor of Oklahoma City, 200 North Walker Street, Suite 302, Oklahoma City, Oklahoma 73102.					
Pennsylvania	Benton, Township, Columbia County.	Fishing Creek	State Route 254 bridge (upstream side)	*733	*734
			Approximately 1,500 feet upstream of State Route 254 bridge.	*735	*736
			State Route 487 bridge (downstream bridge)	*811	*813
			State Route 487 bridge (upstream side)	*812	*813
Maps available for inspection at the Benton Township Building, Benton, Pennsylvania.					
Send comments to Honorable Richard Ashelman, Chairman of the Benton Board of Supervisors, Benton Township Building, R.D. 3, Benton, Pennsylvania 17814.					
Pennsylvania	Middleburg, Borough, Snyder County.	Middle Creek	At most downstream corporate limits	*493	*492
			Confluence of Stumps Run	*497	*495
			U.S. Route 522 (Main Street) (upstream side)	*498	*496
			Dam (upstream side)	*499	*497
			Approximately 500 feet upstream of upstream corporate limits.	*499	*498
		Stumps Run	Confluence with Middle Creek	*497	*495
			East Market Street (upstream side)	*497	*496
Maps available for inspection at the Borough Building, Middleburg, Pennsylvania.					
Send comments to Honorable Harold A. Walter, Mayor of the Borough of Middleburg, Borough Building, P.O. Box 415, Middleburg, Pennsylvania 17842.					
Tennessee	City of Knoxville, Knox County	First Creek	Just upstream of Interstate Highway 640	*959	*957
			Just downstream of Knox Road	*963	*963
Maps available for inspection at the Graphics Department, P.O. Box 1631, Knoxville, Tennessee.					
Send comments to Honorable Kyle Testerman, Mayor, City of Knoxville, P.O. Box 1631, Knoxville, Tennessee 37901.					
Texas	Carrollton, City Collin, Dallas and Denton Counties.	Furneaux Creek	Downstream of Dickerson Parkway	*455	*454
			Downstream of corporate limits just downstream of Denton Road.	*466	*461
Maps available for inspection at the City Hall, Carrollton, Texas.					
Send comments to Honorable Kenny Marthant, Mayor of the City of Carrollton, P.O. Box 110535, Carrollton, Texas 75011.					
Texas	El Paso, City El Paso County	Arroyo 1	Just uptream of Doniphan Road	*3,756	*3,755
			Just downstream of Interstate Highway 10 (Southbound).	*3,822	*3,825
			Just upstream of Interstate Highway 10 (Northbound)	*3,823	3,825
			Just upstream of Mulberry Dam	(3)	*3,988
		Arroyo 2	Just upstream of East Frontage Road (Interstate Highway 10).	*3,814	*3,817
			Just upstream of Thorn Dam	*3,891	*3,885
		Arroyo 3	Just upstream of Doniphan Road	*3,750	3,749
			Just downstream of West Frontage Road of Interstate Highway 10.	*3,798	*3,793
			Just upstream of East Frontage Road of Interstate Highway 10.	*3,814	*3,812
			Downstream of Mesa Dam	(3)	*3,854
			Upstream of Mesa Dam	(3)	*3,886
			Just upstream of Vista Bonita Street	(3)	*3,939
			Approximately 50 feet upstream of Westwind Drive	(3)	*4,145
			Just upstream of Los Robles Drive	(3)	*4,196
		Arroyo 3A	Just downstream of La Chappa Drive	(4)	*4,050
		Arroyo 3B	Approximately 50 feet downstream of Buena Swerta Drive (previously A0 Zone).	(5)	*3,936
			Approximately 50 feet upstream of Buena Swerta Drive.	(5)	*3,959
			Just upstream of Villa Hermosa Drive	(5)	*4,007
		Arroyo 4	Approximately 50 feet downstream of Mesa Street	*3,880	*3,880
			Just upstream of Mesa Street	*3,909	*3,895
			Approximately 60 feet downstream of El Puente Street	*4,014	*4,011
			Just upstream of El Puente Street	*4,046	*4,029
			Just upstream of West Wind Drive	*4,144	*4,148
		Arroyo 5	Just upstream of Keystone Dam	(6)	*3,776
			Just downstream of Mesa Street	*3,930	*3,950
			Just upstream of Mesa Street	*3,972	*3,975
		Arroyo 8	Just upstream of Oxidation Pond Dam	(6)	*3,852

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Downstream of U.S. Highways 80 and 180 (Mesa Street).	*4,041	*4,037
			Upstream of U.S. Highways 80 and 180 (Mesa Street)	*4,056	*4,066
		Arroyo 8A	Downstream of U.S. Highways 80 and 180 (Mesa Street).	*4,060	*4,060
			Upstream of U.S Highways 80 and 180 (Mesa Street)	*4,076	*4,095
			Just upstream of Indian Bluff Road	*4,164	*4,170
		Arroyo 8B	Just upstream of Sunland Park Drive	*3,735	*3,918
			Just upstream of U.S. Highways 80 and 180 (Mesa Street).	*4,062	*4,067
			Just downstream of Shadow Mountain Road	*4,166	*4,165
			Just upstream of Shadow Mountain Road	*4,170	*4,181
		Arroyo 8C	Just downstream of Thunderbird Road	*4,382	*4,371
			Just upstream of Thunderbird Road	*4,382	*4,380
		Arroyo 8D	Approximately 320 feet above confluence with Arroyo 8A.	(3)	*4,229
		Flow Path #38	Just upstream of West Frontage Road of Interstate Highway 10.	(3)	*3,851
			Just upstream of East Frontage Road of Interstate Highway 10.	(3)	*3,865
		Flow Path #38A	Approximately 370 feet above the confluence with Flow Path #38.	(3)	*3,919
		Flow Path #38B	Approximately 440 feet above the confluence with Flow Path #38.	(3)	*3,908
		Flow Path #39	Just downstream of West Frontage Road of Interstate Highway 10.	(3)	*3,832
			Just upstream of East Frontage Road of Interstate Highway 10.	(3)	*3,844
		Flow Path #39A	Just downstream of West Frontage Road of Interstate Highway 10.	(3)	*3,872
			Just upstream of East Frontage Road of Interstate Highway 10.	(3)	*3,881
		Flow Path #40	Just downstream of West Frontage Road of Interstate Highway 10.	(3)	*3,864
			Just upstream of East Frontage Road of Interstate Highway 10.	(3)	*3,877
			Just upstream of Transmountain Road	(3)	*3,908
		Flow Path #41	Just downstream of West Frontage Road of Interstate Highway 10.	(3)	*3,868
			Just upstream of East Frontage Road of Interstate Highway 10.	(3)	*3,886
		Flow Path #41A	Approximately 600 feet above confluence with Flow Path #41.	(3)	*3,965
		Flow Path #42	Just downstream of West Frontage Road of Interstate Highway 10.	(3)	*3,896
			Just upstream of East Frontage Road of Interstate Highway 10.	(3)	*3,908
		Flow Path #43	Just downstream of West Frontage Road of Interstate Highway 10.	(3)	*3,897
			Just upstream of East Frontage Road of Interstate Highway 10.	(3)	*3,910
		Flow Path #44	Just upstream of a Dirt Road	(3)	*4,137
		Flow Path #45	Just upstream of the west corporate limits	(3)	*4,017
			Approximately 800 feet above confluence with Flow Path #45.	(3)	*4,274
		Flow Path #45B	Approximately 2,000 feet above confluence with Flow Path #45.	(3)	*4,320
		Flow Path #45C	1,500 feet upstream of confluence with Flow Path #45.	(3)	*4,056
			5,000 feet upstream of confluence with Flow Path #45.	(3)	*4,153
			10,000 feet upstream of confluence with Flow Path #45.	(3)	*4,301
		Flow Path #46	Approximately 100 feet upstream of the corporate limits.	(3)	*4,025
		Flow Path #47	At the corporate limits	(3)	*4,135
		Flow Path #48	At the corporate limits	(3)	*4,130
		Lower Valley Area (Local Rainfall Ponding).	At the intersection of Sunland Park Drive and Emory Road.	*3,735	*3,733
		Upper Valley Area (Local Rainfall Ponding).	At the intersection of Lombardy Drive and Love Road	*3,745	*3,746
			At the intersection of Country Club Road	*3,746	*3,746
			At Mulberry Avenue, west of Atchison, Topeka and Santa Fe Railroad.	*3,752	*3,751
			North of Monteya Lane, approximately 600 feet from the west corporate limits.	(3)	*3,754

Maps available for inspection at the City Engineering Department, City Hall, Fourth Floor, 2 Civic Center Plaza, El Paso, Texas.

Send comments to Mayor Jonathan Rogers or Mr. David Harried, City Engineer, City Hall, 2 Civic Center Plaza, El Paso, Texas 79999.

Texas	Jersey Village City, Harris County	White Oak Bayou (E100-00-00)	Downstream corporate limits	*104	*103
			At confluence of Tributary 19.05 to White Oak Bayou	*108	*107
		Tributary 19.05 to White Oak Bayou (E127-00-00).	At confluence with White Oak Bayou	*108	*107
			Upstream of Southern Pacific Railroad	*113	
		Tributary 19.82 to White Oak Bayou (E135-00-00).	Upstream corporate limits	*114	*111

Maps available for inspection at the City Hall, 16501 Jersey Drive, Jersey Village, Texas.

Send comments to Honorable Len Perrien, Mayor of Jersey Village, 16501 Jersey Drive, Jersey Village, Texas 77040.

Texas	Richwood, City, Brazoria County	Bastrop Bayou	At State Route 288	*1	*11

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at 215 Halbert Street, Richwood, Texas.					
Send comments to Honorable Tommy Jones, Mayor of the City of Richwood, 215 Halbert Street, Richwood, Texas 77531.					
Texas	Victoria City, Victoria County	Lone Tree Creek	Upstream of Lone Tree Road		*87
			Approximately 350 feet downstream of Southern Pacific Railroad.		*90
Maps available for inspection at the City Hall, 105 West Juan Linn, Victoria, Texas.					
Send comments to Honorable Ted Reed, City Hall, Main and Juan Linn, P.O. Box 1758, Victoria, Texas 77902-1758.					
West Virginia	Marmet, Town, Kanawha County	Lens Creek	Approximately 600 feet downstream of Chessie System.	*602	*603
			Upstream of Clark Drive Access Road	(1)	*608
			Upstream corporate limits	(2)	*614
Maps available for inspection at the City Hall, Marmet, West Virginia.					
Send comments to Honorable Curtis Sutphin, Mayor of the Town of Marmet, P.O. Box 15096, Marmet, West Virginia 25315.					

[1] Not previously determined.
[2] None.
[3] No previous detailed study.
[4] Studied A0 zone in previous FIS.
[5] Shallow flooding.
[6] New structure.
[7] Approximately A zone.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; delegation of authority to the Administrator)

Issued: May 31, 1984.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 84-15387 Filed 6-7-84; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84-498; RM-4677]

FM Broadcast Station in Caldwell, Idaho; Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the substitution of Channel 277 for Channel 276A at Caldwell, Idaho, and modification of the license of Station KQZQ(FM) to specify operation on the new channel. The proposal is made at the request of Hayes Broadcasting Co., Inc.

DATES: Comments must be filed on or before July 23, 1984, and reply comments on or before August 7, 1984.

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

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Caldwell, Idaho); MM Docket No. 84-498, RM-4677.

Adopted: May 15, 1984.
Released: May 30, 1984.
By the Chief, Policy and Rules Division.

1. The Commission has before it a petition for rule making filed by Hayes Broadcasting Co., Inc. ("petitioner") requesting the substitution of FM Channel 277 for Channel 276A at Caldwell, Idaho, and modification of its license for Station KQZQ(FM) to specify operation on the new channel. The channel can be assigned in compliance with the Commission's minimum distance separation and other technical requirements.

2. In accordance with our established policy, we shall propose to modify the license of Station KQZQ(FM) to specify operation on Channel 277. However, if another party should indicate an interest in the Class C assignment, the modification might not be implemented. Instead, if the Class C channel is assigned, an opportunity for the filing of a competing application may be provided. See, *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976) and *Modification of FM and TV Station Licenses*, 48 FR 55585, published December 14, 1983.

3. We believe the proposal warrants further consideration as the assignment could provide Caldwell with its second wide coverage area FM service. Accordingly, we propose to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as concerns the community listed below:

City	Channel No.	
	Present	Proposed
Caldwell, Idaho	231, 276A, 296A	231, 277, 296A

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 July 23, 1984, and reply comments on or before August 7, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follows: Lester W. Spillane, 465 California Street, Suite 504, San Francisco, California 94104 (Counsel 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 FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Leslie K. Shapiro, 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 assigments. 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(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-15369 Filed 6-7-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 84-497; RM-4675]

FM Broadcast Station in Clinton, Missouri; Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of FM Channel 241 to Clinton, Missouri, at the request of B & F Broadcasting, Inc. The assignment could provide Clinton with its second local FM service.

DATES: Comments must be filed on or before July 23, 1984, and reply comments on or before August 7, 1984.

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

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Clinton, Missouri); MM Docket No. 84-497, RM-4675.

Adopted: May 15, 1984.
Released: May 30, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it a petition for rule making filed by B & F Broadcating, Inc. ("petitioner") requesting the assignment of FM Channel 241 to Clinton, Missouri, as that community's second local FM allocation. Petitioner has expressed its intention to apply for the channel, if assigned. The channel can be assigned in compliance with the Commission's minimum distance separation and other technical requirements. However, to avoid a short-spacing to Station KKBL, Channel 240A at Monett, Missouri, and to Station KXTR, Channel 243 at Kansas City, Missouri, a site restriction of at least 11.5 miles northeast of Clinton must be imposed.

2. In view of the fact that the Commission has received an interest in use of Channel 241 at Clinton, we believe it would be in the public interest to seek comments on the proposal. Therefore, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as set forth below:

City	Channel No.	
	Present	Proposed
Clinton, Mo	237A	237A, 241

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

4. Interested parties may file comments on or before July 23, 1984, and reply comments on or before August 7, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follows: B & F Broadcasting, Inc., 504 East Allen, Clinton, Missouri 64735.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that §§ 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Leslie K. Shapiro, 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 petitoner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

(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(c)(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 FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of 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. 84-15368 Filed 6-7-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 84-495; RM-4670]

FM Broadcast Station in Buffalo Gap, Virginia; Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of FM Channel 288A to Buffalo Gap, Virginia, as its first FM assignment. The proposal is being made at the request of John T. Galanses.

DATES: Comments must be filed on or before July 23, 1984, and reply comments on or before August 7, 1984.

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

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Buffalo Gap, Virginia); MM Docket No. 84–495, RM–4670.

Adopted: May 15, 1984.
Released: May 30, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it a petition for rule making filed by John T. Galanses ("petitioner") requesting the assignment of FM Channel 288A to Buffalo Gap, Virginia, as that community's first local FM allotment. Petitioner states that he, or a corporation controlled by him, will apply for the channel, if assigned.

2. The channel can be assigned in compliance with the Commission's minimum distance separation and other technical requirements. However, Buffalo Gap is within the "quiet zone" established in Docket 16991, 6 F.C.C. 2d 793 (1967), to provide protection from

interference to the National Radio Astronomy Observatory ("NRAO") at Green Bank, West Virginia, and the Naval Research Laboratory ("NRL") at Sugar Grove, West Virginia. Any applicant for a Buffalo Gap station must coordinate with the NRAO and NRL with respect to the proposed facilities. See § 73.1030 of the Commission's Rules.

3. In view of the fact that the proposed assignment could provide a first local FM service to Buffalo Gap, the Commission believes it is appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Buffalo Gap, Va		288A

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 July 23, 1984, and reply comments on or before August 7, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follows: John T. Galanses, P.O. Box 24, Sugarloaf Shores, Florida 33044 (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 FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Leslie K. Shapiro, 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 *èx 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(c)(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 it 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 requests.

3. *Cut-off Procedures.* The following procedures will govern the consideration of fillings 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 latert 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 fillings 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. 84-5366 Filed 6-7-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 84-496; RM-4704]

FM Broadcast Station in Sturgeon Bay, Wisconsin; Proposed Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of FM Channel 249A to Sturgeon Bay, Wisconsin, as its third assignment, at the request of Door County Radio Company.

DATES: Comments must be filed on or before July 23, 1984, and reply comments on or before August 7, 1984.

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

FOR FURTHER INFORMATION CONTACT:
Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of amendment of Section 73.202(b), Table of Assignments, FM Broadcast Station (Sturgeon Bay, Wisconsin); MM Docket No. 84–496, RM–4704.

Adopted: May 15, 1984.
Released: May 30, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it a petition for rule making filed by Door County Radio Company ("petitioner") seeking the assignment of Channel 249A to Sturgeon Bay, Wisconsin, as that community's third FM assignment. Petitioner has indicated its intention to apply for the channel, if assigned.

2. The channel can be assigned in compliance with the Commission's minimum distance separation and other technical requirments. However, the concurrence of the Canadian Government in this assignment must be obtained since Strugeon Bay is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

3. We believe the public interest would be served by requesting comments on the proposal. Accordingly, we seek comments on the amendment to § 73.202(b), the FM Table of Assignments, for the community listed below as follows:

City	Channel No.	
	Present	Proposed
Sturgeon Bay, Wis.	230, 261A	230, 249A, 261A.

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 July 23, 1984, and reply comments on or before August 7, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follows: J. Geoffrey Bentley, Esq., Liberman, Sanchez & Bentley, 2000 L Street, N.W., Suite 200, Washington, D.C. 20036 (Counsel 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 FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Leslie K. Shapiro, 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 persons(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(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of 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. 84–15367 Filed 6–7–84; 8:45 am]
BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83-603; RM-4424]

FM Broadcast Station in Quartzsite, Arizona; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of petition.

SUMMARY: Action taken herein dismisses the petition of Buck Burdette to assign FM Channel 228A to Quartzsite, Arizona for lack of continuing interest.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b) Table of Assignments, FM Broadcast Stations (Quartzsite, Arizona); MM Docket No. 83-603, RM-4424.

Adopted: May 15, 1984.
Released: May 29, 1984.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is a *Notice of Proposed Rule Making*, 48 FR 29917, published June 29, 1983, proposing the assignment of FM Channel 228A to Quartzsite, Arizona, as that community's first FM assignment. The *Notice* was adopted in response to a petition filed by Buck Burdette ("petitioner"). Petitioner failed to file comments reaffirming his intention to apply for the channel, if assigned, and no other comments on the proposal were received.

2. As stated in the *Notice*, a showing of continuing interest is required before a channel will be assigned. Therefore, in accordance with Commission policy, no further consideration will be given to the assignment of FM Channel 228A to Quartzsite, Arizona.

3. It is ordered, That the petition of Buck Burdette is dismissed and this proceeding is terminated.

4. For further information concerning the above, contact Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-15359 Filed 6-7-84; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 49, No. 112
Friday, June 8, 1984

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

Forest Service

Special-Use Permit Fees, Small Hydroelectric Projects

AGENCY: Forest Service, USDA.

ACTION: Notice of proposed policy.

SUMMARY: The Forest Service proposes to establish policies on the methods for determining special-use fees for the smaller (5 magawatt or less capacity), nonfederal hydroelectric projects located partially or wholly on National Forest System (NFS) land. The objectives are to design a uniform fee system that (1) can be consistently applied by Forest Service personnel, and (2) would provide fair market value fees for the use authorized.

DATE: Comments must be received by August 7, 1984.

ADDRESS: Comments should be sent to: R. Max Peterson (2720), Chief, Forest Service, U.S. Department of Agriculture, P.O. Box 2417, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Ruben M. Williams, Lands Staff, Forest Service, (703) 235–2412.

SUPPLEMENTARY INFORMATION: Regulations at 36 CFR 251.50 et seq. set forth the procedures and policies which the Forest Service follows in authorizing special uses of NFS lands. At § 251.57, the basis for charging rental fees for special uses is set forth. Except for specific exemptions, these fees are based on the fair market value of the use being authorized. The fees are paid in advance annually. Actual methods and formulae for determining fees for various types of special uses are set forth in the Forest Service Manual (FSM). These proposed policies address fee determinations for smaller (5 megawatts or less) hydroelectric projects authorized on NFS lands. The final policy will be issued in FSM 2720.

Present Forest Service fee determination methods do not provide a fair market value return as required by law and some procedures are time consuming, resulting in project delays.

In proposing a revised policy, the Forest Service seeks to establish a fee determination method that would recognize the stage of project development, whether the project is entirely or only partially on NFS lands, whether the project is for private use only, and whether the project is licensed by the Federal Energy Regulatory Commission (FERC). Other objectives are to (1) ensure a fair market value fee commensurate with the value of the use granted, (2) develop a cost-effective method of determining use fees, and (3) provide a uniform approach which can be consistently applied throughout the Forest Service.

Proposed Policies

The proposed fee structure for each of the identified circumstances is described below. Other fee structures considered but not selected are also identified.

(a) *Fee Structure for Projects During Investigation Stage.*

Proposed policy and options considered for determining fees to charge for special-use permits issued to authorize investigation of an area for hydroelectric potential:

(1) *Proposed Policy*—Charge a flat fee of $200 annually to cover all authorized investigative activities, unless the market shows a higher fee is justified. This fee would be charged for investigation of hydroelectric potential regardless of project size, that is, projects greater than as well as less than 5 megawatts. This method is proposed in lieu of other calculations. One fee rate covering all investigative work is the least burdensome method for permittees and the Forest Service. The proposed fee is considered as fair market value for the use authorized.

(2) *Other Options Considered:*

(i) Charge $2 for each person-day of investigative activity plus 10 percent of zone average land value for areas involved with ground-disturbing activities. This method would also provide a fair market value fee and is currently used by the Forest Service in some areas. However, it is difficult to make reasonably accurate estimates of planned workdays and also requires additional fee calculations for ground-disturbing activities.

(ii) Charge 10 percent of the zone average land value for the area under permit. This method would provide a high return for the use of Federal land but the fee could be above fair market value of the use authorized.

(b) *Fee Structure for Projects During Construction Stage.*

Proposed policy and options considered for determining fees to charge for special-use permits issued to authorize construction of a hydroelectric project:

(1) *Proposed Policy*—For each project, base special-use permit fee on zone average land value. Charge 10 percent of the zone average land value as the annual special-use permit fee.

Using zone average land values will be less costly than appraising individual projects. The fee would be easy to calculate but data on zone average land values must be maintained and periodically updated. The 10 percent rate approximates annual return paid on Treasury Bonds; thus, users of Federal resources would pay a rate equivalent to that paid for Government use of private resources.

Fee calculation for construction stage special-use permits under this option would include these steps:

(i) Determine acreage involved during construction; for example, 5 acres;

(ii) Check zone average land value; for example, $500 per acre;

(iii) Calculate annual construction stage special-use permit fee, 5 acres times $500 equals $2,500, times 10 percent equals $250 annual fee.

The special-use fee for each project would be updated every 5 years to the then current zone average land value.

(2) *Other Options Considered:*

(i) Appraise each project to determine fair market value of land under permit and charge 10 percent of the appraised value as the annual special-use permit fee. This method would also provide a fair market value fee but is more time consuming and more costly than the proposed method, expecially considering the normally short duration of the construction stage typical of these smaller projects.

(ii) Charge a flat fee of $500 annually for all projects generating 5 megawatss or less. This would be simple to apply but the fee would likely exceed fair market value for the smaller projects.

(c) *Fee Structure for Projects During Operation Stage.*

A survey of practices on private lands shows that landowners typically receive a percent of gross sales as the fee for use of their resources. In some cases the percentage of gross sales received by landowners increases over time, as capital investments are amortized and profit margin increases. This practice would appear to be valid when the Government is the landowner.

The following options were considered for determining special-use permit fees for operational projects:

(1) *Proposes Policy*—Base special-use permit fee on charging 3.0 percent of gross sales.

A survey of private practices shows 3.0 percent of gross sales as the average fee received. Project size ranged from 100 kilowatt to 6 megawatt generation capacity. On some projects landowners received a higher percent of gross sales over time. For example, some landowners receive 2.5 percent during the first 5 years, 5 percent the second 5 years, 10 percent the third 5 years, and 15 percent of gross sales after 15 years. However, for most of the projects surveyed landowners received a set rate of return and the majority received 3.0 percent. For this proposed policy, fee calculation is easy; the data is available; is the same approach used by private landowners; and the calculation provides a fair return for use of public resources. However, this option does not consider differences between projects, such as size, development costs, and profitability.

The annual fee for a 1 megawatt project might be about $5,243 based on the following example: Production during year is 3,066,000 kilowatt hours; sale price received is 5.7 cents per kilowatt hour; gross income is 3,066,000 kilowatt hours $\times$$.057=$174,762; special-use permit fee is $174,762$\times$3 percent=$5,242.86.

Each 10 years there would be a reassessment to determine the current private market practices and rates charged for hydroelectric projects on private lands. Forest Service special-use permit fees would be adjusted to reflect the current private practice. However, Forest Service fees would not exceed 10 percent of gross income.

There would be a minimum annual advance payment based on 10 percent of the zone average land value for the area under permit. Payments based on 3 percent of gross income would be due monthly or quarterly, depending on estimated total annual fee. When estimated annual fee exceeds $10,000, monthly payments would be required. A payment bond or an advance payment equal to the estimated fee for two quarters (6 months) would be required on all hydroelectric projects.

(2) *Other Options Considered:*

(i) Base special-use permit fee on charging a variable percentage of gross income by the formula P=G−(C+O), in which P=profitability G=average gross sales, based on flow estimates and capacity as supplied by the developer to get financing; C=amortized capital investment, using development cost provided by the developer to get financing, plus Forest Service assumed actual annual depreciation (not that used for taxes), and a Forest Service assumed annual financing cost; and O=operation and maintenance cost as used by the developer to get financing.

Under this option the fee relates to the value of the use by increasing and decreasing with the profitability of each project. However, some data would be speculative and the better sites and project designs would be penalized by higher fees. Also, fee calculation is more complex and time consuming than is the proposed policy.

(ii) Base special-use permit fee on a $1 charge per kilowatt of installed capacity plus a charge of one and one-half mills per kilowatt-hour of energy produced. The fee would be easy to calculate and would consider project size. However, there was no evidence found that the private market uses a similar method and there is nothing to show that the resulting fee would represent fair market value.

(d) *Fee Structure for Projects of Mixed Ownership.*

Fee determination procedures need to be established for operational hydroelectric projects built only partially on NFS land. In these cases the Forest Service would charge only a portion of the total operational fee that would be charged if the project were wholly on NFS land.

(1) *Proposed Policy*—Base special-use permit fee on the percent of water conduit on NFS land. Determine length of conduit from powerhouse to farthest upstream high waterline of the impoundment. Calculate the percent of this length located on NFS land. Multiply the total operational fee (based on 3 percent of gross sales) by the percent (but not less than 1 percent) of conduit on NFS land to determine the special-use permit fee.

Example of fee calculation: Examination shows that 31 percent of water conduit is located on NFS land; total operational fee for project is established as $10,000 based on 3 percent of gross sales; thus, the proportional fee would calculate at $3,100 ($10,000$\times$31 percent).

Fees by this method are easily calculated and are proportional to NFS land's contribution to power production.

(2) *Other Options Considered:*

(i) Base special-use permit fee on the percent of head (vertical drop) located on NFS land. This method would be satisfactory except for projects where the vertical drop is not located on NFS land but most of the water conduit is on NFS land.

(ii) Base special-use permit fee on percent of total project located on NFS land. In many situations this method would likely be satisfactory. However, because much of these hydroelectric projects are linear rights-of-way, area alone does not necessarily represent a proportional contribution to power production.

(e) *Fee Structure for Projects Developed for Private Use Only.*

There is a need to establish a fee system for situations where a hydroelectric project is developed for personal use only and no power is sold.

(1) *Proposed Policy*—During the operational phase of the project, base special-use permit fee on charging for each metered kilowatt hour of power used. Charge 3 percent of the average rate charged by the local power company for similar power uses. There would be a minimum annual fee, paid in advance, of 10 percent of the zone average land value for the area under permit. Payment requirements would be the same as described above in the operation stage, item (c)(1).

This option provides a fair return to the Government and reflects the value of the use authorized. For example, if metered use by a permittee was 100,000 kilowatt hours during the year and the average price charged by the local utility company for similar power use was 6.5 cents per kilowatt hour, then the annual special-use permit fee would be $195 (100,000 KW hours$\times$.065$\times$.03=$195).

The special-use permit fee for the investigation stage and the construction stage would be determined in the same manner as for other hydroelectric projects, as described above in items (a) and (b). If part of the power generated is sold, then that production would be subject to a charge of 3 percent of gross income.

(2) *Other Options Considered:*

(i) Establish a fixed special-use permit fee to apply to all projects. This option would neither consider size variation of the projects nor necessarily result in the Government receiving fair market value for the use authorized.

(ii) Base special-use permit fee on zone average land value or on appraised value of the land under use. Land value,

in this case, does not necessarily represent fair market value of the use authorized. Also, appraising individual projects is costly and time consuming for the Government and could result in project delay.

(f) *Fee Structure for Projects Licensed by the Federal Energy Regulatory Commission.*

The Federal Energy Regulatory Commission (FERC) charges fees for licensed projects but does not charge fees for projects exempt from license. Projects of 5 or less megawatt capacity may be granted an exemption from licensing by FERC but the developer may apply for a license. Currently the Forest Service does not charge a special-use permit fee for licensed projects, regardless of size. The following policy is proposed for projects of 5 megawatts or less and licensed by FERC:

(1) *Proposed Policy*—Charge a special-use permit fee equal to the difference between the total FERC fee and the full Forest Service fee for licensed projects of 5 megawatts or less capacity. This process will equalize fees for licensed and exempt projects of similar generating capacity within the 5 or less megawatt size range. Typically, projects within this size range provide little if any public benefits, other than renewable-resource energy production, to justify reducing fees from full market value.

In the event the FERC fee for a licensed project in this size range equals 80 percent or more of the calculated special-use permit fee, then the Forest Service will charge no additional fee. In this situation, the FERC fee would be considered as fair market value for the use authorized.

(2) *Other Options Considered:*

(i) Continue current practice of not charging a special-use permit fee for licensed projects; leave all fees to FERC. This practice is inequitable because it subsidizes the smaller licensed projects. Similar size exempt projects would be subject to proposed Forest Service special-use permit fees, which would be higher than current FERC fees for similar size projects.

(ii) Charge the full Forest Service special-use fee for the smaller (5 megawatt or less) licensed and exempt projects. This provides a high return for use of public resources but the combination of fees would be above fair market value for the licensed projects.

The Forest Service anticipates receiving annually about 300 applications for these smaller hydroelectric projects. Since 1980 there have been about 3,000 applications, with only a small fraction resulting in the need to issue a special-use permit for construction or operation. The proposed fee determination policies are expected to result in an increase in annual fees in order to receive fair market value for the uses authorized. In time, annual fees from these smaller hydroelectric projects could exceed a million dollars.

This proposed fee policy will not apply to permit applicants who qualify for fee waiver as defined in Federal Regulations, 36 CFR 251.57.

Public comment on these proposed policies is hereby invited and will be considered before adoption of the final policies. A notice of the final policies will be published in the Federal Register before being implemented and issued through the Forest Service Manual.

Dated: May 31, 1984.

F. Dale Robertson,

Associate Chief.

[FR Doc. 84-15487 Filed 6-7-84; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

San Isabel Electric Association, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500) and REA's Environmental Policies and Procedures, 7 CFR Part 1794 (49 FR 9544–9558, dated March 13, 1984), has made a Finding of No Significant Impact (FONSI) in connection with a project proposed by San Isabel Electric Association, Inc. (San Isabel), of Pueblo, Colorado. The project consists of the construction and operation of a 115 kV transmission line and associated facilities between Ludlow and Pinon Canyon, Colorado. The proposed transmission facilities would be located in Las Animas County, Colorado.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact (FONSI) and Environmental Assessment (EA) and San Isabel's Borrower's Environmental Report (BER) may be reviewed at or obtained from Mr. William E. Davis, Director, Western Area—Electric, Rural Electrification Administration, Room 0207, South Agriculture Building, Washington, D.C. 20250, telephone: (202) 382–8848, or San Isabel Electric Association, Inc., Box 892, Pueblo, Colorado 81002, telephone: (303) 547–2160, during regular business hours.

SUPPLEMENTARY INFORMATION: REA has reviewed the BER submitted by San Isabel and has determined that it represents an accurate assessment of the environmental impact of the proposed project. The proposed project would consist of approximately 48 km (30 miles) of single-circuit 115 kV transmission line which would extend from the proposed Ludlow Switching Station located north of Ludlow, Colorado, to the proposed Pinon Canyon Substation located south of Simpson, Colorado.

The BER and EA adequately consider potential impacts of the proposed project to resources including threatened and endangered species, important farmland, cultural resources, floodplains and wetlands.

Alternatives examined included no action, energy conservation, rebuilding existing facilities, alternative switching station sites and alternative routes. The proposed route would extend generally east and then north to the Pinon Canyon Substation. Two alternative corridors would generally extend east, then north, then east and then north to the Pinon Canyon Substation. After reviewing these alternative, REA determined that the proposed project is an acceptable alternative because it meets San Isabel's needs with a minimum of adverse impact.

Based upon the BER and other related data, REA prepared and EA and FONSI concerning the proposed construction. REA has independently evaluated the proposed project and has concluded that approval of a large power contract and a construction contract for the project would not constitute a major Federal action significantly affecting the quality of the human environment.

In accordance with REA's Environmental Policies and Procedures, 7 CFR Part 1794 (49 FR 9544–9558, dated March 13, 1984), San Isabel advertised the availability of the BER in the local newspapers. No comments were received.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: June 4, 1984.

Jack Van Mark,

Acting Administrator.

[FR Doc. 84-15400 Filed 6-7-84; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

[Order 84-5-97]

Fitness Determination of JIB, Inc. d.b.a. Action Airlines; Order to Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 84-5-97, Order to Show Cause.

SUMMARY: The Board is proposing to find that JIB, Inc. d.b.a. Action Airlines is fit, willing, and able to provide commuter air carrier service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards.

RESPONSES: All interested persons wishing to respond to the Board's tentative fitness determination shall file their responses with the Special Authorities Division, Room 915, Civil Aeronautics Board, Washington, D.C. 20428, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than July 2, 1984.

FOR FURTHER INFORMATION CONTACT: Barbara P. Dunnigan, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673-5918.

SUPPLEMENTARY INFORMATION: The complete text of Order 84-5-97 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84-5-97 to that address.

By the Civil Aeronautics Board: May 31, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-15472 Filed 6-7-84; 8:45 am]

BILLING CODE 6320-01-M

[84-5-98]

Application of Air North America, Inc. for Review of Fitness

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause 84-5-98.

SUMMARY: The Board is proposing to find that Air North America, Inc. continues to be fit to provide air transportation authorized by the certificates reissued to it in Order 82-9-26 for domestic scheduled and worldwide charter air transportation. The complete text of this order is available, as noted below.

RESPONSES: All interested persons wishing to respond to the Board's tentative fitness findings shall file their responses in Docket 41947. Responses should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, and should be served upon Air North America, Inc., and the Federal Aviation Administration, Washington, D.C. 20591. Responses shall be filed no later than June 20, 1984.

FOR FURTHER INFORMATION CONTACT: Carolyn S. Kramp, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673-5090.

SUPPLEMENTARY INFORMATION: The complete text of Order 84-5-98 is available from the Distribution Section, Room 100, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 84-5-98 to that address.

By the Civil Aeronautics Board: May 31, 1984.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-15473 Filed 6-7-84; 8:45 am]

BILLING CODE 6320-01-M

[Docket 42243]

Air Niagara Continuing Fitness Investigation

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to him.

Dated Washington, D.C., June 4, 1984.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 84-15471 Filed 6-7-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Decision on Application for Duty-Free Entry of Scientific Instrument; Children's Hospital of Pittsburgh

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 82-00356.

Applicant: Children's Hospital of Pittsburgh, Pittsburgh, PA 15213.

Instrument: Automatic Discrete Selective Chemistry Analyzer.

Manufacturer: Greiner Electronics, United Kingdom.

Intended use: See notice at 48 FR 8320.

Comments: None received.

Decision: Denied. The applicant failed to address noted deficiencies in responding to denials without prejudice to resubmission (DWOP).

Reasons: This application is the second resubmission of Docket Number 80-439 which, in both cases, was denied without prejudice to resubmission for information deficiencies. Some informational deficiencies remained unresolved upon review of the third submission. Pursuant to § 301.5(a)(2) of the regulations, we telephoned the applicant in November, 1982 and requested the information needed. The applicant agreed to provide this information, but has failed to do so. Accordingly, we deny pursuant to § 301.5(e)(8) of the rules and regulations, which states that "In the event an applicant fails to address the noted deficiencies in the response to the DWOP, the Director may deny the application."

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-15417 Filed 6-7-84; 8:45 am]

BILLING CODE 3510-DS-M

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes; University of Rochester et al.

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 84-125. Applicant: University of Rochester, Rochester, NY 14642. Instrument: Electron Microscope, Model EM 10CA with Accessories. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use: See notice at 49 FR 13735. Application received by Commissioner of Customs: March 8, 1984.

Docket No. 84-126. Applicant: Beth Israel Medical Center, New York, NY

10003. Instrument: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 49 FR 13735. Instrument ordered: December 21, 1983.

Docket No. 84–128. Applicant: NKC, Inc., Louisville, KY 40232. Instrument: Electron Microscope, Model EM 10CA with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 49 FR 19089. Instrument ordered: January 24, 1984.

Docket No. 84–131. Applicant: Columbia University, New York, NY 10032. Instrument: Electron Microscope, Model JEM–1200EX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use: See notice at 49 FR 19038. Instrument ordred: January 31, 1984.

Docket No. 84–145. Applicant: NCI-Frederick Cancer Research Facility, Frederick, MD 21701. Instrument: Electron Microscope, Model EM 410LS, with Accessories. Manufacturer: Philips Electronic Instruments, NVD, The Netherlands. Intended use: See notice at 49 FR 14156. Instrument ordered: November 21, 1983.

Docket No. 84–148. Applicant: Albert Einstein College of Medicine of Yeshiva University, Bronx, NY 10461. Instrument: Electron Microscope, Model H–600–2 and Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use: See notice at 49 FR 19561. Instrument ordered: December 30, 1983.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or of any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84–15416 Filed 6–7–84; 8:45 am]

BILLING CODE 3510–DS–M

[Case No. 626]

Piher Semiconductors, S.A.; Order Amending Temporary Denial of Export Privileges

In the matter of Piher Semiconductors, S.A., Avda San Julian, s/n Apartado Correos 177, Granallers (Barcelona), Spain.

By Orders of April 9, 1982, 47 FR 16819 (April 20, 1982), June 2, 1982, 47 FR 24765 (June 8, 1982), August 3, 1982, 47 FR 35808 (August 17, 1982), October 12, 1982, 47 FR 46558 (October 19, 1982), December 7, 1982, 47 FR 55989 (December 14, 1982), March 22, 1983, 48 FR 12762 (March 28, 1983), May 19, 1983, 48 FR 23471 (May 25, 1983), August 26, 48 FR 40418 (September 7, 1983), November 30, 1983, 48 FR 54676 (December 6, 1983), and February 28, 1984, 49 FR 8057 (March 5, 1984), the Order of February 25, 1982, 47 FR 9044 (March 3, 1982) Temporarily Denying Export Privileges was amended so as to authorize certain exports by Piher International Corp. The Order of February 28, 1984 further provided that Piher International Corp. could apply for an extension of such authorization to export if serious economic hardship would be caused by a failure of such extension coupled with a continuing consideration of a motion filed by Piher International Corp. that requested exception from the provisions of Paragraph III of the Order of February 25, 1982.

Consideration of this motion to except Piher International Corp. is still continuing, and it has now applied for an extension of its authorization to make certain exports, asserting that failure to obtain the extension will entail serious economic hardship.

Based on the representations made by Piher International Corp., I find that its application for an extension of its authorization to make certain exports is justified, and that granting this extension will not jeopardize the purpose of the Order of February 25, 1982.

Accordingly, it is hereby ordered that the Order of February 25, 1982 is further amended by excepting, from its denial of export privileges, Piher International Corp., with addresses at 565 W. Gold Road, Arlington Heights, Illinois 60005 and at Post Office Box 91969, Chicago, Illinois 60680, insofar as Piher International Corp. exports variable resistors and potentiometers to its customers in Canada and Singapore in fulfillment of shipments scheduled through August 1984 in the shipment release documents filed by Piher International Corp. in support of its Application for this extension, provided all such exports are G-DEST under the Export Administration Regulations (15 CFR Parts 368–399 (1983)). Piher International Corp. may apply for an extension of this Amendment to shipments scheduled after August 1984 should a continuing consideration of its aforesaid motion ential serious economic hardship if such an extension is not issued.

This Amendment of the Order is effective June 1, 1984.

Dated June 1, 1984. 5:00 pm EDT.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 84–15454 Filed 6–7–84; 8:45 am]

BILLING CODE 3510–DT–M

National Oceanic and Atmospheric Administration

Coastal Zone Management, Federal Consistency Appeal by Ford S. Worthy, Jr., From Objection by the North Carolina Department of Natural Resources and Community Development

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of decision by the Secretary of Commerce.

SUMMARY: In accordance with NOAA regulations at 15 CFR 930.130, notice is hereby given of the decision by the Secretary of Commerce (Secretary) in the appeal by Ford S. Worthy, Jr., under subparagraph A of section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1456(c)(3)(A), from the objection of the North Carolina Department of Natural Resources and Community Development to Mr. Worthy's proposed construction of a commercial marina at Bath Creek, near Washington, North Carolina.

On May 9, 1984, the Secretary denied Mr. Worthy's appeal because he found, pursuant to 15 CFR 930.121, that while the proposed project would develop the resources of the coastal zone by enhancing recreational boating opportunities and thus further a national objective of the CZMA, it would cause adverse effects on the water quality of Bath Creek substantial enough to outweigh the project's contribution to the national interest.

Copies of the Secretary's findings and decision may be requested from: Bernard C. Cody, Attorney Advisor, Office of the Assistant General Counsel for Ocean Services, 2001 Wisconsin Avenue, Room 270, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Bernard Cody at the above address, or phone (202) 254–7512.

SUPPLEMENTARY INFORMATION: For a detailed description of Mr. Worthy's appeal, see the notice regarding the appeal published in the Federal Register on November 10, 1983 (48 FR 51677).

Dated: May 23, 1984.

Robert J. McManus,

General Counsel, National Oceanic and Atmospheric Administration.

[FR Doc. 84–15396 Filed 6–7–84; 8:45 am]

BILLING CODE 3510–08–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Withdrawal of Call on Category 433 (Men's and Boys' Wool Suit-Type Coats) From Hong Kong

June 5, 1984.

On April 24, 1984, the Government of the United States requested the Government of Hong Kong to enter into consultations concerning exports to the United States of wool textile products in Category 433 (men's and boys' wool suit-type coats), produced or manufactured in Hong Kong. The purpose of this notice is to announce that the United States Government had concluded that there is no need to establish a limit for textile products in Category 433 at this time. Should it become necessary to discuss this category with the Government of Hong Kong at a later date, further notice will be published in the Federal Register.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84–15423 Filed 6–7–84; 8:45 am]

BILLING CODE 3510–DR–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1984 Additions and Deletions

AGENCY: Commitee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and deletions from procurement list.

SUMMARY: This action adds to and deletes from Procurement List 1984 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: June 8, 1984.

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

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

SUPPLEMENTARY INFORMATION: On August 5, 1983, January 20, February 17, March 2, March 16, and April 13, 1984, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (48 FR 35695, 49 FR 2502, 49 FR 6145, 49 FR 7844, 49 FR 9941, and 49 FR 14787) of proposed additions to Procurement List 1984, October 18, 1983 (48 FR 48415).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractor for the commodities and services listed.

c. The actions will result in authorizing small entities to produce or provide commodities and services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1984:

Class 7210

Sheet, Bed, Disposable: 7210–00–498–0512 (Requirements for Memphis, Tennessee and Tracy, California Depots only)

Class 7510

Binder, Awards Certificate: 7510–00–755–7077

Class 8415

Cover, Helmet, Desert Camouflage: 8410–01–103–1349, 8415–01–103–1350

Class 8430

Footwear Cover, Radioactive Contaminants: 8430–01–162–4453

SIC 0782

Grounds Maintenance, U.S. Geological Survey, 345 Middlefield Road, Menlo Park, California

SIC 7369

Cage Cleaning, Food and Drug Administration, Federal Office Building No. 8,200 C Street SW., Washington, D.C.

Deletions

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities are hereby deleted from Procurement List 1984:

Class 8440

Belt, Trousers: 8440–01–009–9293, 8440–01–009–9292, 8440–01–009–9290.

C. W. Fletcher,

Executive Director.

[FR Doc. 84–15429 Filed 6–7–84; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1984, Proposed Additions and Deletions

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

ACTION: Proposed additions to and deletions from procurement list.

SUMMARY: The Committee has received proposals to add to and delete from Procurement List 1984 a commodity and military resale commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: July 11, 1984.

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

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

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and services to Procurement List 1984, October 18, 1983 (48 FR 48415):

Additions

Class 7920

Towel, Paper: 7920–00–823–9772 (GSA Regions 1, 3, 5, 8 and the Navy Pack for Charleston, South Carolina only)

SIC 7349

Janitorial Service, Federal Building, 55 East Broadway, Tucson, Arizona
Janitorial Service, Federal Building and Courthouse, 228 Walnut Street, Harrisburg, Pennsylvania
Janitorial Service, U.S. Courthouse, West 920 Riverside Avenue, Spokane, Washington.

Deletions

It is proposed to delete the following military resale commodities and services from Procurement List 1984, October 18, 1983 (48 FR 48415):

Military Resale Item Nos. and Names

No. 050 Roller ball pen, red (optional packaging)
No. 051 Roller ball pen, blue (optional packaging)
No. 052 Roller ball pen, black (optional packaging)
No. 053 Retractable pen, black (optional packaging)
No. 054 Retractable pen, blue (optional packaging)
No. 055 Ultra fine tip pen, red (optional packaging)
No. 056 Ultra fine tip pen, blue (optional packaging)
No. 057 Ultra fine tip pen, black (optional packaging)
No. 600 Trowel, transplanter
No. 601 Trowel, regular
No. 602 Cultivator
No. 603 Weeder
No. 604 Grass shears
No. 605 Pruning shears
No. 720 Paint roller cover, economy, 7"
No. 722 Paint roller cover, all purpose, 7"
No. 724 Paint roller cover, for textured surfaces, 7"
No. 725 Paint roller cover, for textured surfaces, 9"
No. 726 Paint roller cover, high pile, 7"
No. 728 Paint roller cover, for gloss or semigloss, 7"
No. 729 Paint roller cover, for gloss or semigloss, 9"
No. 731 Paint roller cover, for rough surfaces, 7"
No. 732 Paint roller cover, mohair fiber, 7"
No. 733 Paint roller cover, mohair fiber, 9"
No. 735 Trimmer, paint roller, with frame, 3"
No. 736 Refill, trimmer, paint roller, 3"
No. 741 Paint roller, frame assembly, 7"
No. 742 Paint roller, frame assembly, 9"
No. 910 Broom, whisk, plastic
No. 951 Mop, glas and dish, plastic handle

SIC 7349

Janitorial Service, Federal Building and Courthouse, 1340 West 6th Street
Food and Drug Administration Building 1521–33 West Pico Boulevard, Los Angeles, California
Janitorial/Custodial Service for the following buildings:
Administration Building
U.S. Post Office
GSA Motor Pool Building
The Charles Building
The Maurice Building
Executive Terminal Building, Salt Lake City, Utah.

C.W. Fletcher,

Executive Director.

[FR Doc. 84-15424 Filed 6-7-84; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board 1984 Summer Study Panel on Urban Warfare; Advisory Committee Meeting

The Defense Science Board 1984 Summer Study Task Force on Urban Warefare will meet in closed session on 10–11 July 1984 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meetings on 10–11 July 1984, the Panel will receive classified briefings on Urban Warfare and discuss preparation of the Summer Study report.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II (1976)), it has been determined that this DSB Panel meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

Dated: June 4, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-15410 Filed 6-7-84; 8:45 am]

BILLING CODE 3810-01-M

Corps of Engineers; Department of the Army

Intent To Prepare a Draft Environmental Impact Statement

AGENCY: U.S. Army Corps of Engineers, Seattle District, Defense.

ACTION: Notice of Intent to prepare a draft environmental impact statement (DEIS) for a feasibility study called the Aberdeen-Hoquiam Flood Damage Reduction Study.

Summary

1. *Proposed Action:* This study area is comprised of the portions of the cities of Hoquiam and Aberdeen which are north of the Chehalis River, within Grays Harbor County, in western Washington. The primary structural alternative under consideration at this time is a levee and floodwall system to protect residential, commercial, industrial, and public structures and facilities from flood damages caused by high riverflows, combined with high Grays Harbor tides, along the Chehalis, Wishkah, and Hoquiam Rivers. Feasibility studies will concentrate on evaluating engineering, economic, environmental, and social aspects of various levee alinements. Each separable levee segment should provide economic benefits that are greater than the costs of that segment.

2. *Alternatives.* Besides various levee alinements and levee heights, consideration will also be given to other structural measures, such as upstream storage, and nonstructural measures, such as floodproofing.

3. *Scoping Process.*

a. *Public Involvement Program.* A coordination letter describing the study authority and history, study purpose, existing flooding problems, potential project description, potential project impacts, and possible project alternatives was mailed to 29 agencies and groups on 30 April 1984. Sixteen similar project information letters were later mailed for information to elected Federal, state, and local officials. Public meetings, workshops, and agency meetings will be held during the feasibility study.

b. *Significant Concerns.* Many concerns will be addressed throughout the feasibility study. Significant concerns include:

(1) Developing a levee alinement that will provide needed flood damage reduction while avoiding or minimizing impacts to wetlands and riparian vegetation,

(2) Evaluating the potential for recreational use of the levee, and

(3) Performing a cultural resources reconnaissance that will identify historic and prehistoric resources within the study area and prescribed necessary salvage or mitigation measures.

c. *Environmental Review and Consultation Requirements.* The study is being coordinated with the U.S. Fish and Wildlife Service and will satisfy requirements of the Fish and Wildlife Coordination Act and appropriate sections of the Endangered Species Act and the Clean Water Act. A "Section 404b evaluation," which discusses the plan's potential impacts on the aquatic ecosystem, will be developed.

4. *Availability of DEIS Supplement.* The DEIS is presently scheduled to become available to the public in 1986.

ADDRESS: Additional information about the proposed action and DEIS can be obtained by contacting the environmental coordination: Mr. Paul Cooke, Environmental Resources

Section, Seattle District, Corps of Engineers, Post Office Box C-3755, Seattle, Washington 98124, Telephone (206) 764-3624 (FTS 399-3624).

Dated: May 29, 1984.

Roger F. Yankoupe,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 84-15397 Filed 6-7-84; 8:45 am]

BILLING CODE 3710-FR-M

DEPARTMENT OF EDUCATION

Intergovernmental Advisory Council on Education; Hearings

AGENCY: Intergovernmental Advisory Council on Education, Education Department.

ACTION: Notice of Hearings.

SUMMARY: This notice sets forth the schedule of two hearings of the Intergovernmental Advisory Council on Education. Notice of this hearing is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES: June 27-28, 1984.

ADDRESSES:

June 27—Essex County College, Lecture Hall, Second Level, 303 University Avenue, Newark, New Jersey 07102.

June 28—New Jersey State Library, Archives Room, 185 West State Street, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: Laverne Johnson, Intergovernmental Advisory Council on Education, 300 7th Street SW., Room 513, Washington, D.C. 20202, (202) 472-6464.

SUPPLEMENTARY INFORMATION: The Intergovernmental Advisory Council on Education is established under Section 213 of the Department of Education Organization Act (20 U.S.C. 3423). The Council is established to provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations pertaining to education.

The Intergovernmental Advisory Council on Education will conduct a Public Hearing in Newark, New Jersey, on June 27, 1984. The hearing schedule is as follows:

1 p.m.-2 p.m.—Student Achievement, Classroom Discipline, and Dropout Prevention

2 p.m.-2:15 p.m.—Break

2:15-3:30 p.m.—Solutions to the Teacher Shortage

3:30-4:30 p.m.—The Impact of New Federalism on States, Localities, and Educational Institutions

The Intergovernmental Advisory Council on Education will also conduct a Public Hearing in Trenton, New Jersey, on June 28, 1984. The hearing schedule is as follows:

9:30 a.m.-10:30 a.m.—Student Achievement, Classroom Discipline, and Dropout Prevention

10:30 a.m.-10:45 a.m.—Break

10:45-12 noon—Solutions to the Teacher Shortage

12 noon-1 p.m.—The Impact of New Federalism on States, Localities, and Educational Institutions

To reserve a space on the schedule, individuals, organizations, and associations should *preregister*, if possible, to speak at the hearings. To preregister, write or phone Ms. Laverne Johnson, Intergovernmental Advisory Council on Education, 300 7th Street SW., Room 513, Washington, D.C. 20202 (telephone—(202) 472-6464. (*Commenters will be limited to ten (10) minutes.* Each speaker must provide written copies of his/her presentation. Those wishing only to submit comments may do so by mailing them to Ms. Johnson and they will be included in the official record of the hearing.)

Records are kept of all Council proceedings and are available for public inspection at the office of the Intergovernmental Advisory Council on Education, 300 7th Street SW., Room 513, Washington, D.C. 20202.

Signed at Washington, D.C. on Tuesday, June 5, 1984.

Nancy L. Harris,

Acting Deputy Under Secretary for Intergovernmental and Interagency Affairs.

[FR Doc. 84-15463 Filed 6-7-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RE80-24-001]

Cincinnati Gas & Electric Co.; Application for Exemption

June 4, 1984.

Take notice that Cincinnati Gas & Electric Co. (CGEC) filed an application on April 2, 1984 for exemption from certain requirements of Part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44FR58687, October 11, 1979). Exemption is sought from the requirement to file on or prior to June 30,1984 and biennially thereafter, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290. In addition, CGEC requests a waiver of the requirement that an application for exemption shall be filed "no less than 18 months prior to the time the information would otherwise be required" (Section 290.601(a)).

In its application for exemption CGEC states, in part, that it should not be required to file the specified data for the following reason:

> The gathering of the information is not likely to carry out the purposes of Section 133 of the Public Utility Regulatory Policies Act.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change application are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdicition.

Any person desiging to present written views, arguments, or other comments on the application for exempiton should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 days period, such person must also serve a copy of such comments on: Mr. Donald I. Marshall, Cincinnati Gas & Electric Co., 139 East Fourth Street, Cincinnati, Ohio 45202.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-15443 Filed 6-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE80-54-001]

Cleveland Electric Illuminating Co., Application for Exemption

June 4, 1984.

Take notice that Cleveland Electric Illuminating Co. (CEIC) filed an application on April 2, 1984 for exemption from certain requirements of Part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or prior to June 30, 1984 and biennially thereafter, information on the costs of providing

electric service as specified in Subparts B, C, D, and E of Part 290. In addition, CEIC requests a waiver of the requirement that an application for exemption shall be filed "no less than 18 months prior to the time the information would otherwise be required" (Section 290.601(a)).

In its application for exemption (CEIC) states, in part, that it should not be required to file the specified data for the following reason:

The gathering of the information is not likely to carry out the purposes of Section 133 of the Public Utility Regulatory Policies Act.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register.** Within that 45 day period, such person must also serve a copy of such comments on: Mr. David Shockey, Cleveland Electric Illuminating Company, 55 Public Square, Cleveland, Ohio 44101.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-15444 Filed 6-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE84-8-000]

Columbus & Southern Ohio Electric Co.; Application for Exemption

June 4, 1984.

Take notice that Columbus & Southern Ohio Electric Co. (CSOE) filed an application on April 2, 1984 for exemption for certain requirements of Part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, Oct. 11, 1979). Exemption is sought from the requirement to file on or prior to June 30, 1984 and biennially thereafter, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290. In addition, CSOE requests a waiver of the requirement that an application for exemption shall be filed "no less than 18 months prior to the time the information would otherwise be required" (Section 290.601(a)).

In its application for exemption (CSOE) states, in part, that it should not be required to file the specified data for the following reason:

The gathering of the information is not likely to carry out the purposes of Section 133 of the Public Utility Regulatory Policies; Act.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such informaiton with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal REgister.** Within that 45 day period, such person must also serve a copy of such comments on: Mr. William D. Willis, Columbus & Southern Ohio Electric Company, 215 North Front street, Columbus, Ohio 43215.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-15445 Filed 6-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE81-83-002]

Dayton Power & Light Co.; Application for Exemption

June 4, 1984

Take notice that Dayton Power & Light Co. (DPLC) filed an application on April 2, 1984 for exemption from certain requirements of Part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, Oct. 11, 1979). Exemption is sought from the requirement to file on or prior to June 30, 1984 and biennially thereafter, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290. In addition, DPLC requests a waiver of the requirement that an application for exemption shall be filed "no less than 18 months prior to the time the information would otherwise be required" (Section 290.601(a)).

In its application for exemption DPLC states, in part, that it should not be required to file the specified date for the following reasons:

The gathering of the information is not likely to carry out the purposes of section 133 of the Public Utility Regulatory Policy Act.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register.** Within that 45 day period, such person must also serve a copy of such comments on: Mr. James Yates, Dayton Power & Light Co., Courthouse Plaza, Southwest, Box 1247, Dayton, Ohio 45401.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-15446 Filed 6-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE81-106-001]

Florida Power Corp.; Application for Exemption

June 4, 1984.

Take notice that Florida Power Corporation (FPC) filed an application on May 14, 1984, for exemption from certain requirements of Part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, Oct. 11, 1979). Exemption is sought from the requirement to file on or prior to June 30, 1984 and biennially thereafter, information on the costs of providing

electric service as specified in Subparts B, C, D, and E of Part 290. In addition, FPC requests a waiver of the requirement that an application for exemption shall be filed "no less than 18 months prior to the time the information would otherwise be required" (Section 290.601(a)).

In its application for exemption FPC states, in part, that it should not be required to file the specified data for the following reasons:

> The information to be reported pursuant to Part 290 is not needed and is not used for retail ratemaking; the information is available elsewhere and the cost of collecting and reporting the information is excessive relative to the benefits.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in an official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period, such person must also serve a copy of such comments on: Mr. Steven McClaren, Corporate Counsel, Florida Power Corp., P.O. Box 14042, St. Petersburg, Florida 33733.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-15447 Filed 6-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-352-000]

Montana-Dakota Utilities Co.; Application

June 4, 1984.

Take notice that on April 16, 1984, Montana-Dakota Utilities Co. (MDU), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP84-352-000 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued operation of certain jurisdictional natural gas facilities as well as the continued transportation of natural gas in interstate commerce and for permission and approval to abandon two gas storage wells, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

MDU states that it has recently concluded a thorough review of its transportation, exchange, and storage operations in order to ascertain whether any additional certificate authorization is required in these areas. MDU asserts that while the review demonstrated that the vast majority of its jurisdictional operations are in compliance with all applicable federal regulatory requirements, several problems were uncovered. MDU has grouped the problems uncovered by its review into four categories: (I) Storage facilities, (II) producer facilities and services, (III) miscellaneous sales taps, and (IV) transportation services.

I. Storage Facilities

MDU presently conducts storage operations in the Billy Creek, Elk Basin, and Baker Fields. MDU's review indicates that some facilities in these areas have been added or deleted without authorization. More specifically, in the Billy Creek Field, MDU states that it has (1) drilled a new injection well (MDU No. 1) and constructed metering facilities on the site; and (2) upgraded metering facilities appurtenant to the Graham No. 2, Hesse No. 2, and Rider No. 2 wells. In the Elk Basin Field, MDU states that it has (1) plugged and abandoned Well No. 23 and (2) deepened Well No. 21 by 100 feet. In the Baker Field, MDU states that it has (1) drilled a new injection well (No. 422—Unit 6), (2) plugged and abandoned Well No. 95 (Unit 6), (3) upgraded and pressure tested a low pressure suction field line, and (4) installed metering facilities in Units 3 through 6, inclusive.

MDU submits that the aforementioned operations represent a necessary and integral part of MDU's overall interstate pipeline system and supply. Accordingly, MDU submits that the grant of certificate and abandonment authorization, as requested, is required by the public convenience and necessity.

II. Producer Facilities and Services.

MDU explains that all of these problems in this area reflect the same general pattern and that originally these transactions constituted non-jurisdictional field exchange arrangements. It is submitted that while minor nuances exist, in general various changes have occurred over the years with the result that, in each of these instances, redeliveries of exchange gas to producers through jurisdictional facilities are now necessary to balance deliveries to MDU. In other words, it is asserted, gradual changes in operational configurations have resulted in MDU's taking both its own gas and certain volumes, which the producers had reserved under various gas supply contracts, at the tailgate of a particular plant and then transporting the reserved gas a very short distance through jurisdictional lines for redelivery to the producer through meters and delivery taps. The producer then uses the gas for field operations (such as compressor fuel) which are essential in getting the gas supply to the plant, it is stated.

MDU maintains that its review uncovered six such instances. Individual arrangements are indicated as follows:

(1) The transportation of natural gas through a jurisdictional line from the tailgate of the Stateline Plant and redelivery to Shell Oil Company (Shell) at uncertificated field taps in Section 27, T23N, R59E, and in Section 2, T21N, R58E, Richland County, Montana;

(2) The transportation of natural gas through a jurisdictional line from the tailgate of the McKenzie Plant and redelivery to Koch Hydrocarbon Company at uncertificated field taps in Section 18, T22N, R60E, and Section 15, T22N, R59E, Richland County, Montana;

(3) Transportation of natural gas through a jurisdictional line from the tailgate of the Tioga Plant and redelivery to Aminoil USA, Inc., and Apache Corporation at an uncertificated field tap in Section 10, T149N, R99W, McKenzie County, North Dakota;

(4) The transportation of natural gas through a jurisdictional line from the Tioga Plant and redelivery to Ladd Petroleum Corporation at an uncertificated field tap in Section 10, T149N, R99W, McKenzie County, North Dakota;

(5) The transportation of natural gas through a jurisdictional line from the tailgate of the Recluse Plant site and redelivery to MIGC, Inc., at an uncertificated field tap in Section 14, T57N, R72W, Campbell County, Wyoming; and

(6) The transportation of natural gas through a jurisidictional line from the tailgate of the Big Horn Plant and redelivery to Shell at an uncertificated field tap in Section 4, T6N, R60E, Fallon County, Montana.

MDU asserts that because these arrangements were originally non-jurisdictional and because the changes were gradual, the resulting jurisdictional implications were simply overlooked, but that, nevertheless, each of these arrangements remains a necessary component of MDU's overall gas supply

effort. Accordingly, MDU submits that the grant of certificate authorization to continue the above-referenced arrangements is required by the public convenience and necessity.

MDU proposes to render each service pursuant to the terms and conditions set forth in *pro forma* Rate Schedule T–5 and the attendant gas service agreement. Under the proposed rate schedule, MDU states that it would transport and redeliver gas, reserved by the aforementioned producers in existing contracts with MDU, to the producer at the point(s) specified in the gas service agreement. MDU proposes to render this service as part of the overall consideration set forth in the existing gas service contracts.

III. Miscellaneous Sale Taps

MDU states that another set of problems uncovered by its review involves several field taps necessary to make deliveries of natural gas to retail sales customers. The identity of these retail customers and the location of each field tap are stated to be as follows:

(1) Phillips Petroleum in Section 26, T154N, R102W, Williams County, North Dakota;
(2) Miles City Gas Turbine in Section 36, T8N, R47E, Custer County, Montana;
(3) Koch Production Company in Section 29, T55N, R94W, Big Horn County, Wyoming;
(4) Mobil Oil Corporation in Section 27, T47N, R92W, Washakie County, Wyoming.

It is maintained that all of these facilities are necessary to provide natural gas to meet the needs of these customers and that the gas delivered to Phillips, Koch, and Mobil is used in the field as fuel for heaters and treaters. The gas delivered to the Miles City Gas Turbine is used for electric generation, it is explained. MDU asserts that its supplies of natural gas are more than adequate for these purposes. MDU therefore submits that the grant of authorization to continue the operation of these facilities is required by the public convenience and necessity.

IV. Transportation Services

Finally, MDU states that its review uncovered two transportation problems which are similar in nature to the gas supply arrangements discussed above. It is submitted that the first such problem is, once again, the result of changes in a previously non-jurisdictional exchange. MDU states that prior to 1965 it acquired the rights to purchase natural gas produced from sources proximate to the gathering system of Kansas-Nebraska Natural Gas Company, Inc. (K–N), in production areas located south of the Atlantic Richfield Company (ARCO) plant in the Wind River Basin, Fremont County, Wyoming, and that the sources were some distance from MDU's transmission facilities, but could be connected, through K–N's gathering facilities, to a transmission line of Northern Utilities Company (Northern Utilities) running from Riverton Dome to an interconnection with K–N's processing plant near Casper, Wyoming. It is explained that at the same time, K–N purchased natural gas produced from sources in the Boyson and Riverton East Fields and that these sources were proximate to MDU's gathering system, located in the Wind River Basin, in Fremont County, Wyoming, and, through such gathering facilities to MDU's interstate pipeline system. Accordingly, it is further explained that MDU and K–N entered into gas-for-gas field exchange agreements in 1965 and 1971 and that those agreements provide for an exchange of gas by the delivery of K–N's gas into MDU's gathering facilities in equal volumes. By means of these exchanges, both parties were able to acquire supplies of gas without building duplicate gathering facilities, it is asserted. It is maintained that because the purpose of the arrangement was merely to exchange equal volumes of gas in geographically proximate field locations through the use of gathering facilities, the exchange was not subject to the Commission's Natural Gas Act jurisdiction.

Following the execution of the 1971 Agreement, MDU submits that it gradually lost the gas sources which had been attached to K–N's gathering system, and that thereafter, the gas-for-gas field exchange became one-sided: MDU would receive into its gathering system K–N's interest in gas produced from the Wind River Basin in Fremont County and then redeliver K–N's gas to Northern Utilities, for the account of K–N, at an existing delivery point near Riverton Dome. Thus, it is asserted the arrangement evolved from a non-jurisdictional field exchange accomplished by means of gathering facilities into what is now properly characterized as an interstate transportation of gas, performed by MDU on behalf of K–N.

MDU states that the other transportation problem also involves service rendered on behalf of K–N. It is explained that on September 13, 1978, MDU and K–N entered into a gas transportation and exchange agreement wherein MDU agreed to transport and redeliver certain natural gas volumes acquired by K–N in Big Horn County, Wyoming, and that K–N agreed to pay MDU a transportation fee of 10.17 cents per Mcf for the gas delivered to MDU and transported through its pipeline system. MDU submits that the natural gas transported by MDU represents K–N's 14.39 percent working interest in the State 1–36 well located in Section 36, T52N, R94W, Big Horn County, Wyoming, and that the remaining interest in said well is purchased by MDU from American Natural Gas Production Company under a gas purchase contract dated June 5, 1978.

MDU submits that under the terms of the agreement, K–N delivers volumes of gas to MDU at the wellhead and that MDU gathers the gas and delivers it to its jurisdictional transmission system for redelivery, by exchange. It is said that the point of redelivery is at an existing interconnection between the facilities of MDU and K–N, located in Section 25, T1S, R4E, Fremont County, Wyoming, in the vicinity of ARCO's Riverton Dome Plant.

Since initial deliveries commenced on April 7, 1979, MDU states that it has performed this natural gas service for the account of K–N accordance with the agreement and that deliveries to K–N have averaged less than 30 Mcf of gas per day. MDU says that in 1983, the net operating income to MDU under the agreement was $906 and that MDU has credited all such transportation revenues to its cost of service. MDU, through administrative oversight, simply failed to file an application for a certificate authorizing this minor transaction, it is asserted.

The underlying reason for each arrangement remains unchanged, it is maintained, and the transportation services for K–N continue to represent the least expensive and most effective methods of delivering K–N's remote production to its pipeline system. Accordingly, MDU submits that certificate authorization to continue these operations is required by the public convenience and necessity.

Once such authorization is obtained, MDU proposes to transport K–N's State 1–36 production pursuant to the terms and conditions of *pro forma* Rate Schedule X–8. MDU proposes to transport K–N's Wind River Basin production pursuant to *pro forma* Rate Schedule X–7.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 25, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR

385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for MDU to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-15448 Filed 6-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE81-29-001]

Ohio Edison Co.; Application for Exemption

June 4, 1984.

Take notice that Ohio Edison Company (OHEC) filed an application on April 2, 1984 for exemption from certain requirements of Part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or prior to June 30, 1984 and biennially thereafter, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290. In addition, OHEC requests a waiver of the requirement that an application for exemption shall be filed "no less than 18 months prior to the time the information would otherwise be required" (Section 290.601(a)).

In its application for exemption OHEC states, in part, that it should not be required to file the specified data for the following reason:

> The gathering of the information is not likely to carry out the purposes of section 133 of the Public Utility Regulatory Policies Act.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register.** Within that 45 day period, such person must also serve a copy of such comments on: Mr. James D. Wilson, Ohio Edison Company, 76 South Main Street, Akron, Ohio 44308.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-15449 Filed 6-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE84-9-000]

Ohio Power Co.; Application for Exemption

June 4, 1984.

Take notice that Ohio Power Company (OHPC) filed an application on April 2, 1984 for exemption from certain requirements of Part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, Oct. 11, 1979). Exemption is sought from the requirement to file on or prior to June 30, 1984, and biennially thereafter, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290. In addition, OHPC requests a waiver of the requirement that an application for exemption shall be filed "no less than 18 months prior to the time the information would otherwise be required" (Section 290.601(a)).

In its application for exemption OHPC states, in part, that it should not be required to file the specified data for the following reason:

> The gathering of the information is not likely to carry out the purposes of Section 133 of the Public Utility Regulatory Policies Act.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in an official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register.** Within that 45 day period, such person must also serve a copy of such comments on: Mr. Richard J. Pelger, Ohio Power Company., 301 Cleveland Avenue SW., Canton, Ohio 44702.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-15450 Filed 6-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE81-37-002]

Toledo Edison Co., Application for Exemption

June 4, 1984.

Take notice that Toledo Edison Company (TOEC) filed an application on April 2, 1984 for exemption from certain requirements of Part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Act (PURPA), Order No. 48 (44 FR 58687, Oct. 11, 1979). Exemption is sought from the requirement to file on or prior to June 30, 1984 and biennially thereafter, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290. In addition, TOEC requests a waiver of the requirement that an application for exemption shall be filed "no less than 18 months prior to the time the information

would otherwise be required "(Section 290.601(a)).

In its application for exemption TOEC states, in part, that it should not be required to file the specified data for the following reason:

> The gathering of the information is not likely to carry out the purposes of Section 133 of the Public Utility Regulatory Policies Act.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdication.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register.** Within that 45 day period, such person must also serve a copy of such comments on: Mr. William E. Huepenbecker Toledo Edison Company, 300 Madison Avenue Toledo, Ohio 43652.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-15451 Filed 6-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-388-000]

United Gas Pipe Line Co.; Application

June 4, 1984.

Take notice that on May 3, 1984, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP84-388-000 an application on pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to increase the maximum daily quantity (MDQ) gas for the City of Westlake, Louisiana, a single delivery point city gate customer, all as more fully set forth in the applicatin which is on file with the Commission and open for public inspection.

United states that it conducted a survey of its 93 single delivery point city gate customers for additional service and was granted authorization in Docket No. CP83-406-000 to increase the MDQ's of 36 of such customers (order issued December 2, 1983, therein). United indicates that it would have included Westlake, Louisiana, in the application in Docket No. CP83-406-000 had Westlake's documented request been received by United in time for that filing. United indicates that it has surplus supplies available to serve Westlake the proposed increased requirements of 1,860 Mcf per day and that the requested MDQ increase would not result in a net increase in demand on its system but rather would replace a small portion of the attrition of market that United has experienced. Thus, United asserts that granting of its request is in the public convenience and necessity.

It is asserted that since the onset of the natural gas supply shortage that persisted throughout the 1970's, United has not sought authorization to make new sales or to increase the certificated firm sales volumes for delivery to any of its customers. However, United alleges that its current situation is materially different from that which existed during the years of curtailment. United states that except for the brief period of *force majeure* curtailments during the Christmas holidays in 1983, it has not been required to curtail at all since February 1982 and that its supplies of gas substantially exceed its customers' current demand.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 25, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further ntoice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for United to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-15452 Filed 6-7-84; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-00178 PH-FRL 2604-6]

Administrator's Pesticide Advisory Committee; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The Administrator's Pesticide Advisory Committee (APAC) will hold a meeting to consider improvements to the pesticide reregistration process for existing chemicals. General activities of the Office of Pesticide Programs (OPP) may also be discussed. The meeting will be open to the public.

DATE: The meeting will take place on Wednesday, June 27, 1984, at 9:00 a.m. and adjourn by 4:30 p.m.

ADDRESS: The meeting will be held in: Rm. M3906-3908, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Betty Winter, Designated Federal Official/Executive Secretary, Administrator's Pesticide Advisory Committee (TS-788), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E636, 401 M St., SW., (202-382-7801).

SUPPLEMENTARY INFORMATION: The APAC will begin with opening remarks by Alvin L. Alm, EPA Deputy Administrator, who will discuss the Committee's charge and introduce the topic for the meeting. Dr. John A. Moore, Assistant Administrator for Pesticides and Toxic Substances, will address committee members on the pesticide reregistration process and the primary issues to be addressed by the Committee at this meeting. The Committee will then consider and evaluate Agency proposals and alternatives for resolving specified problems with this process. A more detailed agenda will be available at a later date.

The meeting will be open to the public, and time will be set aside for public comments concerning the pesticide reregistration process. Any member of the public wishing to present an oral or written statement relating to the Committee's work should contact the APAC Federal Designee at the address or telephone number listed above.

Dated May 25, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 84-15407 Filed 6-7-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-00175; PH-FRL 2604-5]

Administrator's Pesticide Advisory Committee; Reestablishment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of Reestablishment.

SUMMARY: This notice announces the reestablishment of the Administrator's Pesticide Advisory Committee (APAC). It has been determined to be in the public interest to reestablish this Committee to review the Agency's implementation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and sections 402, 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act (FFDCA).

FOR FURTHER INFORMATION CONTACT: Betty L. Winter, Executive Secretary, Administrator's Pesticide Advisory Committee, Office of Pesticides and Toxic Substances (TS-788), Environmental Protection Agency, 401 M St., SW., Rm. E636, Washington, D.C. 20460, (202-382-7801).

SUPPLEMENTARY INFORMATION: The Committee will advise, consult with, and make recommendations to the Administrator of EPA on specified matters relating to registration, reregistration, and tolerance responsibilities as mandated under FIFRA and FFDCA. The ARAC will suggest alternative mechanisms within existing authorities as appropriate, and, on request, review specific statutory alternatives developed by EPA.

The Committee will be composed of a maximum of 18 members and will be balanced fully in terms of points of view represented. The Administrator will appoint members from the following segments of the population: pesticide manufacturers, formulators, food processors, farmers, and other user groups; environmental, health, labor, and public interest organizations; state health and agriculture departments; regulatory experts; and the academic community. The Committee will terminate on September 30, 1985, unless extension is authorized in accordance with the Federal Advisory Committee Act.

Copies of the Committee charter will be filed with appropriate standing committees of the U.S. Congress and with the Library of Congress. Copies will be available on request from the Executive Secretary at the above address and telephone number.

Dated: May 30, 1984.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 84-15402 Filed 6-7-84; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2605-1]

Availability of Environmental Impact Statements Filed May 28, Through June 1, 1984 Pursuant to 40 CFR 1506.9

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

EIS No. 840230, Draft, FS, ID, Sunbeam Mountain Gold and Silver Mining and Milling Operation Plan, Approval, Challis National Forest, Custer County, Due: July 23, 1984, Contact: Tim Hancock (208) 838-2201.

EIS No. 840231, Final, FHW, CA, Russian River Bridge Number 20-31 Replacement and U.S. 101 Relocation, Sonoma and Mendocino Counties, Due: July 9, 1984, Contact: David Eyres (916) 440-3541.

EIS No. 840232, DSuppl, BLM, CA, Western Counties Wilderness Study Areas, Wilderness Designation, San Diego and Riverside Counties, Due: September 5, 1984, Contact: Russell Kalderberg (714) 351-6419.

EIS No. 840233, Draft, NHT, REG, 1985 Model Year Light Trucks Corporate Average Fuel Economy Standards, Due: July 23, 1984, Contact: Joseph Innes (202) 426-0846.

EIS No. 840234, Final, SCS, MS, TN, Tuscumbia River Watershed Flood Control Plan, Alcorn and Prentiss County, Mississippi and McNairy County, Tennessee, Due: July 9, 1984, Contact: A. E. Sullivan (601) 960-5205.

EIS No. 840235, Draft, FHW, WI, State Trunk Highway 50 Improvements, U.S. 12 to I-94, Walworth and Kenosha Counties, Due: July 23, 1984, Contact: Martin Convisser (202) 426-4357.

EIS No. 840236, Final, HUD, NY, Octane Petroleum Recovery and Finishing Facility Expansion, UDAG, Columbia County, Due: July 9, 1984, Contact: Edmond Schorno (518) 828-3374.

EIS No. 840237, DRevised, FS, AK, Admiralty Island National Monument Boundary Adjustment, Tongass National Forest, Due: July 23, 1984, Contact: Helen Castillo (907) 789-3111.

EIS No. 840238, Draft, NOA, PR, VI, Shallow-Water Reeffish Fishery Management Plan, Due: July 23, 1984, Contact: William Gordon (202) 634-7283.

EIS No. 840239, Draft, BLM, CA, Coast/Valley Planning Area Resource Management Plan, Due: September 6, 1984, Contact: Bob Barney (916) 484-4701.

EIS No. 840240, Draft, DOE, MS, Pearl River Basin Flood Control, Rankin County, Due: July 23, 1984, Contact: Dru Barrineau (205) 690-2725.

EIS No. 840241, Final, UAF, NM, Holloman Air Force Base, Reserve Military Operations Area, Supersonic Operations, Catron County, Due: July 9, 1984, Contact: Alton Chavis (804) 764-4430.

EIS No. 840242, Final, UAF, TX, Holloman Air Force Base, Valentine Military Operations Area, Supersonic Operations, Due: July 9, 1984, Contact: Alton Chavis (804) 764-4430.

Dated: June 5, 1984.

Dave Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 84-15442 Filed 6-7-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59159, TSH-FRL 2604-3]

Certain Chemicals; Test Marketing Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by: June 25, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS–59159]" and the specific TME number should be sent to: Document Control Officer (TS–793), Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TMEs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

TME 84–56

Close of Review Period. July 8, 1984.

Manufacturer. E. I. du Pont de Nemours and Company, Inc.

Chemical. (S) 2,(2,4-dinitrophenyl)benzothiazoline.

Use/Production. (G) Photographic film additive. Prod. range: Confidential.

Toxicity Data. Acute oral: >17,000 mg/kg; Irritation: Skin—Slight, Eye—Slight; Ames Test: Mutagenic.

Exposure. Confidential.

Environmental Release/Disposal. Release to air and water. Disposal by publicly owned treatment works (POTW).

PMN 84–57

Close of Review Period. July 8, 1984.

Manufacturer. E. I. du Pont de Nemours and Company, Inc.

Chemical. (S) 2,4 dinitrobenzaldehyde.

Use/Production. (S) Synthesis of 2-(2,4,-dinitrophenyl) benzothiazoline. Prod. range: Confidential.

Toxicity Data. No data on the TME substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

Dated: June 4, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 84–15278 Filed 6–7–84; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51522; TSH–FRL 2604–4]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of fifty PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 84–744, 84–745, 84–746, 84–747, 84–748, 84–749, 84–750, 84–751, 84–752, 84–753, 84–754, 84–755, 84–756, 84–757, 84–758, 84–759 and 84–760—August 22, 1984.

PMN 84–761—August 26, 1984.

PMN 84–762, 84–763, 84–764, 84–765, 84–766, 84–767, 84–768, 84–769, 84–770, 84–771, 84–772, 84–773, 84–774, 84–775, 84–776, 84–777, 84–778, 84–779, 84–780, 84–781, 84–782, 84–783, 84–784, 84–785, 84–786 and 84–787—August 27, 1984.

PMN 84–788, 84–789, 84–790, 84–791, 84–792 and 84–793—August 28, 1984.

Written comments by:

PMN 84–744, 84–745, 84–746, 84–747, 84–748, 84–749, 84–750, 84–751, 84–752, 84–753, 84–754, 84–755, 84–756, 84–757, 84–758, 84–759 and 84–760—

PMN 84–761—July 27, 1984.

PMN 84–762, 84–763, 84–764, 84–765, 84–766, 84–767, 84–768, 84–769, 84–770, 84–771, 84–772, 84–773, 84–774, 84–775, 84–776, 84–777, 84–778, 84–779, 84–780, 84–781, 84–782, 84–783, 84–784, 84–785, 84–786 and 84–787—July 28, 1984.

PMN 84–788, 84–789, 84–790, 84–791, 84–792 and 84–793—July 29, 1984.

ADDRESS: Written comments, identified by the document control number "[OPTS–51522]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M Street SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW., Washington, DC 20460, (202–382–3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

PMN 84–744

Manufacturer. Confidential.

Chemical. (S) Haloalkyl-polynitro-halobenzene.

Use/Production. (G) Site-limited captive intermediate for the manufacture of a pesticide. Prod. range: Confidential.

Toxicity Data. Acute oral: 500 mg/kg; Acute dermal: 100 mg/kg; Irritation: Eye—Severe; Screening test: In active. Inhalation LC_{50}: 161 mg/1 nominal; Ames Test: Non-mutagenci; Skin sensitization: Mild sensitizer.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. No data submitted. Disposal by biological treatment system, incineration and navigable waterway.

PMN 84–745

Importer. Confidential.

Chemical. (G) Fatty alcohols, hydroxy stearate.

Use/Import. (S) Industrial consistency regulator in emulsions. Import range: Confidential.

Toxicity Data. Actue oral: 12.7 g/kg; Irritation: Skin—Non-irritant, Eye—Non-Irritant; Skin sensitization: Non-sensitizer.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 84–746

Importer. Confidential.

Chemical. (G) Polyalkylene glycols.

Use/Import. (S) Industrial water in oil emulsifier. Import range: Confidential.

Toxicity Data. Actue oral: >15 ml/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames test: Non-mutagenci; Skin sensitization: Non-sensitizer.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 84–747

Importer. Confidential.

Chemical. (G) Polyalkylene glycols.

Use/Import. (S) Industrial thickener for technical cleaning formulations and emulsions. Import range: Confidential.

Toxicity Data. Acute oral: >15 ml/kg; Irritation: Skin—Non-irritant, Eye—

Moderate; Ames test: Non-mutagenic; Delayed contact hypersensitivity: Negative.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 84-748

Manufacturer. Confidential.

Chemical. (G) Modified polyol acetals.

Use/Production. (G) Open, non-dispersive, and dispersive use. Prod. range: Confidential.

Toxicity Data. Acute dermal: 2 gm/kg; Irritation: Eye—Severe; Skin sensitization: Non-sensitizer.

Exposure. Manufacture: dermal, a total of 2 workers, up to 1 hr/da, up to 50 da/yr.

Environmental Release/Disposal. 50 kg/yr released to air with 129 kg/yr to water. Disposal by publicly owned treatment works (POTW).

PMN 84-749

Manufacturer. Confidential.

Chemical. (G) Cyclic ester.

Use/Production. (G) Captive intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2 gm/kg; Irritation: Skin—No irritation, Eye—Moderate to severe; Ames test: Not mutagenic; Delayed contact hypersensitivity: Weak sensitization.

Exposure. Manufacture: a total of 14 workers, upt to 1 hr/da, up to 40 da/yr.

Environmental Release/Disposal. 0.06 to 0.1 kg/batch released. Disposal by POTW and incineration.

PMN 84-750

Manufacturer. Confidential.

Chemical. (G) Cyclic ester.

Use/Production. (G) Captive intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2 gm/kg; Irritation: Skin—No irritation, Eye—Moderate to severe; Ames test: Not mutagenic; Delayed contact hypersensitivity: Weak sensitization.

Exposure. Manufacture: a total of 14 workers, up to 1 hr/da, up to 40 da/yr.

Environmental Release/Disposal. 0.06 to 0.1 kg/batch released. Disposal by POTW and incineration.

PMN 84-751

Manufacturer. Confidential.

Chemical. (G) Cyclic ester.

Use/Production. (G) Captive intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2 gm/kg; Irritation: Skin—No irritation, Eye—Moderate to severe; Ames test: Not mutagenic; Delayed contact hypersensitivity: Weak sensitization.

Exposure. Manufacture: a total of 14 workers, up to 1 hr/da, up to 40 da/yr.

Environmental Release/Disposal. 0.06 to 0.1 kg/batch released. Disposal by POTW and incineration.

PMN 84-752

Manufacturer. Confidential.

Chemical. (G) Cyclic ester.

Use/Production. (G) Captive intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2 gm/kg; Irritation: Skin—No irritation, Eye—Moderate to severe; Ames test: Not mutagenic; Delayed contact hypersensitivity: Weak sensitization.

Exposure. Manufacture: a total of 14 workers, up to 1 hr/da, up to 40 da/yr.

Environmental Release/Disposal. 0.06 to 0.1 kg/batch released. Disposal by POTW and incineration.

PMN 84-753

Manufacturer. Confidential.

Chemical. (G) Cyclic ester.

Use/Production. (G) Captive intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2 gm/kg; Irritation: Skin—No irritation, Eye—Moderate to severe; Ames test: Not mutagenic; Delayed contact hypersensitivity: Weak sensitization.

Exposure. Manufacture: a total of 14 workers, up to 1 hr/da, up to 40 da/yr.

Environmental Release/Disposal. 0.06 to 0.1 kg/batch released. Disposal by POTW and incineration.

PMN 84-754

Manufacturer. Confidential.

Chemical. (G) Cyclic ester.

Use/Production. (G) Captive intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2 gm/kg; Irritation: Skin—No irritation, Eye—Moderate to severe; Ames test: Not mutagenic; Delayed contact hypersensitivity: Weak sensitization.

Exposure. Manufacture: a total of 14 workers, up to 1 hr/da, up to 40 da/yr.

Environmental Release/Disposal. 0.06 to 0.1 kg/batch released. Disposal by POTW and incineration.

PMN 84-755

Manufacturer. Confidential.

Chemical. (G) Aromatic ester.

Use/Production. (G) Captive intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2 gm/kg; Irritation: Eye—Slight; Ames test: Not mutagenic; Delayed contact hypersensitivity: Weak sensitization.

Exposure. Manufacture: a total of 14 workers, up to 1 hr/da, up to 40 da/yr.

Environmental Release/Disposal. 0.15 to 0.1 kg/batch released. Disposal by POTW.

PMN 84-756

Manufacturer. Confidential.

Chemical. (G) Aromatic ester.

Use/Production. (G) Captive intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2 gm/kg; Irritation: Eye—Slight; Ames test: Not mutagenic; Delayed contact hypersensitivity: Weak sensitization.

Exposure. Manufacture: a total of 14 workers, up to 1 hr/da, up to 40 da/yr.

Environmental Release/Disposal. 0.15 to 0.1 kg/batch released. Disposal by POTW.

PMN 84-757

Manufacturer. Confidential.

Chemical. (G) Aromatic ester.

Use/Production. (G) Captive intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2 gm/kg; Irritation: Eye—Slight; Ames test: Not mutagenic; Delayed contact hypersensitivity: Weak sensitization.

Exposure. Manufacture: a total of 14 workers, up to 1 hr/da, up to 40 da/yr.

Environmental Release/Disposal. 0.15 to 0.1 kg/batch released. Disposal by POTW.

PMN 84-758

Manufacturer. Confidential.

Chemical. (G) Aromatic ester.

Use/Production. (G) Captive intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2 gm/kg; Irritation: Eye—Slight; Ames test: Not mutagenic; Delayed contact hypersensitivity: Weak sensitization.

Exposure. Manufacture: a total of 14 workers, up to 1 hr/da, up to 40 da/yr.

Environmental Release/Disposal. 0.15 to 0.1 kg/batch released. Disposal by POTW.

PMN 84-759

Manufacturer. Confidential.

Chemical. (G) Aromatic ester.

Use/Production. (G) Captive intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2 gm/kg; Irritation: Eye—Slight; Ames test: Not mutagenic; Delayed contact hypersensitivity: Weak sensitization.

Exposure. Manufacture: a total of 14 workers, up to 1 hr/da, up to 40 da/yr.

Environmental Release/Disposal. 0.15 to 0.1 kg/batch released. Disposal by POTW.

PMN 84–760

Manufacturer. Confidential.
Chemical. (G) Aromatic ester.
Use/Production. (G) Captive intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2 gm/kg; Irritation: Eye—Slight; Ames test: Not mutagenic; Delayed contact hypersensitivity: Weak sensitization.
Exposure. Manufacture: a total of 14 workers, up to 1 hr/da, up to 40 da/yr.
Environmental Release/Disposal. 0.15 to 0.1 kg/batch released. Disposal by POTW.

PMN 84–761

Manufacturer. E. I. du Pont de Nemours and Company, Inc.
Chemical. (G) Polyester/acrylic copolymer.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, up to 0.5 hr/da, up to 8 da/yr.
Environmental Release/Disposal. 0.005 to 1.34 kg/batch released. Disposal by incineration.

PMN 84–762

Manufacturer. Confidential.
Chemical. (G) Polyester from mixed alkane diols and mixed acids.
Use/Production. (G) Used in the formulation of coatings having an industrial application with a dispersive use. Prod. range: 30,000–50,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 28 workers, up to 8 hrs/da, up to 22 da/yr.
Environmental Release/Disposal. 5 to 80 kg/batch released to land. Disposal by incineration and landfill.

PMN 84–763

Manufacturer. Confidential.
Chemical. (S) Polymer of: vinyl acetate, butyl acrylate, hydroxy ethyl acrylate, acrylic acid.
Use/Production. (G) Open use. Prod. range: 3,110–20,000 kg/yr.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal and inhalation, a total of 3 workers, up to 2 hrs/da.
Environmental Release/Disposal. Minimal release to air. Disposal by biological treatment system and state licensed landfill.

PMN 84–764

Manufacturer. Confidential.
Chemical. (G) Polymer of formaldehyde and substituted phenols.
Use/Production. (G) Tackifier for natural and synthetic elastomers. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–765

Manufacturer. Confidential.
Chemical. (G) Polymer of formaldehyde and substituted phenols.
Use/Production. (G) Tackifier for natural and synthetic elastomers. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–766

Manufacturer. Confidential.
Chemical. (G) Polymer of formaldehyde and substituted phenols.
Use/Production. (G) Tackifier for natural and synthetic elastomers. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–767

Manufacturer. Confidential.
Chemical. (G) Polymer of formaldehyde and substituted phenols.
Use/Production. (G) Tackifier for natural and synthetic elastomers. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–768

Manufacturer. Confidential.
Chemical. (G) Polymer of formaldehyde and substituted phenols.
Use/Production. (G) Tackifier for natural and synthetic elastomers. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–769

Manufacturer. Confidential.
Chemical. (G) Polymer of formaldehyde and substituted phenols.
Use/Production. (G) Tackifier for natural and synthetic elastomers. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–770

Manufacturer. Confidential.
Chemical. (G) Alkyd resin.
Use/Production. (G) Intermediate for electrical insulation. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–771

Manufacturer. Ferro Corporation.
Chemical. (G) Butyl salicylic acid potassium salt aqueous solution.
Use/Production. (G) Destructive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 84–772

Manufacturer. Southland Corporation.
Chemical. (G) Mixed amidoamine.
Use/Production. (S) Industrial invert emulsifier for oil based drilling muds. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 5 workers, up to 2 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. 40 kg/batch released to water. Disposal by POTW and approved landfill.

PMN 84–773

Manufacturer. Southland Corporation.
Chemical. (G) Mixed amidoamine.
Use/Production. (S) Industrial invert emulsifier for oil based drilling muds. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 5 workers, up to 2 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. 40 kg/batch released to water. Disposal by POTW and approved landfill.

PMN 84–774

Manufacturer. Southland Corporation.
Chemical. (G) Mixed amidoamine.
Use/Production. (S) Industrial invert emulsifier for oil based drilling muds. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 5 workers, up to 2 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. 40 kg/batch released to water. Disposal by POTW and approved landfill.

PMN 84–775

Manufacturer. Southland Corporation.
Chemical. (G) Mixed amidoamine.
Use/Production. (S) Industrial invert emulsifier for oil based drilling muds. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 5 workers, up to 2 hrs/da, up to 10 da/yr.

Environmental Release/Disposal. 40 kg/batch released to water. Disposal by POTW and approval landfill.

PMN 84-776

Manufacturer. Southland Corporation.

Chemical. (G) Mixed amidoamine.

Use/Production. (S) Industrial invert emulsifier for oil based drilling muds. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 5 workers, up to 2 hrs/da, up to 10 da/yr.

Environmental Release/Disposal. 40 kg/batch released to water. Disposal by POTW and approved landfill.

PMN 84-777

Manufacturer. Southland Corporation.

Chemical. (G) Mixed amidoamine.

Use/Production. (S) Industrial invert emulsifier for oil based drilling muds. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 5 workers, up to 2 hrs/da, up to 10 da/yr.

Environmental Release/Disposal. 40 kg/batch released to water. Disposal by POTW and approval landfill.

PMN 84-778

Manufacturer. Southland Corporation.

Chemical. (G) Mixed amidoamine.

Use/Production. (S) Industrial invert emulsifier for oil based drilling muds. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 5 workers, up to 2 hrs/da, up to 10 da/yr.

Environmental Release/Disposal. 40 kg/batch released to water. Disposal by POTW and approved landfill.

PMN 84-779

Manufacturer. Southland Corporation.

Chemical. (G) Mixed amidoamine.

Use/Production. (S) Industrial invert emulsifier for oil based drilling muds. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 5 workers, up to 2 hrs/da, up to 10 da/yr.

Environmental Release/Disposal. 40 kg/batch released to water. Disposal by POTW and approved landfill.

PMN 84-780

Manufacturer. Confidential.

Chemical. (G) Aliphatic diacrylate.

Use/Production. (S) Radiation curable coatings. Prod. range: Confidential.

Toxicity Data. Acute oral: 5.0 g/kg; Acute dermal: 2.0 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Inhalation: 5.1 mg/l; Skin corrosivity: Not corrosive.

Exposure. Manufacture: a total of 2 workers.

Environmental Release/Disposal. Release to water. Disposal by POTW, incineration and landfill.

PMN 84-781

Manufacturer. Confidential.

Chemical. (G) Disubstituted acrylamide salt.

Use/Production. (G) Chemical intermediate. Prod. range: 75-250 kg/yr.

Toxicity Data. Acute oral: Males, females—3,200 mg/kg; Acute dermal: >1 g/kg; Irritation: Skin—Slight, Eye—Slight.

Exposure. Manufacture and use: dermal and inhalation, a total of 7 workers, up to 1 hr/da, up to 6 da/yr.

Environmental Release/Disposal. No release. Less than 1 to 5 kg/batch incinerated.

PMN 84-782

Manufacturer. Confidential.

Chemical. (G) Pentasubstituted naphthalenecarboxamide.

Use/Production. (G) Contained use. Prod. range: 800-1,000 kg/yr.

Toxicity Data. Acute oral: Males, females >3,200 mg/kg; Acute dermal: >1 g/kg; Irritation: Skin—Slight, Eye—Slight; Skin sensitization: Normal.

Exposure. Manufacture and processing: dermal, a total of 8 workers, up to 3.7 hrs/da, up to 4 da/yr.

Environmental Release/Disposal. 0 to 3 kg/batch released to water. Less than 3 kg/batch disposed of by biological treatment system with less than 2 to 30 kg/batch incinerated and disposed of by navigable waterway.

PMN 84-783

Manufacturer. Confidential.

Chemical. (S) 5-fluorosulfonyl-2-methoxybenzenesulfonyl chloride.

Use/Production. (G) Chemical intermediate. Prod. Range: 800-900 kg/yr.

Toxicity Data. Acute oral: Males, females >3,200 mg/kg; Acute dermal: >1 g/kg; Irritation: Skin—Slight, Eye—Moderate; Skin sensitization: Normal.

Exposure. Manufacture and use: dermal and inhalation, a total of 8 workers, up to 2.3 hrs/da, up to 4 da/yr.

Environmental Release/Disposal. No release. Less than 0.2 to 1 kg/batch incinerated.

PMN 84-784

Manufacturer. Confidential.

Chemical. (G) Polymer of substituted acrylic acid esters and disubstituted acrylamides.

Use/Production. (G) Contained use in an article. Prod. range: 300-600 kg/yr

Toxicity Data. Acute oral: Males, females >3,200 mg/kg; Acute dermal: >20 ml/kg; Irritation: Skin—Slight, Eye—Slight; Skin sensitization: Normal; IC_{50} 5 hr-250 mg/l; LC (Sideswimers, pillbugs, fathead minnows, water fleas, flat worms, snails, and segmented worms): 82 mg/1; LC (Fathead minnows and water fleas): 8.2 mg/L; LC (Daphnid magna): 0.8 mg/L; NOEL (water fleas): 0.08 mg/L.

Exposure. Manufacture and processing: dermal, a total of 8 workers, up to 1 hr/da, up to 3 da/yr.

Environmental Release/Disposal. No release. Less than 8 kg/batch disposed of by biological treatment system with less than 2 to 5 kg/batch incinerated.

PMN 84-785

Manufacturer. Confidential.

Chemical. (G) Disubstituted naphthoic acid.

Use/Production. (G) Chemical intermediate. Prod. range: 900-1,000 kg/yr.

Toxicity Data. Acute oral: Males, females >3,200 mg/kg; Acute dermal: >1 g/kg; Irritation: Skin—Slight, Eye—Moderate; Skin sensitization: Moderate/high sensitizer.

Exposure. Manufacture and use: dermal and inhalation, a total of 8 workers, up to 2.0 hrs/da, up to 2 da/yr.

Environmental Release/Disposal. No release. 0.2 to less than 2 kg/batch, incinerated.

PMN 84-786

Manufacturer. Confidential.

Chemical. Polysubstituted heterocycle.

Use/Production. (S) Site-limited intermediate for chemical manufacturing. Prod. range: Confidential.

Toxicity Data. Acute oral: Males, femals >Γ13,200 μγ/κγ≧ Αψθτε δερμαλ≦ >1 g/kg; Irritation: Skin—Slight, Eye—Slight.

Exposure. Manufacture and use: dermal.

Environmental Release/Disposal. No release.

PMN 84-787

Manufacturer. S. C. Johnson & Son, Inc.

Chemical. (S) Hydroxyl functional styrene-acrylic pentapolymer.

Use/Production. (G) Coating vehicle. Prod. range: Confidential.

Toxicity Data No data submitted.

Exposure. Confidential
Environmental Release/Disposal. Confidential. Disposal by POTW.

PMN 84–788

Manufacturer. Confidential.
Chemical. (G) Polyester resin.
Use/Production. (G) Intermediate for electrical insulation coatings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

PMN 84–789

Manufacturer. Confidential.
Chemical. (G) Amino aromatic ester.
Use/Production. (S) Site-limited intermediate for chemical manufacturing. Prod. range: Confidential.
Toxicity Data. Acute oral: Males, females >3,200 mg/kg; Acute dermal: >20 ml/kg; Irritation: Skin—Slight, Eye—Slight.
Exposure. Manufacture and use; dermal.
Environmental Release/Disposal. Trace to 0.5 kg/batch released to water. Disposal by biological treatment system.

PMN 84–790

Manufacturer. Confidential.
Chemical. (G) Monosubstituted phenyl azo polysubstituted heterocycle.
Use/Production. (G) Dye for fibers. Prod. range: Confidential.
Toxicity Data. Acute oral: Males, females >3,200 mg/kg; Acute dermal: >1 g/kg; Irritation: Skin—Slight, Eye—Slight; 10 Day repeated topical application: No evidence of skin irritation; Skin sensitization: Normal.
Exposure. Manufacture: dermal and inhalation.
Environmental Release/Disposal. Released to water. Disposal by biological treatment system and incineration.

PMN 84–791

Manufacturer. American Cyanamid Company.
Chemical. (G) Substituted hydroxy urethane.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2 gm/kg; Irritation: Eye—Non-irritant; Delayed contact hypersensitivity: No sensitization; Ames test: Not mutagenic.
Exposure. Manufacture: a total of 15 workers, up to 8 hrs/da, up to 60 da/yr.
Environmental Release/Disposal. 10 kg/batch released. Disposal by biological treatment system.

PMN 84–792

Manufacturer. Confidential.
Chemical. (G) Disubstituted anthraquinone-2-sulfonic acid, alkali metal salt.
Use/Production. (S) Dye. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

PMN 84–793

Importer. Confidential.
Chemical. (G) Disubstituted anthraquinone-2-sulfonic acid.
Use/Import. (G) Intermediate. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. No exposure.
Environmental Release/Disposal. No release.

Dated: June 4, 1984.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 84–15279 Filed 6–7–84; 8:45 am]
BILLING CODE 6560–50–M

[A–4–FRL 2603–8]

PSD Permit Extension for Estech, Inc.; Duette, Florida

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that a Prevention of Significant Deterioration (PSD) permit extension has been granted to Estech, Inc. This action extends the effective date of their permit (PSD–FL–036) until August 2, 1985, for the commencement of construction of a phosphate mining and rock drying operation in Duette, Florida.

DATES: This action is effective as of January 31, 1984, and grants an 18-month permit extension beginning February 2, 1984, and expiring on August 2, 1985.

ADDRESS: Copies of the PSD permit, permit application, preliminary and final determinations, and justification for permit extensions granted on August 5, 1982, and January 31, 1984, are available for public inspection upon request at the following locations:

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

Bureau of Air Quality Management, Florida Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301.

FOR FURTHER INFORMATION CONTACT: Michael Brandon of the EPA–Region IV, Management Branch at the Atlanta address given above, telephone 404/881–7654 (FTS: 257–7654).

SUPPLEMENTARY INFORMATION: On February 2, 1981, the EPA–Region IV Administrator issued a Prevention of Significant Deterioration (PSD) construction permit to Estech, Inc. to Construct a phosphate mining and rock drying facility in Duette, Florida. The Permit would have expired within 18 months (August 2, 1982) if construction had not commenced or if an extension was not granted. On June 10, 1982, Estech, Inc. requested an 36-month extension stating the justification for this request as the inability to obtain all required permits for the construction within a reasonable time. On August 5, 1982, EPA–Region IV denied the request for a 36-Month extension and granted an 18-month extension validating the permit through February 2, 1984. On December 6, 1983, Estech, Inc. requested an additional 18-month PSD permit extension with adequate documentation of their endeavors to procure necessary construction permits. The second PSD construction permit extension was granted, with stipulations, by the EPA–Region IV Regional Administrator on January 31, 1984, and validates the permit for commencement of construction through August 2, 1985. The permit extension stipulated that Estech, Inc. had to meet the following conditions Prior to starting actual construction:

1. Review and modify, if appropriate, the original Best Available Control Technology (BACT) determination for all air pollution sources at the proposed mine to reflect any improvements in technology that are available.

2. Update the ambient air quality impact study submitted with the application with any revised BACT emission standards and the most recently available ambient air monitoring data and meterorological data.

3. Agree to comply with all applicable county, state and federal air pollution control regulations. This includes but is not limited to regulations that have been legally adopted prior to start of construction of the plant.

4. Obtain written approval from the Florida Department of Environmental Regulation of the revised BACT determination, modeling results and compliance with any new regulations (if any) prior to start of actual construction.

If construction does not commence within 18 months after the effective date (February 2, 1984), or if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time, the federal PSD permit PSD–FL–036 shall expire and authorization to construct shall become invalid.

(Secs. 160–169 of the Clean Air Act (42 U.S.C. 7470–7479))

Dated: May 10, 1984.

Howard D. Zeller,

Regional Administrator.

[FR Doc. 84–15158 Filed 6–7–84; 8:45 am]

BILLING CODE 6560–50–M

[A–4–FRL 2603–7]

PSD Permit Modification for Occidental Chemical Co.; White Springs, Florida

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Prevention of Significant Deterioration (PSD) permit (PSD–FL–083) issued to the Occidental Chemical Company for the Suwannee River complex located in White Springs, Florida, on November 7, 1983, was modified by letter dated January 18, 1984.

DATES: This permit modification is effective as of January 18, 1984. Construction must begin within 18 months of December 15, 1983, the effective date of the PSD permit, or the permit will become invalid.

ADDRESSES: Copies of the PSD permit, permit modification letter, and general files are available for public inspection upon request at the following locations:

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

Bureau of Air Quality Management, Florida Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301.

FOR FURTHER INFORMATION CONTACT: Michael Brandon of the EPA–Region IV, Air Management Branch at the Atlanta address given above, telephone 404/881–7654 (FTS: 257–7654).

SUPPLEMENTARY INFORMATION: On November 7, 1983, the Administrator for EPA–Region IV issued a PSD construction permit for modifications at the Suwannee River Chemical Complex. The permit became effective on December 15, 1983. By letter dated December 2, 1983, the company requested EPA, through their consultant, to modify the company's PSD permit by deleting Specific Condition B(5) to allow boilers C and D at the Suwannee River Chemical Complex to operate continuously (8,760 hours per year) in lieu of 2,190 hours per year. The permit was subsequently modified by letter dated January 18, 1984, from the Regional Administrator to the company. The modification allows boilers C and D at the above Complex to operate continuously (8,760 hours per year). The modification voids Specific Condition B5 (hours of operation limitation) of the PSD construction permit. The limitation of hours of the operation of the boilers had no bearing on the ambient impacts on the Okefenokee Class I area.

(Sec. 160–169 of the Clean Air Act (42 U.S.C. 7470–7479))

Dated: May 10, 1984.

Howard D. Zeller,

Acting Regional Administrator.

[FR Doc. 84–15159 Filed 6–7–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 83–1145, Phase I]

Investigation of Access and Divestiture Related Tariffs; Memorandum Opinion and Order

Adopted May 24, 1984.

Released May 25, 1984.

By the Chief, Common Carrier Bureau.

I. Introduction

1. On May 23, 1984, American Telephone and Telegraph Co. (AT&T) petitioned the Commission "immediately to establish interim special access traffs to prevent irreparable harm to AT&T and and its customers as of May 25, 1984, when existing interim arrangements governing both switched and special access will terminate." *AT&T Petition* at 1. AT&T and the exchange telephone carriers have a varety of voluntarily-arranged interim contracts under which exchange carriers have been compensated by AT&T for providing switched and special access since January 1, 1984. There arrangements were established in the wake of one Commission order (FCC 83–470, released October 19, 1983, at 5–6) (48 FR 49918, Oct. 28, 1983) and extended following another order (FCC 84–106, released March 28, 1984, at 10–12), both of which envisioned continuation of the *status quo* during our review of access tariffs.[1] By our order in CC Docket Nos. 78–72, Phase I, and 83–1145, Phase I (FCC 84–201, released May 15, 1984), switched access tariffs will go into effect on May 25, 1984. We noted that we are continuing our review of special access tariffs, stated that we expect that carriers can work out interim arrangements themselves, and concluded that we would prescribe interim arrangements only if necessary. *Id.* at 56. According to AT&T, failure by the carriers to reach revised interim arrangements now warrants such prescription as well as private line rate increases, to avoid confiscatorily low earnings for AT&T's private line services and possible service disruptions. *Id.* at 11–12

2. AT&T explains that some of the interim arrangements effective since January 1 were designed to earn for exchange carriers 12.75 percent on special access provided to AT&T, with adjustments on their switched-access earnings so that their overall earnings on special and switched access services provided to AT&T would be about 11.5 percent. AT&T's petition proposes one preferred and one fallback prescription as alternatives to having exchange carriers earn 12.75 percent under their switched access tariffs as well as 12.75 percent under revised interim arrangements for special access provided to AT&T. As its preferred proposal:

> AT&T requests that the Commission order immediate implementation on an interim basis of the special access provisions of the exchange carriers' tariffs [with some adjustments in rates and possibly in provisions] and allow an increase in AT&T's private line rates based on the rate structure and rates in AT&T's October 3, 1984 [*sic*], private line tariff filing as modified to cover the revised special access charges.

Id. at 3 and n. *. This proposal involves trageting the exchange carriers' special access tariffs and AT&T's private line tariffs so that each carrier will earn the authorized 12.75 percent rate of return

[1] *See United States* v. *Western Electric Co.* and *American Telephone and Telegraph Co.*, Civ. Action No. 82–0192, Misc. No. 82–0025 (PI) (filed Dec. 1, 1983). As we stated in our Mar. 28, 1984 order, we acknowledge Judge Greene's concern that the access tariffs be implemented expeditiously. Switched access tariffs—representing the bulk of the revenue flows between AT&T and the Bell Operating Companies(BOCs)—will be implemenmted on May 25, 1984. Implementation of switched access tariffs required a series of orders on the language of the tariff provisions and the cost justification of the rates. We hope that the interim arrangements for special access that we prescribe today will be replaced shortly by special acces tariffs, thereby ending the need for interim contractual arrangements between AT&T and the BOCs.

on these services. It would put into effect both the special access and AT&T tariffs immediately for all carriers and customers, not only AT&T. It would thus require abrogation by the Commission of the OCC facility tariffs filed under the provisions of the Docket No. 20099 Settlement Agreement. As a variation on this proposal, AT&T proposes an interim rate increase for one element of its existing private line tariffs. *Id.* at 4 n. **.

3. AT&T's fallback proposal anticipates a Commission decision not to allow an immediate increase in private line rates. By this proposal, the Commission would make disallowances and implement interim special access tariffs at rates designed to provide AT&T and the exchange carriers about the same rate of return on these services. *Id.* at 5. AT&T projects that, were the exchange carriers to apply special acess rates targeted to earn them 11.5 percent, and all interexchange carriers, including those now under Docket 20099 rates, paid these rates, then AT&T would earn 11.3 percent on its private line services under existing AT&T tariffs. The proposal would also require abrogation of the Docket 20099 Agreement.

4. On May 24, 1984, the National Exchange Carrier Association (NECA) and NYNEX filed oppositions to AT&T's petition. NECA and NYNEX challenge the assertion implicit in AT&T's petition that actions currently planned to occur on May 25 will plunge AT&T into noncompensatory earnings. NYNEX characterizes AT&T's requested relief as untimely and unnecessary. NECA asserts that appropriate adjustments to the interim contractual arrangements for special access to reflect the May 15 Order would involve (1) removing the private line surcharge until further Commission action on its implementation, and (2) targeting other special access charges applied to AT&T so that the exchange carriers will earn either the allowed 12.75 percent return or 11.5 percent. In addition, NECA filed data showing that, for January through March 1984, it earned 11.85 percent on its switched and special access services provided to AT&T, and 10.9 percent on its switched and special access services provided to all carriers, including carriers paying ENFIA rates or rates covered by the Docket 20099 Agreement. These figures include charges to AT&T for the private line surcharge, estimated by AT&T to yield about $110 million in revenues annually to the exchange carriers. *AT&T Petition* at 11 n. *.

II. Discussion

5. AT&T's petition falls far short of the type of pleading necessary to give the Commission a reasonable basis for major, emergency actions. For example, AT&T's calculation to support its claim of dire financial conditions and noncompensatory earnings uses its projected 1984 return on private line investment of 6.72 percent. *AT&T Petition* at 11 n. *. This projection, initially used in connection with AT&T's February 27, 1984, Emergency Petition, does not reflect AT&T's actual earnings in 1984 under the interim arrangements. AT&T recognized that this projection was flawed and amended part of it with another projection. *Id.* at 11 n. *. Yet, 145 days after implementation of the interim arrangements, AT&T supplies no data on its actual earnings for private line services in 1984. This is in contrast to the figures supplied by NECA on exchange carriers' actual earnings during the first quarter of 1984. We simply cannot be persuaded to take major, immediate actions on the basis of AT&T's unverified projections and its 1983 pre-divestiture actual earnings. Moreover, its analysis refers only to its earnings for interstate private line services, not its overall earnings for all interstate services. Since private line is approximately 20 percent of their total earnings, and AT&T will be earning a 12.75% on switched services, even on their own figures AT&T will earn 11.39% overall if this were to continue for a full year. We understand that AT&T earned roughly 11 percent on all its interstate services in the first quarter of 1984. This exceeds its earnings of 10.1 percent on interstate services in 1983 and falls well above what would be confiscatory during this interim period for tariff review. While we are troubled about the private line category, the overall results in the interim are not confiscatory.

6. More importantly, AT&T's basic contention that the interim contractual arrangements will necessarily terminate on May 25 because the switched access provisions are now provided under tariff is incorrect. We see no reason why those arrangements cannot continue as described in our May 15 order, with a few necessary adjustments. No service disruptions need occur.[2] We expect that the continued use of these interim contractual arrangements for a short period, with some adjustments, will not impair the quality of special access and private line services.

7. AT&T states that "the Commission has indicated that the exchange carriers' nonrecurring charges appear to be unjustified." It then urges disallowance of the total amount claimed by these carriers for special access nonrecurring charges, which it claims is $313 million out of the total special access revenue requirement of $2.4 billion. In the February 17 Order, our primary concerns with respect to nonrecurring charges were the allocation of costs to the rate elements and the rate structure, which unjustifiably assigned charges based on units of capacity. We concluded that the rate structure for the special access nonrecurring charges was unreasonable and the allocation questionable, but made no finding that the revenue requirement was incorrect. In fact, we permitted the nonrecurring charges under the Docket 20099 tariffs to continue and any remaining legitimate switched access revenue requirement to be recovered from transport rates. *Id.* at 26–27, Appendix A at A–18. Although the effect of our May 15 Order which addressed cost issues was to reduce the overall revenue requirement for all switched access rate elements, neither this order nor the February 17 Order supports the wholesale disallowance of all special access nonrecurring revenue requirement AT&T requests. Moreover, in its 38-page comments filed on April 17 in the pleading cycle specifically established to consider special access costs, rates, and provisions, AT&T made no mention of this disallowance, which it now requests we prescribe upon one-day's notice with virtually no opportunity for reply by the public or interested parties.

8. AT&T's preferred proposal would have us implement for an interim period the exchange carriers' special access tariffs filed on September 30, 1983, with rate levels adjusted as necessary and perhaps some expeditious adjustments to certain provisions. *AT&T Petition* at 3–4, 17–18. This proposal flies in the face of our February 17 Order declaring that rate structure unlawful and requiring extensive revisions. Exchange carriers replaced those proposed tariffs with revised special access tariffs on March 15 and 19. We have received comments and reply comments on the exchange carriers' revised special access tariffs, but have not reached a decision on their

[2] We are greatly concerned about the current delay in installing and maintaining AT&T's private lines. Yet, we do not believe that most, or perhaps even any, of these problems are related to the interim arrangements for compensating exchange carriers for special access. See the Commission's order issued today denying a petition for reconsideration filed by the Association of Long Distance Telephone Companies. Nor is there any indication that these service problems are caused by deficient earnings for AT&T's private line services. *See* Letter to D. Culkin, AT&T, from Chief, Common Carrier Bureau (March 8, 1984); *AT&T Communcations Pledges "Whatever it Takes" to Eliminate Present Service Problems in Private Line, WATS, and "800" Service; FCC to Receive Monthly Reports For Duration*, 50 Telecom. Rpts. (May 21, 1984) 4–6.

lawfulness. Repeatedly we have stated that it would be contrary to the public interest for special access tariffs to be implemented before we have examined them carefully and determined the impact on customers. Those tariffs, for example, would implement substantial rate increases, in many cases over 200 percent. Yet, without a fully-supported showing that such implementation is necessary to avoid confiscation and service disruption, AT&T urges us to implement tariffs that we found unlawful two months ago. Similarly, AT&T's October 3 private line tariff is subject to investigation and we will not be pushed to allow it to go into effect on May 25. Major concerns about its rate structure and rate levels were raised by many parties. Nor can it be found that an immediate rate increase in AT&T's current private line tariffs would be reasonable on the basis of what AT&T filed.

9. Finally, AT&T's fallback proposal involves abrogation by the Commission of the Docket 20099 Agreement. In our March 28 Order, we discussed the possibility that the Commission would find that the Docket 20099 Agreement is contrary to the public interest and abrogate it. FCC 84–106, at 5 n. 8. We currently evaluating comments on this complex issue. Again, AT&T has not shown in its petition that immediate abrogation is required by the public interest.

10. Despite these serious shortfalls in AT&T's petition and its proposals, we will establish certain adjustments to the existing interim arrangements to avoid any possibility that service may lapse because of disagreement as to the rates to be charged. We do not believe that confiscation or service disruptions would result from use of adjusted interim contractual arrangements rather than interim tariffs. Nevertheless, such problems may arise if reasonable interim contractual arrangements are not retained. *See* March 28 Order, FCC 84–106, at 10–12. Pursuant to 47 U.S.C. 154(i), 201(a), and (205)(a), the Commission is authorized to establish divisions of charges for service provided by through routes. Carriers may not discontinue service without authorization previously granted under 47 U.S.C. 214(a). Also, we have clear authority to prescribe interim arrangements where necessary to ensure continuation of service. *See Lincoln Tel. & Tel. Co.* v. *FCC*, 659 F. 2d 1092 (D.C. Cir. 1982); *Trans Alaska Pipeline Rate Cases*, 436 U.S. 631 (1978). We find here that it is necessary to prescribe adjustments to interim contractual arrangements between AT&T and the exchange carriers. Our adjustments will assure that service continues to be provided to the public and should leave AT&T as well as the exchange carriers better off than they were from January 1 to May 24, 1984, for the period from May 25 to implementation of special access tariffs.

11. The NECA filing provides a reasonable framework for this purpose. The principal adjustments to the current interim arrangements derive from our orders on switched access tariffs and billing and collection. Starting on May 25, 1984, AT&T should be charged for switched access services according to tariffs filed with this Commission rather than by the interim contractual arrangements. These tariffs differ from the contractual arrangements both in their provisions and rate levels. The interim contractual arrangements should be adjusted so that all switched access services are provided by tariff. In addition, our May 15 Order established that the billing and collection services provided to AT&T should be targeted to earn for the exchange carriers no more than 12.75 percent, a substantial rate reduction for AT&T. Billing and collection charges under contracts must comply with our orders.

12. Next, our May 15 Order stated that ongoing review of revised special access provisions warrants delay in the tariff recovery of the private line (special access) surcharge. FCC 84–201, at 56. We recognize that our order may have been somewhat ambiguous on whether exchange carriers can recover these surcharges from AT&T via the interim contractual arrangements, as they have from January 1 to May 24, 1984. However, since the contract has been disrupted and the parties cannot agree upon whether continue the surcharge, we must determine whether it should continue. We believe that the temporary deferral in applying the surcharge to customers, mandated in the May 15 Order, warrants the same deferral of the charge as applied to AT&T. As we stated on May 15, we hope issues related to implementation of the surcharge can be resolved shortly and the surcharge will take effect.

13. The final adjustment is to the exchange carriers' targeted rate of return for special access provided to AT&T. Under some of the interim arrangements, the exchange carriers designed their charges to AT&T on special and switched access services to yield them an aggregate return on services provided to AT&T of 11.5 percent. But earnings on special access services to AT&T were targeted at 12.75 percent before the "true-up" mechanism. We understand these interim arrangements were also designed to yield for about the same 11.5 percent on the aggregate of its interstate services. For the interim period until special access tariffs become effective, it is reasonable to view the interim arrangements without concern for the details of the true-up mechanism. That is, the interim arrangements can be viewed as designed to yield to the exchange carriers about 11.5 percent on special access services to AT&T and about 11.5 percent on switched access service to AT&T.[3] By our May 15 Order, the exchange carriers should earn 12.75 percent on their switched access services (except for revenues from the delayed private line surcharge) and AT&T should earn 12.75 percent on its switched services. Given these circumstances, we believe a reasonable adjustment to preserve the *status quo* and carry out the apparent intent of the parties will be to allow an 11.5 percent return for the exchange carriers for their special access services to AT&T. We have not at this time disallowed any portion of the exchange carriers' revenue requirement for special access services provided to AT&T; this matter will be addresssed expeditiously. Our adjustment to the contracts will reduce the exchange carriers' return on special access provided to AT&T from the current level of about 11.85 percent, based on NECA's actual figures and after the true-up mechanism, but maintain the targeted overall rate of return.

III. Conclusion and Ordering Clause

14. In conclusion, AT&T's rate of return should rise as a result of the May 15 Order and this Order, as the current interim arrangements are replaced with switched access tariffs, lower billing and collection charges, delay of the private line surcharge, and charges targeted to earn exchange carriers 11.5 percent on special access services to AT&T. NECA estimates that, using AT&T's figures for its private line earnings under these adjusted interim arrangements and the projected 12.75 percent return on MTS and WATS, AT&T will earn 11.39 percent on its interstate services. These earnings far surpass AT&T's rate of return on

[3] In fact, NECA's figures show that exchange carriers earned 11.85 percent overall from services to AT&T during the first quarter of 1984. Thus, AT&T has actually been paying charges based on a 11.85 percent return for special access after the true-up mechanism. Actual earnings to the exchange carriers are stated to be somewhat lower, about 10.9 percent, because of the Docket 20099 and ENFIA tariffs. The level of return to exchange carriers has been rising since divestiture.

interstate services in 1983 (10.1 percent) and probably also exceed AT&T's earnings under the interim arrangements in the first quarter of 1984. These adjusted interim arrangement should avoid both noncompensatory earnings for AT&T and service disruptions. NECA's figures also indicate that the exchange carriers' overall earnings will be about 11.54 percent under these interim arrangements, again exceeding their earnings of 10.1 percent in 1983 and 10.9 percent in the first quarter of 1984. This result is consistent with the parties' original bargaining intent and preserves the *status quo*. Accordingly, we find that the public interest requires an interim prescription, and that discontinuance of the surcharge on private lines and retargeting of the special access charges to 11.50 percent will be just, fair, and reasonable.

15. Accordingly, pursuant to our authority under 47 U.S.C. 154(i), 201(a), 203(b), 204, 205, and 211, it is ordered that the prescriptions described in this Order be implemented effective May 25, 1984.

Jack D. Smith,

Chief, Common Carrier Bureau.

[FR Doc. 84-15147 Filed 6-7-84; 8:45 am]

BILLING CODE 6712-01-M

Investigation of Access and Divestiture Related Tariffs and MTS and WATS Market Structure; Memorandum Opinion and Order

[CC Docket No. 83-1145, Phase I and CC Docket No. 78-72, Phase I]

Adopted: May 10, 1984.
Released: May 15, 1984.

By the Commission.

1. This Order has two interrelated parts. The first part examines the local exchange carriers' cost support for their interstate switched access rates (filed March 15 and 19, 1984 as part of their access tariff filings). We conclude that the exchange carriers orverstated their 1984 costs and understated their 1984 demand (switched access minutes of use). A portion of the higher demand results from our action in the second part of this Order. These carriers must file new rates for switched access services, and we specify the necessary adjustments. The second part examines American Telephone and Telegraph's (AT&T's) Emergency Petition for Reconsideration (filed February 27, 1984) with regard to the 1984 costs and revenues for AT&T's switched (MTS and WATS) services. We conclude that AT&T has overstated its costs and understated its revenues. Furthermore, AT&T's access costs are reduced by our action in the first part of this Order. The Customer line charges on multi-line business customers and charges for interstate directory assistance also reduce substantially AT&T's revenue requirement for its MTS and WATS services. Our analysis shows that AT&T can earn the authorized interstate rate of return on its switched services even with a substantial MTS and WATS rate reduction. AT&T must decrease its MTS and WATS rates from the currently-effective levels by at least 6.1 percent acrose-the-board. We specify how AT&T is to make these changes.

I Switched Access Tariffs

A. Introduction and Background

2. A fundamental goal of our access charge plan is to set more rational and accurate rates for local and long distance telephone services. At present, a substantial part of the interstate costs of local non-traffic-sensitive plant is recovered by usage-based long distance rates. The costs of the poles, wires, and other facilities used to provide the local loop to each customer—costs which are the same regardless of how many calls the customer makes—are recovered in part by imposing charges of about 15 cents per mimute upon each interstate long distance call. The access charge plan shifts to the more logical approach of recovering these fixed charges not on the basis of usage, but by flat, monthly charges, called Customer Line Charges.[1]

3. Because this plan chages the rate methodology used to recover costs but not the costs themselves, the plan does not of itself require or imply a change in the total rates paid by customers. If all other things were equal, the customer line charge would be offset in aggregate by lower interstate long distance charges. However, telecommunication technology, the marketplace, and applicable regulations are changing rapidly. All of these factors affect the actual rates carriers may reasonably charge. Of greatest importance is the divestiture of the Bell System.[2] The breakup of this, by most measures the largest company in the world, has resulted in the division of the equipment, assets, liabilities, and operations formerly associated with the Bell Systems partnership among AT&T and the seven regional Bell Operating Companies (BOCs), comprising 22 local companies.[3] This momentuous event creates a kind of fault line in telephone investments, expenses, and overall costs which makes comparison with historical costs much more difficult. Moreover, the access charge plan itself replaces and alters the methods and mechanisms for computing and assessing the compensation due to local exchange companies for the service and facilities they provide to interstate, interexchange carriers.

4. If access costs and rates are thus especially difficult to compute for these, the initial set of access filings, it is nonetheless vitally important to the public, the telecommunications industry, and equipment vendors that these rates be reasonable. A basic obligation of a communications common carrier is to charge only just and reasonable rates to all. Section 201(b) of the Communications Act, 47 U.S.C. 201(b). A basic responsibility of this Commission is to ensure that charges are reasonable. Sections 1, 201–205 of the Act, 47 U.S.C. 151, 201–205. Because local telephone exchange company facilities are now and for the foreseeable future will be the monopoly "bottleneck" for the great bulk of long distance services, careful scrutiny of the costs and rates claimed by these carriers will be necessary to meet this responsibility. Moreover, the access plan is premised on the expectation of reasonable access charges which will provide more accurate, rational rates and allow full and fair competition among interexchange carriers. If local exchange carriers were to impose unreasonable or discriminatory rates or charges, the benefits of the access charge plan could be reduced or even eliminated, and the ultimate purpose of this lengthy proceeding could be thwarted. At the same time, the local carriers are entitled to fair compensation to allow them to provide adequate service during this period of transition and in the future.

5. The access rules seek to accomplish fair and reasonable charges by establishing both specific rate elements for switched access and the method by which such rate elements are to be derived from costs. We also expressly required filing carriers to comply with all the tariff filing requirements of Part 61 of our Rules, including submission of cost support information, 47 CFR Part 61. The initial access tariffs were filed by the various carriers around October 1, 1983 to be effective January 1, 1984.[4] On

[1] Customer line charges are referred to as End User Common Line charges in our Part 69 rules, 49 CFR Part 69.

[2] United States v. Western Electric Co., 552 F. Supp. 131 (D.D.C. 1982), *aff'd sub nom.* Maryland v. United States, 103 S. Ct. 1240 (1983). (Modification of Final Judgment or MFJ).

[3] Two other BOCs partially owned by AT&T, Cincinnati Bell and Southern New England Telephone Company (SNETCO), were not divested.

[4] The National Exchange Carrier Association (NECA) filed the Carrier Common Line rate element

Continued

October 3, 1983 (the 10/3 filing), AT&T filed a proposed new set of tariffs to replace all of its existing interstate tariffs. These proposed tariffs are stated to reflect rate and other changes in the access tariffs while implementing divestiture and proposing other revisions. Our initial review of these filings disclosed substantial issues of lawfulness, including large rate increases in some cases, and we therefor suspended the effectiveness of all the access and divestiture related tariffs until April 3 while we undertook the investigation in this docket.[5]

6. In two lengthy and detailed orders released in February and March of this year, we examined the NECA [6] and non-NECA [7] access tariffs and concluded that, while the tariffs as filed were functional vehicles for implementing the access charge rules, numerous provisions required revision. We reached no specific conclusion on the claimed costs and rates, however, for one basic reason: the cost support material was too inadequate to allow us to evaluate or verify the methodology used or the actual rates. For example, the NECA costs and rates were derived largely from the BOCs' 1984 Budget Views (their projections of investment and expense accounts) and Corporate Views (their projections of demand). The NECA stated generally that these views were based on 1982 accounted figures, but provided no specific information or how these views were developed, and thus no grounds for concluding whether they were reasonable predictions upon which to base 1984 rates.

7. In view of these considerations the Commission directed the NECA and BOCs to provide specific information tracking the development of the budget and corporate views from historical data, and other needed information. In addition, New York Telephone was directed to show in detail how the individual numbers in its filing were developed as a case study from which to evaluate the overall methodology.[8] The Bureau also directed a similar information request to AT&T, asking that it show the derivation of its Financial View (AT&T's equivalent of the NECA's Budget View) and assess the accuracy and validity of the NECA–BOC views, particularly with regard to the effects of divestitute.[9] Based upon this additional information, we expected to be able to determine whether the methodology and filed rates based on the budget and corporate views were sufficiently reasonable to be allowed to become effective. The Commission deferred consideration of other options for dealing with cost issues (for example a petition by the National Association of Broadcasting (NAB) that we require the filing of "baseline" tariffs) until the information was submitted and evaluated. The NECA filed its response to the information request with its March 15 tariff filing, which also contained substantial tariff revisions stated to be in compliance with the *ECA Tariff Order.*

8. The *ECA Tariff Order* has required filing carriers to make revisions needed to comply with decisions in that order and also with the modifications in the access charge rules adopted in the Commission's order in *MTS/WATS Market Structure* CC Docket No. 78–72, FCC 84–36, released February 15, 1984, (*Second Reconsideration Order*). In that order, we deferred the application of access charges for residential and single-line business end users until 1985, revised the rate methodology, reduced the rate level for non-premium access to Other Common Carrier (OCCs), and made certain other changes. On February 27, AT&T filed an Emergency Petition for Reconsideration, arguing that the combined effects of the *ECA Tariff Order*, the *Second Reconsideration Order*, and changes in market conditions since AT&T's October tariff filing would have the result, at existing AT&T rates, of forcing AT&T's rate of return to confiscatorily low levels, below 5 percent. AT&T urged, in substance, that the Commission revise the access rules to increase charges to OCCs and reduce the return earned by the BOCs until equal access is made available. The Commission requested comments on the petition and, when the comments revealed substantial unresolved issues of fact the Common Carrier Bureau convened meetings with representatives of AT&T and the NECA to ascertain the facts and the bases for disagreement. A summary of the meetings was filed with the Secretary and placed on public notice on April 4, 1984.

9. These meetings generally assumed, for purposes of discussion, the validity and accuracy of the 1984 budget and corporate views of the BOCs used by the NECA and the financial view in AT&T's October filing. However, our initial review of revised access tariffs and support information filed on March 15 and 19, including the material filed in response to the information request, indicated a substantial likelihood that the projections had overstated the carriers' revenue requirements. The support material also clearly contained various errors and gaps. The tariff provisions as revised also warranted further review to consider the substantial impact on customers and additional time was needed to consider the merits of AT&T's Emergency Petition and the comments thereon. For these reasons, the Commission by an order released March 27 [10] withdrew the special permission to file access tariffs on short notice and deferred the effective dates from April 3 until June 13, allowing the normal 90 day notice period from the March 15 NECA filing date. Separate comment cycles were established for special access and other (*i.e.*, switched access) sections of the tariffs. We stated that we would, if possible, seek to conclude our review to allow at least part of the tariffs to become effective before June 13.

10. We reviewed the terms and conditions governing switched access (*i.e.*, access to provide switched interstate interexchange services such as MTS, WATS, Execunet, and SPRINT) in the *ECA* and *Non-ECA Tariff Orders.*[11] In this order, we consider the last remaining bundle of issues necessary to allow switched access tariffs to become effective in a manner which achieves the purposes of our access charge plan. These are the interrelated issues, raised in the various proceedings and sets of comments described above, related to the costs and rates for switched access and the rates for interstate long distance services using switched access charged by AT&T, still the dominant long distance telephone company, and

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for all local exchange carriers on September 30, 1983 (the 9/30 filing) pursuant to § 69.3 of our Rules, 47 CFR 69.3 A total of 1328 carriers joined the NECA tariff for all its voluntary pools. The remaining 212 local carriers each joined one of the seventy-four other access tariffs, although often participating in one or more of the three voluntary NECA pools. These numbers have changed somewhat as additional carriers joined the NECA, while some local companies have consolidated operations, or have been acquired by other companies. There was also some duplication in the original count. The NECA currently reports 1262 issuing carriers.

[5] Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83–1145, FCC 83–470, released October 19, 1983, *recon. denied* FCC 83–568, released December 29, 1983.

[6] Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83–1145, Phase I, FCC 84–51, released February 17 1984. *ECA Tariff Order.*

[7] Order adopted by Chief, Common Carrier Bureau, Mimeo No. 2802, released March 7, 1984 *Non-ECA Tariff Order.*

[8] Letter from Chief, Common Carrier Bureau to G.M. Evans, February 24, 1984.

[9] Letter from Chief, Common Carrier Bureau to D.J. Culkin, April 4, 1984.

[10] CC Docket No. 83–1145, Phase I, FCC 84–104, released March 27, 1984.

[11] See also CC Docket No. 83–1145, Phase I, FCC 84–188, released April 27, 1984. The special access provisions of the tariffs, which present separate rate and policy issues, will be considered at a later date.

charged by the BOCs and other exchange carriers in cases where they provide interstate MTS. To carry out the access charge plan of rates based more accurately and fairly on costs, the local access rates must be reasonable and correctly calculated. These charges should in turn be reflected in properly reduced long distance rates. Our conclusions in this order seek to carry out these goals.

B. Access Charge Costs and Rates

1. In order to understand the cost support material filed by the exchange carriers in support of their access rates, it is necessary first to understand the basic methodology mandated by our access charge rules. Under 47 CFR Part 69, investment, expense, and other account data for exchange carriers are extracted from the jurisdicational separations process based on the Separations Manual rules for allocation between state and interstate use. The access charge rules prescribe how the costs allocated as interstate are then to be assigned to individual access rate elements and used to calculate the revenue requirement and rate for that rate element. Nontraffic sensitive plant, which consists primarily of the poles, wires, conduit, and other factilities used to provide the telephone "loop" to local customers, is by far the largest cost element. It is recovered by the Carrier Common Line rate element, which is tariffed, pooled, and distributed by the NECA. For other rate elements, exchange carriers could either join the NECA pool or file tariffs based on separate, individually-calculated revenue requirements. This cost and rate methodology is intended to meet the special circumstances of the 1400 local telephone companies. Carriers could continue to "pool" costs by joining the NECA, but otherwise would file rates based on their own costs. Costs and revenue requirements would continue to be derived directly from separations, but would not be recovered on the historic partnership basis, by which both local carriers and AT&T shared in the actual revenues in proportion to their costs. Rather, each would set future rates designed to cover its future, separations-derived, individual costs or, in the case of the NECA, the future pooled costs of its members. The Commission required that these rates, filed in tariffs, be accompanied by the same justification and cost support required of other dominant carriers. 47 CFR 69.1(b). This includes a past-year cost of service study and projection of costs; in the case of a rate increase, this includes all cost, marketing and other data on which the carrier relies. 47 CFR 61.38.

12. In this first access charge filing, a past-year cost of service study would not have been meaningful. None of the rate elements were calculated or assesed in that form under the partnership. The effects of the divestiture of the Bell System made any comparisons with prior costs additionally difficult for the newly-divested BOCs, which collectively provide about 80 percent of all local exchange services nd facilities. For these reasons, we did not require past-year cost of service studies and found the overall methodology approach used by the NECA and BOCs acceptable. *ECA Tariff Order*, paras. 60–66.

13. At the same time, the use of projected rates to replace a system of revenue division based on known costs, combined with the major changes in the industry, make it particularly important that any projected figures be as accurate as possible, and that the basis for such projections be fully justified and demonstrated to be reasonable. Carriers are specifically required to bear the burden of proof to justify rate increases, 47 U.S.C. 204, an in such cases the support information must be adequate to serve as a *prima facie* case. 47 CFR 61.38.

14. It was apparent from our review of the tariffs and the comments that the exchange carriers had failed to meet this burden or in general to support the proposed rates adequately. The NECA filing simply adopted the budget and corporate views of the BOCs to develop costs and revenue requirements. Each BOC budget view was presented in essentialy identical fashion in each of the BOC filings. Each was stated to be the company's "best estimate of future costs," but the basis for the estimates was not stated or explained. When the budget view was challenged, the BOCs replied that the budget views are based on 1982 accounting records, adapted for growth and divestiture. Although they stated that back-up documentation was available none was provided, assertedly because it was voluminous and not necessary, Monitoring and accounting orders could, the BOCs also claimed, remedy any serious forecasting errors. The development of demand in the corporate views presented similar problems. The NECA used the BOC demand figures, which were stated to be based on 1982 demand. No justification or explanation for the methods used to predict these figures was provided.

15. As we explained in the *ECA Tariff Order*, the budget and corporate views were the direct source for all NECA rate calculations. In the February 24 information request, the Bureau directed the NECA and BOCs to file information tracing the development of the budget and corporate views of each BOC and of the NECA from actual historical figures, explaining each step of the process, the assumptions used, and the specific figures thus derived in a consistent tabular format. The BOCs were said to have used a consistent methodology to develop their views. To examine this methodology in detail and its application to a particular carrier, we selected New York Telephone (NY Tel.) as a case study. NY Tel. was directed to furnish a detailed explanation of the development of each item in its views.

16. A summary of the data submitted by the BOCs in response to the information request is displayed in Tables 1 and 2. Table 1 (Form TC3A, B in the NECA's April 6 submission) shows expense and investment figures for all BOCs as accounted in 1982 and 1983, adjustments, and the aggregate 1984 budget views subject to separations. The 1982 and 1983 actual figures are pre-divestiture; the 1984 view is post-divestiture. Table 2 (Form SA1 A, B of the April 6 submission) shows the BOCs' separations analysis, and the effects of divestiture. These figures include the divested BOCs, but exclude Cincinnati Bell and SNETCO. They list, first, 1982 figures for total operations as accounted, the amount allocated as interstate, and the percent allocated interstate. Next, the table shows the aggregate 1982 post-divestiture view, the corresponding 1984 views, the adjustments used to reflect the phase-out of CPE, and the final, aggregate separated 1984 view figures used to calculate the revenue requirements and rates. Similar tables were submitted by each BOC for each study area (*i.e.*, each state) in which it operates. Tables 3 and 4 of Appendix A to this order are the figures submitted by NY Tel.

17. Before discussing the figures themselves, some background on their development and meaning is necessary. First, the 1984 views appear generally not to have been based on the 1982 (or other) actuals, at least in any direct fashion. South Central Bell, Southern Bell, and Southwestern Bell regional companies, representing about a third of overall BOC plant, did not use 1982 actuals to reflect divestiture or report 1982 post-divestiture views. At the request of the Commission staff, these companies developed 1982 post-divestiture views by backcasting.[12]

[12] The 1982 post-divestiture view, developed by most BOCs, is the company's estimate of what its

Continued

These views were submitted by the NECA in its filing with the Commission on April 6, 1984. The other BOCs use the 1982 post-divestiture view for apply separations to the 1984 budget view, but not, apparently, for developing the views themselves. In other words, the 1982 actuals were used for the limited purpose of estimating separations effects. With some exceptions, the BOCs did not use the 1982 actuals or any other specific actual data to derive their 1984 Views. AT&T, which participated in this pre-divestiture planning process, confirms this. It states that neither its own nor the BOC's views are derived from 1982 historical data. AT&T does not state how they were derived.[13]

18. The NECA April 6 submission also contained numerous corrections of the original data submitted with the NECA March 15 filing. For example, in a number of places BOC figrues showed allocations of more than 100 percent of an expense or investment to interstate operations, impossible overallocations. For federal and state taxes, the BOCs consistently allocated far above 100 percent as interstate. Overall, based on federal income taxes of $211 million, the BOCs allocated 703 percent or $1.48 billion as interstate. State and local tax allocations were also well above 100 percent. In the April 6 filing, the BOCs corrected many of the errors and supplied additional information. They revised the treatment of federal income taxes, claiming that separations allocations are not applicable, though the bottom line effects are apparently not changed. The BOCs have also indicated that further corrections and explanations of the March 15 and April 6 data should be made. Because the filing date for switched access comments was April 9, commenters had no real opportunity to review and comment on the April 6 corrections. We have used them here because most corrections seem obvious and necessary or do not affect the rates significantly. We have not included subsequent corrections or explanations or reached specific conclusions on the tax issues, which require further examination. The data as corrected should provide a reasonable source to evaluate the filings and rates in order to achieve workable tariffs, but they should not be considered final or necessarily accurate in detail.

19. These problems of detail are probably less significant than the systemic problem that the BOCs provide no actual justification for any of the changes they claim in progressing from 1982 to 1984 figures. Or more specifically since the 1984 figures were generally not derived from 1982 actuals, they lack any specific basis. We requested the BOCs to explain the assumptions upon which the 1984 projections were based. In response, as the basis for assumptions relating to growth and divestiture, the BOCs submitted a 40 page document titled *Financial Planning Assumptions*, dated February and March 1983. (NECA, Vol. V, Book I, Section 2). This document provides a good deal of background material and detail on matters affecting BOC costs, but relatively few specifics on how these were or should be applied. The only specific projections of growth are in a table of plant factors in Attachment 2 of the document. This index represents a prediction of inflation in the cost of telephone company plant. This table is itself undocumented, but apparently is based upon overall analyses of economic trends, changing cost factors, inflations, and other variables discussed in the text. The analysis projects a composite inflation in the cost of plant from 1982 to 1984 of 14.5 percent, or 7.0 percent per year. The BOCs all state that they based their forecasts on the assumptions in this study. However, the most recent actual figures for inflation in private investment (supplied by the Council of Economic Advisors) strongly suggest that these projections are overstated. Composite indexes of nonresidential structures and equipment indicate a slight, 1.5 percent overall deflation from 1982 to the first quarter of 1984. These indexes do not represent the exact mix of cost inflation experienced by telephone companies, but it is unlikely that their inflation could differ drastically from the overall trends. Cost of construction and capital for telephone companies shold be similar to those for other companies. Telephone companies also should benefit relatively more than most companies from technological progress in, for example, computers and electronics. These inflation predictions, to the extent they were used as claimed by the BOCs, thus appear excessive. The extent of growth needed to meet customer demand is likely to vary among the local carriers, reflecting local conditions. Perhaps for this reason, the *Financial Planning Assumptions* do not contain growth projections. However, as the BOCs also do not generally indicate what projections of growth were used or how they were derived, it remains impossible to evaluate their reasonableness, individually or collectively.

20. Overall, then, the *financial Planning Assumption* do provide useful general information and there may be other variables in methodology or approach reflected in the 1982 and 1984 figures which differ from the BOC filings. But the document does not explain the specific figures used. If anything, the document appears to indicate that the filed views are overstated. NY Tel. states that it used the same assumptions as the other BOCs, but in fact its data seem to be based on somewhat different projections of economic growth and inflation as reflected in testimony of its witnesses in a pending New York rate hearing.

1. *Consistency and Reasonableness of the Methodology*

21. It was our understanding based on representations in the NECA and BOC filings that these carriers had used a consistent methodology to develop their budget views, corporate views, revenue requirements, and rates. At a minimum, the results of the BOC analysis must be consistent in meaning and application if the numbers, when aggregated, are not to be sums of apples and oranges. We thus asked generally for summary information from the NECA and BOCs, and specific detailed information from NY Tel. to evaluate the actual application of methodology. We also requested the BOCs to specify any instances in which they used a different methodology. The responses indicate significant variations to methodology. Some companies did develop a 1982 post-divestiture view based on 1982 actuals (*e.g.* Bell of Pennsylvania). On the other hand, C&P states that the budget view was developed from booked actuals but develops a 1984 post divestiture view from a 1984 view reflecting "a Computer Inquiry II environment from which adjustments resulting from divestiture were applied." NECA, Vol. V, Book 2, p. 2–542. It is not clear how analogous this approach is to the approach using a 1982 post-divestiture view. For other companies, the views represent internal company projections which are not specifically linked to or derived from specific investment data or trends (*e.g.*, Mountain Bell, Southwestern Bell). In addition, it appears that the 1982 post-divestiture view was primarily used only to estimate the effects of separations processes on the 1984 budget views.

1982 actual accounts would have been if divestiture had occurred on January 1, 1982. It is thus, potentially, an intermediate step toward projecting what will be the effect of divestiture in the year following the actual date, January 1, 1984.

[13] Letter from W. R. Stump to Chief, Common Carrier Bureau, dated April 11, 1984.

22. The New York case study provides a more detailed view of a still different approach. Although NY Tel. reports 1982 and 1983 actuals, they were not used, at least directly, to develop the 1984 view. Rather, the view was based on testimony prepared in August 1983 for a state rate case, using projected end-year 1983 and year-end 1984 accounts. No source is provided for the projections in this testimony.

23. Moreover, this material was prepared using a base period of twelve months ending March 31, 1983, for purposes of developing costs for a future rate year ending June 30, 1985, not for the calendar year 1984 for which the NY Tel. and other access rates were filed. The New York Public Service Commission has not issued a decision in this case, but it is very likely that some substantial fraction of the proposed increase will be disallowed. The administrative law judge has recommended a disallowance of $261 million in interstate revenue requirement, 36.3 percent of the increase requested by NY Tel. This is fairly typical of state commission rulings on telephone company requests for higher revenues. In 1983, state commission disallowed about 50 percent of the rate increases requested by the BOCs and the large independents.[14]

24. The filed information thus raises important doubts as to whether the apparently disparate methodologies employed can reasonably be aggregated to establish industry-wide rates. To begin with, the single test case example uses a different base period, a different and unsubstantiated methodology than that originally stated to have been used by all BOCs, and one which almost certainly overstates what is allowable for ratemaking.[15] The other BOC filings, for which we do not have such detail, appear to have in many cases used forecasts with no clear relationship to actual costs and no auditable basis; they clearly vary substantially in methodology, in contrast to the BOC and NECA assertions of consistency.

2. *Development of Budget Views*

25. The varying, unclear methodologies used to develop the budget views increase the difficulty of assessing their overall reasonableness. We nonetheless sought to make this assessment by comparing the actual 1982 account figures with the 1984 views in terms of major necessary adjustments to reflect the two major factors at work, divestiture and growth. We also compare their projections of 1982–1984 growth to the most recent actual figures.

a. Divestiture

26. All of the BOCs subject to divestiture have now presented 1982 post-divestiture views, their projections of the allocation percentages for the different separations accounts. These are shown in aggregate in Table 2, Appendix A. Evaluating the accuracy of BOC adjustments for divestiture is difficult. Divestiture required division of property in the most detailed fashion and establishment of contractual arrangements for rental where property would continue to be shared. The accounting figures for divestiture represent the compilation of all these transactions, and the reallocation of all expense and other accounts to conform. The BOC figures in the 1982 post-divestiture views are internal company forecasts of divestiture. The BOCs have not provided information tracking the development of these views or comparing them with the actual changes caused by divestiture as of January 1, 1984. In any event, the post-divestiture views were not generally used to adjust for divestiture. This adjustment was incorporated, it is claimed, in the 1984 budget views; the post-divestiture view was then used as an allocation mechanism to apply to the budget view. No basis is shown for the calculations of divestiture implicit in the budget views. NY Tel. also provides no specific sources or explanation of the assumptious used to calculate the effects of divestiture, except in general terms in a table in Volume V, Section 2 of its response.

27. We also sought to evaluate the reasonableness of the divestiture estimates by seeking AT&T's analysis of the BOC divestiture figures. Our information request to AT&T asked it to provide its divestiture data in a manner which would allow us to determine whether the claimed pieces of the divested Bell System summed to the pre-divestiture whole. AT&T stated that it was largely unable to do so because it lacked BOC data. It also failed to supply the overall Bell System figures requested which would have allowed comparisons with overall BOC operations before separations. Instead, it submitted a table purporting to show aggregate pre-divestiture and post-divestiture separated, interstate figures using not historical data but the BOC views, which it says indicate that the combined post-divestiture views are consistent with pre-divestiture results. (Exhibit 1 of AT&T's April 11 letter; see Appendix A of this order, Table 5). In fact, however, their table raises more questions than it answers. Many of the figures differ widely from trends experienced in 1983. For example, the table states that total expenses increased 12.6 percent in 1982 and only 3.7 percent in 1983 for the Bell System. For 1984, the aggregated growth in expenses is projected to be 20.5 percent. Commercial and marketing expenses which went down 9.5 percent in 1983, are projected to go up 59.8 percent in 1984. Other categories show opposite trends. Average net investment, which went up 1.8 percent in 1983, is predicted to decrease by 2.7 percent in 1984. These and other widely varying trends may be reasonable in their predictions of 1984, given the major changes wrought by divestiture, but they appear at least very questionable. In general, although we have no specific basis for changing the divestiture adjustments, we also have little information from which to conclude whether they are correct.

b. Growth

28. Neither the *Financial Planning Assumptions* nor the individual BOC filings provide any specific support or explanation for the projects of growth built into the BOC budget views. We thus have no basis for evaluating the reasonableness of the growth methodology used, particularly for those BOCs which developed growth from internal company surveys which reflect the judgment of company personnel. The BOCs urge that the projections should be accepted because the same projections were used by the companies for their own internal planning. Even assuming this is true (and it would be

[14] Petition of the State of Michigan Concerning the Effects of Certain Federal Decisions on Local Telephone Service, CC Docket No. 83–788, FCC 83–567, released December 21, 1983. In that document, we calculated the average disallowance of revenue increases at 60 percent. Revised state figures, reflecting other rate cases up to year-end 1983, would reduce this to 51.3 percent.

[15] NY Tel. argues that the fact of state disallowance is irrelevant because interstate revenue requirement is independent of intrastate revenue requirement. NY Tel. Reply, p. 11, and Appendix B, p. 5. This is largely untrue. There are differences in FCC and state commission accounting methodology, policy conclusions on allowable investment and expenses, and the costs associated specifically with interstate and intrastate operations. These may result in somewhat different treatment of specific items and accounts. Both this Commission and the states, however, apply the same basic analysis of whether an investment and expense is used and useful for the public service, reasonable, and properly assigned. Disallowance is also very often related to claims of future costs and demand based upon economic and other trends which apply equally to state and interstate services. State boundaries are, in this regard, essentially unrelated to costs or demand. Thus, while state commission decisions are not conclusive in, for example, the legal sense of *res judicata*, they may be corroborative evidence of what is likely to be allowable for interstate as well as intrastate revenues.

impossible and intrusive for us to examine the ongoing business operations of each BOC to determine this), the bare statement that a forecast is the company's "best estimate" is not an adequate substitute for some persuasive showing that it is, in fact, a good estimate. The company's burden of proof is not met by assertions. Credible evidence is necessary. Because no such evidence demonstrating the reasonableness of the methodology or the result has been presented, the exchange carriers have thus failed to meet their burden of proving that access rates derived from the budget views would be reasonable.

29. The budget views also appear overstated in comparison with historical growth trends and the most recent actual figures. For example, the budget views project, overall, growth in BOC Total Plant in Service (TPIS) of 19.0 percent from the midyear 1982 figures in the 1982 post-divestiture views of midyear 1984, or 9.1 percent per year. See Table 7, Appendix A.[16] This is substantially higher than actual 1983 growth of 6.8 percent, and higher also than 1982 growth of 8.1 percent. It is close to growth figures in the late 1970s and early 1980s but that was a period of higher inflation and interest rates, which would tend to push up nominal growth. Moreover, the projected 19.0 percent growth from midyear 1982 to midyear 1984 appears extremely unlikely the view of the actual figures now available. From midyear 1982 to yearend 1983, three-quarters of the total period, BOC TPIS increased by only 11.0 percent, according to figures reported to the FCC (FCC Quarterly Form 81). Actual 1983 growth for the Bell System was 5.1 percent. To reach 19.0 percent growth for the two year period, growth in the first six months of 1984 would have to be a yearly average of 14.9 percent. This projected growth rate would be higher than any TPIS growth rate for at least seventeen years and much higher than recent experience. For example, if we assume the 1982 and 1983 growth rates were the same as those for 1983 and 1984, overall growth would be 15.45 percent. If we project the actual one and a half year growth trend of 11.0 percent to two years, the projected growth would 15.0 percent. The 4.0 percent difference between this estimate and the 19.0 percent growth projected by the BOCs represents approximately $4.856 billion.[17]

30. Similarly, the BOCs project two year growth in Total Operating Expenses (TOE) of 18.7 percent or about 8.9 percent per year. Appendix A, Table 6. Actual reported 1983 TOE growth was only 2.0 percent. The projected figures thus imply a growth in TOE of 16.4 percent in 1984, a figure which is, again, far above the 1983 growth and also above other recent actual growth figures. TPIS and TOE are the basic figures used to calculate the overall revenue requirement, and the fact that they substantially out run the more recent actual figures, which include three-fourths of the projection period, indicates that the overall revenue requirement is almost certainly overstated.

31. Individual BOCs also project very high growth rates. The growth factors claimed by the BOCs (on a post-divestiture basis) are as high as 22 percent per year and many are over 15 percent. The NY Tel. case study shows the same pattern. Actual growth in TPIS was 5.4 percent in 1983. Projected the same growth for 1983 and 1984 combined is 8.1 percent per year, and TPIS allocated as interstate was projected to grow 11.4 percent per year. Appendix A, Table 4.

3. *Adjustments and Allocation of the Budget View Figures*

32. The budget view figures are stated to be the companies' best estimates of 1984 costs, the estimated financial data subsequent to divestiture in 1984 for both interstate and intrastate operations. Three basic adjustments are then made to derive the revenue requirements from this data : (1) Application of separations procedures to derive interstate costs; (2) deletion of costs associated with AT& T—BOC post-divestiture contracts; and (3) allocation of costs to individual rate elements.

a. Separation Allocations

33. The derivation of separated, interstate costs involves three steps. First, the 1982 post-divestiture views wer used to develop separation factors. That is to say, the apportionment factors between state and interstate actually used in 1982 (adjusted for divestiture) were calculated for each category. These factors were then multiplied by the corresponding 1984 amounts to derive separated 1984 figures, except that in many cases the carriers modified the 1982 allocations on the grounds that a revised allocation better reflected changed circumstances. These revisions increased interstate allocations in some cases, while reducing them in others. No justification was given for these adjustments in the original filing and we accordingly requested the BOCs to list each adjustment, describe its basis, and calculate the effects of the adjustments. This information is listed in Forms SAIA, B and in later explanatory sections for each BOC in Volume V of the NECA March 15 filing with the corrections filed April 6. The brief references to the factors taken into account do not, however, explain the direction or magnitude of the adjustments. The NECA April 6 submission shows that Mountain Bell, for example, proposes to increase the allocation for TPIS from 37.36 to 39.10 percent, and for total expenses from 33.92 to 34.35 percent. Although it appears there may be an arithmetical mistake in calculating these percentages, if we assume their accuracy the result is to increase interstate TPIS by $14.9 million and interstate expenses by $10.5 million. It states that the differences are due to the omission of equal access costs in the October filing and accounting for intracompany contracts. Overall, the adjustments increase BOC TPIS by $615 million and decrease TOE by $67 million.

34. The NY Tel. case study is confusing on this point. The allocation of TPIS was adjusted upward from the actual figure of 25.87 percent to 27.69 percent, based apparently on testimony in its rate case. Appendix A, Table 4. That testimony, however, used a 28.34 percent figure and the rest of the New York filing provides no clear explanation of the differences. (NY Tel., March 15 filing, Vol. IV, Sec. 2, Table 5). The effect of this adjustment is apparently to increase NY Tel.'s interstate revenue requirement by over 10 percent. (See Allnet comments, pp. 26, 27.) Where the interstate TPIS did not match that claimed in the state case, NY Tel. also adjusted the figures upward by 7.15 percent. This forced reconciliation was apparently intended to achieve a particular revenue target rather than to reflect actual changes in conditions affecting allocations. See SBS comments, pp. 22, 23.

b. Non-Operational Amounts

35. Non-operational amounts are removed from the 1984 figures to reflect

[16] The two percent growth figure is somewhat more than twice the annual growth because of the compounding effect of growth upon growth which occurs in looking at the shorter period. If plant is, say, $100 million and grew by 9.1 percent in 1982, the 1983 total would be $100 million plus 9.1 percent of $109.1 million. If the plant again grew by 9.1 percent in 1983, the 1984 figure would be $109.1 million plus 9.1 percent of $119.0 million. The compound growth for each year is thus less than half the simple growth for two years.

[17] The figures used here differ somewhat from those cited in our March 28 Order, FCC 84-106, para. 11, because they use the corrected data submitted by the NECA in its April 6, filing.

post-divestiture contracts between the BOCs and AT&T, for example, leases of facilities assigned to the BOCs by the MFJ but used in part by AT&T. No specific documentation for these figures was provided in the earlier filing, although the amounts were said to comply with the MFJ. NY Tel. provides substantial back-up for its claimed adjustments, although some of its workpapers or data were missing or mislabeled in its filing so that it was not possible for commenters to evaluate these accounts fully. NY Tel. corrected some of these problems in its April 19 reply.

c. CPE Phase-Out

36. There are several errors in the way the BOCs have included phased-out CPE in their revenue requirement. First, in direct contravention of the rules we laid out in Docket 80–286, 89 FCC 2d 1 (1982), and the letters of clarification that followed, certain BOCs assigned frozen CPE to disallowed accounts (*i.e.*, Operating Rents, Relief and Pensions, General Service and Licenses, Land and Buildings, Furniture and Office Equipment, Vehicle and Other, Telephone Plant Under Construction, Net F.I.T. Adjustment, Social Security Tax, State and Local Tax, Gross Receipts Tax, and Federal Income Tax (F.I.T.).[18] These errors, which are described in detail in Appendix A, Table 8, must be corrected. Together they have resulted in an overstatement of the aggregate BOC revenue requirement by approximately $11 million ($10 million in Expenses and $1 million in Net Return).

37. Second, the BOCs have followed an erroneous method in computing the federal income tax liability associated with the CPE phase-out. All BOCs except Illinois Bell and Nevada Bell have unexplainedly excluded fixed charges from the calculation.[19] Fixed charges should be subtracted from Net Return to get the Adjusted Return on which federal income taxes can be calculated. Its exclusion results in an overstatement of federal income tax by the amount of the excluded fixed charges multiplied by the tax factor of 0.851852 [*i.e.*, .46/(1−.46)]. Fixed charges are approximately 29% of net return.[20] Hence a similar factor should be used to compute the federal income tax associated with phased-out CPE. Since the net return on phased-out CPE is approximately $161 million,[21] Fixed Charges should be $47 million. However, only $3 million was included in the SAIA, B summary sheet. (Appendix A, Table 2). Since Net Return also decreased by $1 million, as explained above, the amount of the overstated tax is $45 million × .851852=$38 million.[22]

38. The incorrect inclusion of $11 million in expenses and net return on investment plus the overestimation of $38 million in federal income tax requires that the aggregate BOC revenue requirement be adjusted downward by $49 million. Because CPE attributable to switched services is assigned to the Carrier Common Line rate element and the NECA apparently accepted BOC claims of revenue requirement, this amount should also be deleted from the NECA's claimed CCL revenue requirement to the extent it was allocated there.

4. *Development of Revenue Requirement*

39. The interstate account figures derived from this process are the basis for the claimed BOC revenue requirements. Operationally, the BOCs used their newly-developed Access Charge Analysis Systerm (ACAS) set of computer programs to disaggregate and assign investment and expense figures to individual rate elements. The investment is multipled by the 12.75 percent allowed rate of return to obtain the return requirement, which is added to the expenses to obtain the overall revenue requirement. Additional amounts are added to reflect taxes.

40. Allocation of total telephone company plant and operational costs to specific services and service elements is a potentially complex process. Overhead, administrative and other general costs must be fairly distributed, and much of the actual plant is or may be used for a variety of different services. Though some costs may be assigned fairly directly, these more complicated allocations may require a good deal of judgment or special studies. Hence, the BOCs' proposed allocation process presents two major issues. Hence, the BOCs' proposed allocation process presents two major issues. First, the ACAS methodology is very complex, and while it is subject to review, it has not in fact been effectively reviewed by the Commission or the interested public. We also have no practical experience with its operation and results, for example to judge whether the system actually generates reasonable revenue requirements for the many rate elements. Second, the BOCs state that they used special studies to perform allocation of costs between switched and special access. This is a particularly important allocation, between the two major categories of service which use many of the same local facilities but on different terms. Switched access provides use of local wires, microwave towers, central office equipment and other facilities at rates generally based on minutes of use. Special access, essentially local private line service, provides use of the same transmission facilities and much of the same central office equipment, but at flat monthly rates. Inappropriate or inaccurate allocations between these categories would produce distorted rates and a loss of economic efficiency. We requested the BOCs and NECA to submit the special studies used for these allocations, and summaries "adequate to evaluate the methodology, the assumptions and the results."

41. On both of these allocation issues, we continue to be concerned about the actual operation of the analysis. Pending closer examination of the ACAS programs and evaluation of their actual operation, we can make no definite conclusions on their validity. With respect to the special studies, the information request provides copies of the special studies and tables of results, but more time will be needed to review these studies, determine whether they adequately describe the process, and evaluate the results. In particular, we need to review the comments filed with respect to the special access portions of the tariffs.

5. *Demand and Demand Response*

42. After the revenue requirement for each rate element is calculated, the initial rate is derived by dividing this requirement by the expected demand. Because this initial rate might have a "feedback" effect on the actual demand (a rate reduction will tend to stimulate demand, a rate increase to suppress it), a revised demand response is then calculated to recognize this effect. The revised demand is used to calculate the actual rate by an interative process

[18] See letter of November 26, 1982, from Chief, Common Carrier Bureau to Mr. W.R. McGeary, Director of Settlements, USITA, Washington, D.C.

[19] Since a rate of return of 12.75%, consisting of the weighted average cost of equity and embedded debt, is applied to the net amount of phased-out CPE investment, a concommitant estimate of fixed charges must be imputed to the net investment, for the sake of consistency.

[20] At a 12.75% rate of return, net return on aggregate BOC 1983 "post-divestiture" interstate investment excluding CPE is $2841 million. Fixed charges are $832 million. 832/2841=29%. See Appendix A, Table 10, pp. 3–4.

[21] Using the aggregate BOC CPE phase-out totals and removing $10 million in incorrectly included accounts results in $161 million net return at 12.75% rate of return. See BCR Form SAIA, B.

[22] F.I.T. is calculated as follows (see Appendix A, Table 10 for source of # numbers): F.I.T.=[Net Return −#52−#52−#50−#47−#53=2(#64)]×.851852−#50+#64

Hence before correction, F.I.T. on phased-out CPE is $126 million; after, it is $88 million. The difference is $38 million.

balancing associated changes in costs required to meet this demand.

43. As we noted in the *ECA Tariff Order*, the BOC demand forecasts (their corporate views) were undocumented. Projections of demand are probably less complex than projections of costs, but they can nonetheless be difficult. At a given price, demand for long distance service will be influenced by economic conditions, competition, the development of new uses, shifts in population and industry, and other factors. Changes in price will also affect demand, to a greater or lesser degree depending upon the often-disputed degree of demand elasticity (sensitivity of demand to price) and cross-elasticity (sensitivity of demand to relative price charges in substitutable services or products). Because demand is used directly to compute the rate, it is just as important that estimates of demand be correct as estimates of costs. Underestimates of demand would inflate rates in the same way as overestimates of costs. The information request directed the NECA and BOCs to describe and justify the development of their corporate views, including the assumptions used, adjustments and actual data at each stage of the process. This information is provided in some detail for the Cincinnati, Pacific Northwest, and Northwestern Bell companies. Other BOCs list actual 1982 and 1983 demand for major services and in some cases descriptions of the assumptions upon which forecasts were based. AT&T also filed forecasted and actual demand information in its October 3 filing, its Emergency Petition, and its response to the Common Carrier Bureau information request parallel to that directed to the BOCs.

44. The most important demand quantities for switched access services are MTS and WATS total originating and terminating access minutes OCC access minutes, and FX minutes. Under the current access charge rules, as modified in the *Second Reconsideration Order*,[23] non-premium OCC and FX usage is priced 55 percent below the premium, MTS and WATS access minute rate for the switched access rate elements. The OCCs are charged a flat monthly rate based on an estimated 9000 minutes per line per month usage. FX is priced on a per minute basis where measurement is available. In the case of the NECA, total industry interstate minutes are used to calculate the Carrier Common Line rate element, which the NECA tariffs, pools, and distributes to all exchange carriers. Lesser quantities, reflecting membership in the voluntary pools, are used to compute the other rate elements. Other filing carriers similarly compute rates based upon their estimated demand for these quantities.

45. The NECA methodology for projecting demand is essentially the same as that used for costs. The NECA aggregated BOC reports of demand for access minutes, and collected or estimated demand projections for other exchange carriers. The BOCs used a variety of estimation methods, applying their own judgment of local and national trends. Overall, the NECA projects baseline MTS and WATS access minutes at 152.369 billion, OCC minutes at 22.584 billion, and FX minutes at 2.322 billion. (NECA, Vol. I, p. 4–35). Its demand response, premised on the assumption of unchanged AT&T rates in 1984, and adjustments by a few BOCs to their earlier calculations to reflect bypass, reduces MTS and WATS demand to a forecasted 150.950 billion, and OCC demand to 22.507 billion. FX demand is unchanged. (NECA, Vol. I, p. 4–36)

46. The NECA and BOCs mention it only obliquenly, but their projections for OCC usage apparently have been revised for reasons which are unclear. The BOCs report actual usage of 134.852 ENFIA lines in 1983 in the NECA response to the information request. OCC use has been growing rapidly. In the September 30 filing they projected an increase to 237,295 lines. Without explanation, the BOCs in the March 15 filing now project demand of 200,892. (NECA, Vol. V, Book 3, p. 5–5). Moreover, even this figure would indicate a higher demand than that actual used by the NECA. The NECA projects baseline total OCC access minutes for the BOCs of 21.239 billion. (NECA, Vol I, p. 4–35). At the imputed 9000 minutes per line month used to calculate the OCC flat rate, this is equivalent to 196,659 lines. Using the reported BOC March 15 projections would increase OCC demand to 21.696 billion, an increase of 2.15 percent. This figure includes only OCC demand for access to the BOCs. If we include the other exchange companies, demand would be about 6.33 percent higher, or 23.070 billion minutes.[24] In view of the fact that the *Second Reconsideration Order* reduces the rates OCCs pay for access as compared to those under the 9/30 filing, it is puzzling that the BOCs project a smaller demand in the March 15 filing, though this may be based on more recent actual figures. However, AT&T has claimed that OCC usage and its competitive effect are greater than estimated in October. In effect, the NECA and BOCs are saying that, since October, growth has leveled off. AT&T, by contrast, claims that is has increased beyond expectation.

47. If the 9/30 filing projections were used, OCC demand would be increased to 25.628 billion minutes, an increase of 20.7 percent. Overall industry demand would be 27.250 billion minutes. Moreover, the estimates of OCC usage appear to assure that all OCC minutes will be non-premium. As equal access because available, the BOCs and other exchange carriers will charge the OCCs per minute rates more than twice as high as the non-premium rate. It is unclear how much OCC premium usage will develop during the coming year, but it is likely to grow rapidly since the OCCs will have a strong incentive to promote their equal access services aggressively in competition for presubscriptions. These efforts and the growth of competition almost certainly will stimulate overall usage, as equal access becomes available. Thus, the unexplained reduction in OCC demand appears highly questionable, especially in view of the fact that it will all be priced at the lower, non-premium rate.

48. In its 9/30 filing, the NECA projected a positive demand response because of expected AT&T rate reductions. This in turn led it to reduce its baseline switched access rates. In the present filing, the NECA projects a negative demand response and higher rates, on the assumption that AT&T will not reduce its rates and that bypass, as projected by a few BOCs, will reduce demand.

[23] The NECA September 30 filing was based on the access rules in effect at the time which did not include closed end WATS minutes in the total for switched access. The demand figures for MTS and WATS thus are not directly comparable to those in its March 15 filing.

[24] The NECA projects baseline OCC demand of 21,239,172,000 minutes for 1984 for BOCs, 1,344,816,000 for independents, and 22,583,988,000 for all exchange carriers. The flat rate for OCCs is set on the basis of 9000 minutes per month, or 108,000 minutes per year. Thus, the NECA figures are equivalent to 196,659 BOC lines, 12,452 independent exchange carrier lines, and 209,111 total lines. as noted above, the BOCs projected demand of 237,295 lines in the 9/30 filing and 200,892 in the 3/15 filing. If we assume the same relative BOC-independent demand reported by the NECA in the 3/15 filing (15.79:1, or independents as 6.33 percent of BOCs), these figures indicate the following total OCC demand:

9/30 filing:

BOC line $-237,296 \times 108,000 = 25,627,860,000$ minutes.

Independent $-6.33\% = 1,622,243,500$ minutes.

Total $= 27,250,103,500$ minutes.

3/15 filing:

BOC Lines $-200,892 \sqrt{108,000} = 21,696,336,000$ minutes.

Independents $-6.33\% = 1,373,378,000$ minutes.

Total $= 23,069,714,000$ minutes.

49. As we discussed above, we expect that increased competition and the transition to equal access will stimulate both OCC demand for premium minutes, which the NECA and BOCs apparently treat as zero, and overall demand, at least in the short run. This should stimulate demand significantly. Most importantly, as we discuss in the second half of this order, we require by this order that AT&T offer at least a 6.1 percent reduction in MTS and WATS rates. This reduction will stimulate demand sharply. Finally, although we recognize the reality and importance of bypass as a growing phenomenon, the reduction in demand from the 9/30 filing which is projected by a few BOCs is supported only by vague and assertions.

50. In summary, there are clear reasons for believing that the demand forecasted by the NECA and BOCs substantially underestimates likely actual demand.

6. *Costs and Demand for Other Filing Carriers*

51. About two-thirds of all switched access costs are pooled in the Carrier Common Line (CCL) rate element. The CCL rate is in turn based on total industry costs and demand. Thus, the costs and demand claimed by the BOCs (representing 80 percent of the total) will have a major effect on the overall switched access rates of all exchange carriers. Ten BOCs also joined the NECA pool for the other switched access rate elements (except billing and collection). The costs of these carriers dominate the overall NECA pool and largely determine the other NECA Switched access rates. In the 3/15 filing, the 10 BOC pool members claim 87 percent of the non-CCL switched access revenue requirement for the 1416 companies originally reported to have joined this pool. NECA, 3/15 filing, D&J, Vol. I, p. 4–33, and NECA 9/30 filing, D&J, Vol. I, p. 1–18. Our conclusions with respect to the BOC cost support and resulting rate calculations thus apply to the majority of the costs and rates of all the exchange carriers.

52. In addition, our review of the support material filed by other, independent carriers demonstrates the same or greater problems. Most of the non-BOC carriers who filed their own switched access rates propose higher, and in some cases much higher, switched access rates. For example, the GTE local exchange companies, which provide about 9 percent of the nation's service, propose monthly transport rates as high as $116.63 for OCCs. The NECA rate is $46.14[25] other proposed GTE rates are also generally high and vary widely among the companies. Premium line termination, 0.79 cents per minute in the NECA tariffs, range from .74 cents to 1.98 cents for GTE companies, and 28 of the 32 companies propose rates higher than the NECA.

53. The GTE support information indicates that it used an approach essentially identical to the BOCs, the development of 1984 views based on internal company predictions. As in the case of the BOCs, no information or actual data was presented to show how the views were developed, and there is no basis for judging their reasonableness for the individual companies. The same situation prevails for the other filing carriers: rates which are difficult to compare with prior cost recovery methods and are based on unsupported, undocumented projections of 1984 costs. We have not required these carriers to file the same detailed explanatory material and justification of the filed data as NECA or NY Tel., or the more summary background data required of the other BOCs. Our priority was to examine the larger carriers who incur the lion's share of the costs. We also wished to avoid possibly unnecessary burdens on smaller carriers. At the same time, however, those carriers in general have provided little reliable support for their rates which could enable us to conclude they have met their burden of proving that those rates are reasonable. The consistent experience of the state commissions makes it likely that these switched access rates are also too high, as does the fact that they are presumably based on demand assumptions similar to the NECA, including rates for AT&T which we conclude are higher than reasonable. A program for careful ongoing review and development of reliable actual data will be necessary for these carriers as well as for the BOCs before firm conclusions can be reached on the reasonableness of the rates filed by non-BOC exchange carriers, or of their future rates.

C. Conclusions—Access Tariffs

1. *Changes to Revenue Requirement*

54. A regulated monopoly carrier has an obvious incentive to overstate projections of costs and to understate projected demand. If its rate setting errs in these directions, it will experience less pressure to keep down expenses in addition to higher profits, except to the extent that the unnecessarily high rates reduce demand or the regulatory agency requires later refunds. We need not catalog the various incentives upon exchange carriers to understand the familiar regulatory pattern of utilities claiming to need rate increases far higher than they eventually receive, and yet operating quite efficiently and with financial strength. This practical reality does not change the regulatory commission's responsibility to assure that any reduction in such requests does not render rates confiscatorily low, but it does counsel caution in accepting utility predictions uncritically. The Communications Act's assignment to carriers of the burden of proof to justify rate increases is no doubt based upon similar considerations, as well as the fact that the carriers have far greater access to the necessary data and information.

55. Our access charge rules allow filing carriers to base rates on projected costs and demand. Particularly in this first year, however, such projections are inevitably difficult and speculative because of the changes resulting from divestiture and the access plan, in addition to the usual uncertainties of business forecasting. Our review of the filing carriers' cost and rate methodologies illustrates some of these difficulties. In general, based on the submitted data and the N Y Tel. case study, it appears that the filing carriers overstated the growth in their costs and understate likely growth in demand for switched access. The extent and, indeed, the positive existence of these exaggerations are far less clear because of the concurrent ongoing changes in telecommunications markets, technologies, and services.

56. There are a number of possible approaches available to us to deal with this situation. We could find the filed tariffs unlawful, require the carriers to file reviewed, more complete data, and proceeds with a rate hearing. This approach would delay access tariffs indefinitely, and an evidentiary hearing is not likely to be useful in assessing the projections, a key issue in this case. Actual experience under access tariffs should provide a far more meaningful test. The NAB proposal that carriers file baseline tariffs to reflect only access and divestiture related changes would delay some issues (many of which we have already addressed in our prior orders) but not resolve them. Its practical application is also unclear.

57. Another approach, suggested by some of the commenters (*e.g.*, MCI, Ad Hoc) would be to go through the filings

[25] GTE also proposes rates as low as $6.75. The high and low rates proposed by the GTE companies are: Idaho—$116.63; Hawaii—$85.53; West Virginia—$78.93; Alaska—$6.75; Missouri—$8.89; Minnesota—$14.72.

and correct or disallow specific line items. MCI suggests the disallowance of $488 million in NECA revenue requirement. ICA proposes a $2 billion reduction in the revenue requirement. We have made specific corrections where these were clear as a matter of law, as in the case of CPE. Given the doubtfulness of the projections, we are reluctant to try to make specific findings on the figures submitted by individual filing carriers. Moreover, even if we could make some adjustments for some carriers, it would be both impossible to complete a similar analysis for the other filing carriers and unfair to pick out specific carriers while other tariffs were allowed to become effective. The access plan is a national one, applicable to all exchange carriers and based on the pooling of costs for by far the largest rate element, Carrier Common Line. An overall solution, equitably applied to all filing carriers, is reasonable under the circumstances. The State of Vermont has requested that we reduce message toll rates in an amount equal to the revenues generated by customer line charges, and that these reductions be filed and implemented coincident with the customer line charges. We believe this approach is the correct one. As we discuss below, we agree that access tariffs and reduced MTS and WATS rates should be implemented simultaneously. The result of our cost analysis is also to require rate reductions even greater than the amount of the customer line charges.

58. The particular method or option we might use is not critical under the Communications Act, which grants broad authority and discretion in setting rates without specifying particular methods, so long as the rates are just and reasonable. 47 U.S.C. 154i, j, 201 to 205. "Ratemaking is an intensely practical affair requiring the conversion of in exact data into exact rates or limits upon rates." *Puerto Rico Maritime Shipping Authority* v. *Federal Maritime Commission*, 678 F. 2d 327, 335 (D.C. Cir. 1982), *cert. denied*, 459 U.S. 906 (1982). The exercise of judgment and expertise in evaluating the record is a proper and necessary function of a regulatory agency, so long as the ultimate rate is not unreasonable. *FPC* v. *Hope Natural Gas Co.*, 320 U.S. 591 (1944), *Permian Basin Area Rate Cases*, 390 U.S. 747 (1968). A frequent remark in the comments is the homely advice that the best should not be the enemy of the good. Their point is that we should not delay workable tariffs and rates which fall within a range of reasonableness until all tariffs and rate issues are resolved. We agree. Our review of the specific tariff terms and regulations has largely accomplished the major changes needed. Remaining issues or those likely to arise can be dealt with in our continuing investigation. With regard to the rates, the uncertainties and defects of the support information make any precise calculations of rates impossible. Nevertheless, we remain committed to the earliest possible effective date for tariffs implementing the access plan, in order to end the uncertainty among all concerned, begin the transition to move rational pricing, and assist in the process of divestiture under the MFJ.

59. Given the circumstances we face, a pragmatic approach which balances the interests of all involved seems to us essential. Because the projections upon which the filed rates are premised appear questionable, unsupported, and overstated, we will seek to conform rates to the best available actual figures, allowing a reasonable but reduced factor for inflation and growth, at least until better evidence is available. Because any calculation of rates must necessarily require judgment given to the changes in the industry, we will also establish a specific proceeding to consider any changes in these rates once this evidence is at hand. In the meantime, we will work toward improved monitoring and data collection programs to allow efficient review of future filings and rates.

60. We begin, in seeking to establishing generally reasonable rates, with the costs claimed by the carriers. The BOCs (excluding Cincinnati bell and SNETCO) project an overall access revenue requirement in the March 15 filing of $16.445 billion based on the 1984 budget views. Appendix A, Table 10. We do not have similar consolidated figures for all access carriers, but these BOCs comprise about 76.6 percent of the Carrier Common Line revenue requirement,[26] which implies a proposed total industry access revenue requirement of $21.469 billion. To compute 1983 actual figures in a manner which reflects a divestiture necessarily requires assumptions about the effects of divestiture. Although, as we discussed above, the BOCs have not supported the divestiture estimates in their 1982 post-divestiture views, or the later adjustments, we will use the 1982 post-divestiture view, without adjustment, as the best available information reflecting actual figures. In Table 10 we have computed the BOCs' 1983 access revenue requirement based upon the adjustment they propose for divestiture and taxes, and those required by our rules governing the phase-out of CPE. In other words, we have accepted the 1982 post-divestiture views of the BOCs for purpose of this computation (though not the unsupported adjustments to those views) and corrected only the obvious errors in the CPE calculations. This approach is a conservative one, therefore, which accepts as a baseline the carriers' own accounts.

61. Based upon 1983 actual accounts as derived from the separations data base and assuming that the exchange carriers actually earned the allowed 12.75 percent rate of return, this calculation produces a computed, post-divestiture 1983 revenue requirement of $14.854 billion for the BOCs. The proposed BOC revenue requirement thus represents projected growth of 10.70 percent. After removing the effects of the required CPE phase-out, the more accurate calculation of the growth in operational revenue requirement is 11.01 percent (from 1983 actuals at 12.75 percent) to projected 1984 (based on the budget views at 12.75 percent). As discussed above, this figure appears clearly overstated. (See Appendix A, Tables 9 and 10).

62. We should emphasize that using the figures as accounted does not imply approval of those figures. The separations process embodies a good deal of judgment and figures listed in accounts might nontheless be disallowed or reduced for purposes of determining rates. Moreover, we have accepted for purposes of this calculation the calculations of separations factors and non-operational accounts claimed by the carriers, although, as we discussed above, these are essentially unsupported. In effect, the calculated 1983 "actuals" are thus more accurately the 1983 test year figures proposed by the carriers as a basis for ratemaking, prior to actual review. Nevertheless, those accounts represent the accepted basis for distributing compensation to the exchange carrier under the settlement and division of revenues process. They reflect the accounting and ratemaking baseline status quo. They also include all claimed access costs, including special access and costs recovered by other charges in the access tariffs.

63. It seems likely that some growth in revenue requirements would be reasonable. Growth in the economy, population, and personal income will probably increase usage and demand. The question is what level of growth is

[26] NECA March 15 filing, Vol. I, Fig. 4–1. The total reported BOC interstate revenue requirements was $17.005 billion. Of this, $107 million was Cincinnati Bell and $418 million was SNETCO, 3.08 percent of the BOC total. Because of corrections in NECA's April 6 filing, the numbers do sum exactly.

reasonable and allowable given prudent, efficient management. There are a number of possible indicators. TPIS grew by 6.8 percent in 1983, and TOE by 2.0 percent for BOCs, without adjustment for inflation. These figures may be the most reasonable current estimates. However, they are lower than recent historical experience. TPIS growth in 1980 was 10.0 percent, in 1981 9.9 percent, and in 1982 8.1 percent. TOE growth was: 1980—13.3 percent; 1981—14.4 percent; 1982—14.2 percent. See Appendix A, Tables 6 and 7.

64. Inflation has been relatively flat in the past year. From first quarter 1983 to first quarter 1984, inflation was 2.3 percent based on the GNP. Inflation on nonresidential fixed investment was virtually nil. Hourly earnings in communication and other public utilities experienced inflation of 3.2 percent. The first quarter 1984 trends for the latter two categories, important indices of telephone company costs, point in the difection of even lower inflation.[27] Again, however, these indexes are significantly lower than in preceding years. The BOCs in their *Financial Planning Assumptions* have asumed inflation, based on the consumer price index, of 4.3 percent in 1983 and 5.1 percent in 1984.

65. These projections would suggest growth is likely to be relatively low, close to 1983 levels. Current government projections of economic trends, however, suggest likely higher growth. The Council of Economic Advisors (CEA) projects real growth in GNP of 5.9 percent in 1984, and nominal growth (including inflation) of 10.6 percent. The Congressional Budget Office (CBO) projects real growth of 5.4 percent, nominal growth of 10.3 percent. Long distance telephone traffic generally correlates highly with real economic growth. Investment needed to serve this demand will show a similar relationship. Expenses, such as salaries are likely to grow, on a nominal basis, at levels similar to inflation plus real growth. Applying the real and nominal growth factors to exchange carrier investment and expenses, we calculate that the CEA and CBO projections would thus tend to indicate overall growth of 8.7 or 9.1 percent respectively in the overall revenue requirement, excluding CPE. The calculations are shown in Appendix A, Table 11.

66. Any allowance must necessarily be approximate. Weighing the likely trends in the economy and the industry, it appears to us that allowing 9 percent growth in the exchange carriers switched access revenue requirement from 1983, based on a 12.75 percent return, should permit the exchange carriers to operate efficiently and attract the capital necessary for future growth. As applied to the BOC 1984 views, for example, 9 percent growth would allow the carriers to earn close to a 12 percent return based on the carriers' own numbers.[28] This exceeds the returns these carriers earned in 1983 or, in fact, have ever earned under the division of revenues process and certainly falls within the zone of reasonableness. Since the views almost certainly overstate costs, this rate level should provide a reasonable opportunity for the carriers to earn the presently-allowed 12.75 percent returns. Moreover, as we have noted, there are substantial grounds to believe that the 12.75 percent return should be reexamined.[29]

67. These figures suggest that an allowance of about 9 percent for growth, based on economic trends, would be reasonable for 1984. There are other factors more specifically applicable to exchange telephone service which should also be considered. One obvious factor is the introduction of equal access. Provision of equal access to the OCCs will necessarily require new investment and expenses by the BOCs in 1984 and later years. The exchange carrier must be able to recover these new costs in the rates it charges interexchange carriers. This suggest possible higher growth in 1984 than is implied by general economic figures. On the other hand, the carriers' demand figures do not reflect the higher rates exchange carriers will earn once equal access is in place or the benefits to the exchange carriers of likely aggressive competition among interexchange carries using switched access. In addition, telephone service benefits from ongoing technological advancements in transmission, switching, and operations which reduce the need to growth in investment and expenses. Improved productivity may this obviate growth which would otherwise be necessary.

68. The revenue requirement is the numerator in the cost equation. The denominator is the demand in access minutes. As we discussed above, it appears to use that the NECA, taking its figures on their own terms, understates, demand somewhat. As we discuss later in this order, we require that AT&T reduce its MTS and WATS rates by at least 6.1 perctnt. The NECA has assumed no change in AT&T's rates for purposes this filing, and its only demand response is a reduction to reflect bypass. This reduction is not well-supported, although some increase in bypass is to be expected because of the delay in implementation of residential and single-line business charges. However, we would expect that the demand stimulus from the AT&T rate reduction would more than offset his effect.

69. For reasons described below, we believe that AT&T has overstated its competitive loss and that its rate reduction will stimulate demand to levels above its predictions. In total, we believe that a reasonable estimate of AT&T's likely demand is 152.707 billion minutes.[30] Interstate MTS and WATS demand within LATAs or along corridors, where service is provided by the BOCs and other exchange carriers offering interstate service, we project at 6.219 billion minutes.[31]

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[27] The Council of Economic Advisers supplied the following indices which gives insight into costs in the telephone industry: (1) hourly earning-transportation, communications, and public utilities industries: 1982 (average) 148.65, 1983 (average) 156.88, 1983–Oct. 156.88, 1983–Nov. 159.83, 1983–Dec. 159.58, 1984–Jan. 160.67, 1984–Feb. 160.23, 1984–Mar. 159.96; (2) hourly earnings-total private nonfarm: 1982 (average) 148.28, 1983 (average) 155.06, 1983–Oct. 156.90, 1983–Nov. 157.11, 1983–Dec. 157.62, 1984–Jan. 158.92, 1984–Feb. 158.57, 1984–Mar. 158.61; (3) gross national product-nonresidential investment deflator: 1982 (average) 209.7, 1983 (average) 206.8, 1983 (fourth quarter) 207.0, 1984 (average) 206.88, 1983 (average) 215.63, 1983 (fourth quarter) 218.53, 1984 (first quarter) 220.73.

[28] This calculation of return does not include any effects on revenue requirement amounts claimed by the carriers which remain under consideration, such as special access and directory assistance. On the other hand, it also does not recognize the fact that billing and collection will be priced separately to earn a 12.75 percent return.

[29] Investigation of Access and Divestiture Related Tariffs, *et. al.*, CC Dockets 83–1145 (Phase I) and 78–72 (Phase I), FCC 84–106, released March 28, 1984.

[30] All minute totals, unless otherwise noted, are originating and terminating access minutes. Because virtually all switched access calls begin and end in local exchanges (except international calls), at least two access minutes are counted for each minute that the customer is billed for the completed call. Also, access minutes include set-up time for the call, uncompleted calls, and other instances of non-billable use. Access munutes are therefore somewhat more than double the actual conversation time. On the other hand, interexchange carriers round the time for which a customer is bill in different ways, *e.g.*, to the next minute or tenth of a minute. The carrier's practice in this regard will affect the relationship between the minutes it bills its customers and the access minutes for which it compensates the local exchange carrier.

[31] AT&T's demand calculations would imply 5.26 billion BOC MTS and WATS minutes. However, usage by the BOCs includes areas of heavy use such as the New York, New Jersey and Philadelphia-Camden corridors and the Washingon, D.C. metropolitan area, as well as numerous locations wher the BOCs provide interstate, intraLATA MTS service. GTE will also be providing MTS service between its exchanges as will, very posibly, other independents. The figure of 6 billion minutes is probably on the low side as a baseline. To reflect demand response to reduced MTS rates, we will use a figure of 6.219 billion BOC MTS minutes based on the same elasticity figures used below for AT&T's demand response.

70. This calculation is based on AT&T's demand, which was apparently coordinated with the demand calculations of the BOCs in the 9/30 and 10/3 filings. In calculating AT&T's proposed competitive loss adjustment we judged reasonable, a total allowance of 8 billion minutes. We agree with the NECA that some adjustment to reflect higher bypass since the 9/30 filing is appropriate—the effects of the delay in residential and single-line business customer line charges is likely encourage bypass. The NECA proposal is, however, based on vague, anecdotal estimates of the BOCs, and the large allowance to AT&T, based on these changes and market effects, should also encompass increases in bypass.

71. OCC minutes also appear to be underestimated. Given the fact that the OCC's will have increasing amounts of premium minutes and that the reduced demand estimate in the 3/15 filing is unexplained, we will use the 9/30 estimate of OCC lines in 1984 as the basis for projecting demand. This estimate, 237,295 lines, indicates OCC demand of 27.264 billion minutes. We will allow the NECA calculated bypass adjustment for OCCs of 76 million minutes. NECA D & J. Vol. I, pp. 4–35 and 4–36. We calculate FX usage of 1.782 billion minutes. On the conservation assumption that all OCC and FX usage is nonpremium and thus rated at 45 percent of the premium rate, the overall industry demand would be 170.850 billion access minutes.[32]

72. This estimated increased demand would presumably require somewhat higher costs for non-traffic sensitive rate elements such as transport, local switching, and line termination than the costs projected by the carriers on the basis of the baseline numbers. Using the NECA estimate of 7 cents additional costs for each additional dollar of revenue, we allow an additional 60 million. See Appendix B, Line 31.

73. The optimal method for applying these cost and demand calculations to derive access rates would be to recalculate the costs and demand which should properly be associated with each of the 75 filing carriers (representing the over 1400 exchange carriers) and then distribute this reduction across each switched access rate element. However, given the approximate and interim nature of this calculation, the burdens it would impose upon the filing carriers, and the delay which would be necessary for the carriers to compute such overall rates and for this Commission in turn to review such rates, this approach is too slow and unwieldy. The additional delay and burdens would dilute the benefits of prompt interim tariffs, possibly without any substanial benefits. A more pragmatic if less accurate approach is preferable.

74. By far the largest access rate element is Carrier Common Line. This element is tariffed, pooled, and distributed by the NECA. All other carriers, under our rules, are required to reference the NECA tariff for this element. Thus, it is assessed at the same rate upon every access minute provided by every local exchange company. At the filed NECA figure of 6.03 cents per minute, it is about two-thirds of the total switched access rate.

75. By reducing this single Carrier Common Line rate as necessary to reflect the overall reduction in the industry switched access revenue requirement and the adjusted demand, we can thus apply this reduction simply and consistently. This approach may skew rate relationships somewhat, but the effects should be minimal. In the great majority of cases, the interexchange carrier is concerned exclusively with the overall switched access rate, not with individual elements. Minor differences in transport and other elements are likely to be of negligible effect in this limited period. The effect on the Carrier Common Line element is also relatively small, an approximate quarter cent or 4.6 percent further reduction in the CCL rate.

76. The estimation of a properly revised Carrier Common Line rate element is also relatively straightforward. The calculation is shown step-by-step in Appendix B. Using the NECA's figures, the total Carrier Common Line revenue requirement based on the 1984 views was projected as $11.029 billion. The net, reflecting contributions from the customer line charge and surcharges, and NECA expenses, would be $9.767 billion. Of this, $48 million is CPE improperly claimed by the BOCs. An accurate estimate of what CCL "would have been" in 1983 as a baseline can be made by assuming that the growth from 1983 to 1984 was equivalent to the growth requested by the BOCs (which make up 76.6 percent of the total) in that same period. Eliminating effects of CPE phase out, this is 11.01 percent. (See Appendix A, Table 10.) Projected 1984 CCL revenue requirement not recovered by other charges, including allowable CPE and 9 percent growth from the 1983 baseline, would then be $9.588 billion (Appendix B, Line 17). This represents a 179 million dollar disallowance (Line 13—Line 10) in addition to the $48 million CPE correction at this stage of the calculation.

77. The overall industry revenue requirement for each switched access element, if we could sum and weight them across all the tariffs, should be in close proportion to the NECA switched access rate elements. The NECA includes costs of about half the BOCs and most independents in its voluntary, traffic sensitive pool. It should fairly closely reflect industry costs per minute. All of the rates are calculated by dividing the element revenue requirement by the access minutes. Multiplying the NECA element rate by the total industry minutes should thus give a good approximation of the total industry revenue requirement for that element, including the amount for carriers who did not join the ECA pool.[33]

78. The ECA rate per minute of access for the basic switched access elements, as presently filed, are as follows:

Line termination	$0.0079
LS2 (Premium) local switching	.0098
Transport (assumes average AT&T use, see below)	.01426
Carrier Common Line	.0603
Intercept	.000097

The total charge per minute is thus 9.2357 cents, of which 6.03 cents is for Carrier Common Line. As a result, the overall revenue requirement for these switched access elements, based on the 1983 actuals and allowing 9 percent growth, would be about $14.459 billion (Line 24). Allowing $60 million to reflect the higher costs associated with increased demand would yield a total revenue requirement for these rate elements of $14.519 billion (Line 32).

79. Assuming a demand of 171.971 billion minutes, the overall basic switched access rate would be 8.443 cents per minute, a reduction of 0.793 cents or about 8.58 percent from the estimated average 9.2357 cent rate. Applying this reduction solely to the Carrier Common Line element would produce a CCL rate of 5.237 cents per minute. The OCC flat monthly CCL rate at 9000 minutes discounted to 45 percent, is $212.11. The rate for other services, such as FX is 2.36 cents per minute. The NECA is directed to file these rates in its access tariff, F.C.C. No. 1, to replace the pending rates. It may

[32] 105.042 billion AT&T MTS minutes + 47.661 billion AT&T WATS minutes + 6.219 exchange carrier MTS minutes + .45 × (27.215 billion OCC minutes + 1.782 billion FX minutes) = 171.971 billion industry access minutes.

[33] The one exception is BOC MTS usage. Because those carriers contribute to the CCL but provide the other rate elements, to themselves without a tariff, we have adjusted for this usage (Appendix B, Line 21).

round the 5.237 CCL rate to 5.24 if it wishes.

80. This rate is obviously based upon a number of assumptions. They are, we think, reasonable ones which lead to a reasonable result. It allows all local exchange carriers a 9 percent growth rate. This is, as we have discussed, significantly higher than current inflation or 1983 growth, and reflects current estimates of likely 1984 growth. By applying the reduction solely to CCL, it allows all carriers to collect the rates they claimed for their own projected costs for the present, until we can scrutinize those costs more closely. It allows them a 12.75 return, higher than they have ever actually earned on interstate service, based upon a reasonable allowance for inflation and expansion. Even on the basis of the claimed revenue requirement (which we believe is overstated), it allows close to a 12 percent return on switched access, higher than the current level.

2. Billing and Collection

81. In the access rules, we did not limit the exchange carriers' return on billing and collection to a fixed return (for example, the present allowed 12.75 percent return), only to reasonable and nondiscriminatory rates. 47 CFR 69.114(b). The functions included within billing and collection (except call recording) are essentially financial and administrative services which the interexchange carrier can provide itself or obtain from competing vendors. Because competition was thus likely to exist, our expectations was that regulation would be unnecessary.

82. In the long term, this is likely to be the case, although further inquiry to ensure this may be necessary. In the present filings, however, it is apparent that the filing carriers have proposed charges which would earn returns substantially above those for other services. At the fact-finding meetings chaired by the Chief of the Common Carrier Bureau, and in a subsequent letter, representatives of the exchange carriers stated that, at the filed rates, the industry earnings for billing and collection would be $335 million above a 12.75 percent return. In later filings, they estimated the effect at $449 million. This amount would be charged to AT&T, and passed along to long distance customers in the form of rates which are higher than they otherwise might be or reduce the size of rate reductions which could otherwise occur. We are reluctant to impose regulation on rates subject to market forces—excessive rates would provide a strong incentive for entry of potential competitors—but more reluctant under current circumstances to burden customers with higher rates, even if these are likely to be transitory. AT&T probably has no realistic short-term alternative to the use of local exchange carrier billing operations. Any attempt to shift its billing would also inconvenience customers at a time when they are already facing bewildering and complicated changes in telephone services.

83. For the short term, we will therefore require all local exchange carriers to charge rates which earn a return of no more than 12.75 percent upon billing and collection services. Any higher rate, we conclude, would not be reasonable under Section 69.114 of our Rules. All filing carriers are directed to continue providing billing and collection until revised tariff rates based on no more than a 12.75 percent return are filed and become effective. This conclusion is effective immediately upon the effective date of the access tariffs, however, so that after that date no rate may lawfully be charged, whether under tariff or contract, which earns above a 12.75 percent return. Allowing a return of 12.75 percent should provide a continuing, if reduced incentive to competitive entry without imposing unfair rate burdens on local costomers. As we discuss later in this order, we are also acting to ensure that AT&T passes through this savings to its own customers.

II. AT&T's Switched Services

A. Introduction

84. As noted above, AT&T's February 27, 1984, Emergency Petition requested reconsideration of the Commission's February 15, 1984, decision in CC Docket No. 78–72, Phase I (FCC 84–36) and the Commission's February 17, 1984, decision in CC Docket No. 83–1145. In support of its petition, AT&T included as "ATTACHMENT A" a twelve month forecast of its revenues, expenses, rate base, and earned rate of return under the assumption that the Commission's decisions in CC Docket Nos. 78–72 and 83–1145 were in effect during the forecast period.[34] The forecast in ATTACHMENT A claimed that, for a twelve month period which purportedly assumed implementation of the Commission's decisions of February 15 and February 17, AT&T would earn a rate of return of 4.93% for the firm's regulated interstate communications services.[35] AT&T contended that an earned rate of return at that level would confiscate its property and constitute unlawful discrimination. AT&T Emergency Petition at 2. A subsequent filing by AT&T projected earnings of 4.412% on its switched interstate services (MTS and WATS).[36]

85. Out Interim Cost Allocation Manual requires AT&T to target its rates to earn its authorized interstate rate of return on its MTS and WATS services separately from its private line services.[37] The focus of this Order is on

[34] On March 2, 1984, the Chief, Common Carrier Bureau directed AT&T to provide information as to the assumptions, data, and methodologies used by AT&T in developing the forecast in ATTACHMENT A. On March 6, 1984, AT&T complied with the March 2 directive. Comments on AT&T's Emergency Petition and supplementary data were received on March 9 and March 16 questioning the probative value that the Commission should accord to ATTACHMENT A and the contents of AT&T's Emergency Petition. On March 22, 1984, AT&T supplemented the records in CC Docket Nos. 78–72 and 83–1145 with an analysis addressing the Bell Communications Research (BCR) filing of March 16, 1984. The BCR submission commented upon the earning ratios that AT&T would achieve under the revised access plan. On March 30, 1984, supplemental comments were filed by nineteen exchange carriers with respect to issues raised by AT&T's Emergency Petition as well as by comments in response to that petition. On March 30, 1984, the Commission invited further comment in light of the supplemental comments received, and requested AT&T and NECA to provide estimates of the effects of specified decreases in charges for switched services. Numerous comments were received which expanded upon, or reinforced, observations made in earlier comments. On April 3, 1984 AT&T filed estimates on the effects on its earned rate of return of suggested reductions in rates for switched services. On April 19, 1984, AT&T provided supplementary information, in response to a Common Carrier Bureau request, which expanded upon its estimated earnings adjustments.

[35] ATTACHMENT A further assumed that "interstate customers service tariffs that were in effect on December 31, 1983 would remain in effect during 1984." Letter from W. Stump, AT&T to Chief, Common Carrier Bureau (March 6, 1984) Appendix 1 at 2. Although stated to be applicable for the calendar year ending December 31, 1984, AT&T's twelve month projection did not include the effects of the deferrals which this Commission had ordered in the effective dates of access charges during 1984. As a consequence, AT&T's access charges estimates for the year ending December 31, 1984, are excessive, with the consequence that its forecast rate of return for calendar year 1984 is understated. That fact notwithstanding, we shall assume for the purpose of the analysis and discussion herein that AT&T's forecast in ATTACHMENT A is applicable to a twelve month period (referred to as "1984") which would begin with the effective date of access tariffs.

[36] Letter from W. Stump, AT&T to Chief, Common Carrier Bureau (March 6, 1984) Appendix 2, at Attachment 3. AT&T projected earnings of 3.549% on MTS (domestic and international) and 6.769% on WATS.

[37] AT&T: Manual and Procedures for the Allocation of Costs, 84 FCC 2d 384, *recon.*, 86 FCC 2d 667 (1981), *aff'd sub nom.* MCI Telecommunications Corp. v. FCC, 675 F.2d 408 (D.C. Cir. 1982); AT&T: Equalization Filing, 89 FCC 2d 1000 (1982). The ICAM requires that AT&T target its MTS rates and its WATS rates so that each service separately earns the authorized rate of return. For the limited purposes of this Order, we treat the MTS and WATS categories together. In the future, we will analyze AT&T's claims for MTS and WATS revenues and expenses separately, and assess the effects of the adjustments ordered here and the prescribed rate reductions on MTS and WATS earnings separately.

the exchange carriers' charges for switched access services and the impacts of those charges and other adjustments on AT&T's expenses, rate of return, and rates for its MTS and WATS services. We will consider AT&T's expenses (including special access expenses), rate of return, and rates for its private line service in a future order.

86. Our analysis of ATTACHMENT A identifies three unsupported and unreasonable factors in AT&T's February 27 forecast: (1) AT&T overestimated its 1984 switched access expenses by about $469 million, based on comparisons of AT&T's February 27 access-rate assumptions and NECA's March 15 proposed rates; (2) AT&T underestimated its switched service revenues for 1984 by about $85 million for competitive losses, assuming no change in MTS and WATS rates and net of associated expenses; and (3) AT&T overestimated its maintenance expenses for 1984 by about $125 million for all of its services ($76 million for its switched services). AT&T's analysis also omitted a new source of revenues; AT&T will be able to earn about $140 million in 1984 from interstate directory assistance charges according to a proposal we find reasonable. In addition, we are ordering that the exchange carriers' charges to AT&T for billing and collection be targeted to earn the authorized interstate rate of return, thereby reducing AT&T's switched access expenses for 1984 by about $400 million. Finally, even after adjusting for AT&T's $469 million miscalculation of its switched access expenses, AT&T's switched access expenses will fall an additional $701 million; this change reflects lower switched access charges resulting from adjustments to the exchange carriers' revenue requirement and demand estimates.

87. This section also explains the implications of these adjustments to AT&T's claimed revenues and expenses for AT&T's rate of return and for its MTS and WATS rates. Without a change in its MTS and WATS rates, these adjustments would raise AT&T's claimed rate of return of MTS and WATS by 14.228 percentage points, boosting AT&T's projected earnings to 18.640%. This level of earnings far exceeds the authorized interstate rate of return of 12.75% and would be unlawful. As we explain, a prompt and reasonable response to these adjustments would be an across-the-board, uniform decrease in AT&T's MTS and WATS usage rates (domestic and international). Using AT&T's estimates of demand elasticities, we calculate that the lower revenues and higher expenses associated with a 6.1 percent across-the-board reduction in its MTS and WATS usage rates would leave AT&T earning its authorized 12.75% rate of return. Accordingly, we order that AT&T revise its currently-effective MTS and WATS tariffs to provide for an across-the-board reduction in its usage charges of 6.1 percent.

B. Underestimates of Revenues for Switched Service

88. AT&T's filings supporting its Emergency Petition show a decline in its domestic MTS revenues of $1.350 billion from the forecast in its October 3 tariff filing. This reduction reflected a drop in MTS revenues of $1.575 billion from "competitive impact not previously forecast," attributed by AT&T to the development of new forecasting models using more current data. [38] Several commenters criticized AT&T's revenue forecasting methodology. BCR noted that AT&T's demand models attempted to reflect the impact of OCC competition on AT&T's traffic, but projected rapid increases in OCC traffic without taking into account changes in the relative costs for AT&T and the OCCs from our *Second Reconsideration Order* in CC Docket No. 78–72, Phase I. AT&T's model did not use relative prices for the OCCs' and AT&T's services in forecasting business subscribers' traffic lost by AT&T to the OCCs. [39] As for AT&T's competitive model for residential subscribers, AT&T failed to specify or explain its formula used in forecasting the "potential OCC market," but admitted that its demand estimate is sensitive to that forecast. [40] The t-values reported by AT&T reveal that its estimate of OCC residential subscribers is subject to a wide range of variation, *i.e.*, the estimate is a quite unreliable indicator of likely future developments. [41]

89. In particular AT&T reduced its forecast of MTS revenues by $100 million "to account for the effects of OCC terminating ubiquity and dialing parity." This adjustment was not based on additional variables or re-estimating any coefficients in AT&T's econometric forecasting models. Rather, it is a subjective addition to AT&T's perceived erosion of MTS revenues caused by resellers and OCCs using WATS service during 1984. [42] OCCs have used WATS since our 1980 resale decision [43] (implemented in 1981) to offer "terminating ubiquity," and any increase in such WATS usage will increase AT&T's WATS revenues. We find that AT&T has failed to justify its claim that this $100 million is a reasonable adjustment not otherwise accounted for in its forecast of OCC growth.

90. We recognize that forecasting AT&T's MTS demand is difficult at this time given the past rapid growth of OCCs, divestiture-related publicity, implementation of access charges which reduce the OCC-AT&T access cost differential, new rate proposals by AT&T, and development of equal access. Yet, we cannot accept AT&T's support for its claim that there will be $1,575 billion in new-found competitives losses in 1984. [44] We find $100 million of AT&T's competitive loss claim for "terminating ubiquity" unsupported and unreasonable. For the remaining $1.475 billion in AT&T's competitive loss claim, we find that AT&T did not reasonably support this entire amount. AT&T's presentation of actual data and AT&T's projection methodology were inadequate for at least $100 million of this amount. Accordingly, we reduce AT&T's claimed competitive loss

[38] *Id.* at 3–4. In assessing the contentions of various parties with respect to AT&T's revenues, expenses, and earnings prospects, it has been necessary to rely heavily upon estimates of future operating results. At present, the Commission does not have accurate, audited statements of AT&T's post-divestiture interstate operations. Nor were we able to obtain from AT&T reliable, complete estimates of how a post-divestiture AT&T would have performed using 1983 actual data.

[39] BCR Comments (March 9, 1984) at Attachment 2. AT&T's competitive model for business subscribers' revenues lost was not based upon the number of OCC/reseller business subscribers, but rather on the number of ENFIA lines. In this regard, BCR noted that "[s]ince an ENFIA line carries both residence and business traffic, one is led to wonder why AT&T found it necessary to use lines in one model and number of residential customers in the other." BCR Comments, Attachment 2 at 6. AT&T's forecast of ENFIA lines was based on the number of cities which were served by OCCs and resellers. No variables representing the number of business subscribers in the cities served, the distribution of business subscribers by toll expenditures in these cities, or AT&T's revenues from business subscribers in these cities were included in AT&T's model. AT&T Tariff Filing at 1367 (October 3, 1984) and AT&T Reply Comments (March 16, 1984) Attachment D, Exhibit 1, page 2.

[40] AT&T Reply Comments (March 16, 1984) Attachment D, Exhibit 1, at 4.

[41] *Id.* at Attachment D, Exhibit 1, Table 3.

[42] *Id.* at Attachment D, Exhibit 1, 4–5; Letter from W. Stump (March 6, 1984) Appendix 2, at 6.

[43] Resale and Shared Use of Domestic Public Switched Network Services, 83 FCC 2d 167 (1980).

[44] Letters on file at the Commisison show that total 1983 revenues for MCI Telecommunications Corp., United States Transmission Systems, and GTE/SPRINT were $2.2 billion. We recognize that there has been a reported surge in demand for OCCs' services in 1984. *See, e.g., GTE Sprint Says it Halted Adding Some Customers.* Wall Street J. 4 (May 2, 1984). There does seem to be cause for adjustments to AT&T's October estimate for OCC demand Allowing all but $200 million of AT&T's new claim for competitive losses should reasonably provide for this surge.

adjustment by a total of $200 million.[45] In the future, AT&T can attempt to support its figure for competitive loss of MTS revenues through recent data on its actual revenues and OCCs' actual growth, or through an improved and better-supported forecasting methodology. Because estimates of AT&T's future revenues and traffic are uncertain, we will be sensitive to the need to make adjustments to AT&T projected revenues.

91. The $200 million in additional MTS revenues would have some associated additional expenses for AT&T. AT&T's Response (March 6, 1984) Appendix 2 at 3, 15, shows that AT&T estimated lower switched access expenses of $519 million because of its estimated decline in MTS revenues by $1.350 billion. (The $1.350 billion figure included $1.575 billion for competitive losses with a partial offset of $225 million in higher projected revenues attributed to a change in forecasting methodology.) AT&T did not show any other substantial change in its expenses associated with its competitive loss. By these figures, adding back $200 million of the total $1.350 billion estimated decline in revenues should lead us to add back $77 million in expenses [(200/1350) x 519]. Then, AT&T's net gain would be about $123 million. Another way to calculate AT&T's likely access expenses associated with these additional revenues is based on the NECA's March 15 tariff filing. As described in para. 15 *infra*, access charges for MTS traffic would average about 9.2357 cents per access minute under that tariff. We calculate that $200 million in additional MTS revenues will increase AT&T's access minutes by about 1.21 billion,[46] and will increase its access expenses by $112 million. This would leave a net gain to AT&T of $88 million from the $200 million in additional MTS revenues. There may be other, probaby small expenses for AT&T from these additional revenues. We will use a net gain for AT&T of $85 million as a reasonable estimate of the adjustment to AT&T's competitive loss claim.

92. A source of new revenues for AT&T's switched services not reflected in its calculations is its proposal to charge for interstate directory assistance (IDA). Currently and in the past, AT&T's costs for providing this service have been covered by its revenues from its MTS and WATS services, with no separate charge. This resulted in an inefficiently high volume of calls for IDA and higher MTS and WATS rates. AT&T's tariffs filed on October 3 proposed a charge of 75 cents per call, with one free call per month if the subscriber made one MTS call, for IDA. Several parties objected to this proposal as unreasonable.[47] AT&T's justification for this proposal was based in part on the exchange carriers' proposal to charge interexchange carriers on average 64 cents per call for the access expenses of IDA, including 59 cents for the operator assistance portion. AT&T October 3, 1983, Filing, Vol. 2 at 3–13. We have ordered that the exchange carriers' charges for the operator-assistance portion of IDA be reduced to no more than 25 cents per call.[48] AT&T has stated in response to this decision that it believes a 50 cent per call IDA charge with one free call would be reasonable. In light of this change, we would accept and allow to become effective the lower, 50 cent charge, provided that customers are allowed at least two free calls per month if the subscriber makes at least two MTS or WATS calls. Clearly, AT&T will incur costs in providing IDA and a separate charge for this service will encourage efficient use of it by assessing rates on actual users. However, allowing only one free IDA call per month per customer would give too little opportunity for customers to make the transition to separate charges for this service. Some business and residential customers may want to reorganize the methods by which they obtain and store telephone numbers. The free calls also add to the utility of the long distance network for customers who might not be able to obtain the distant number otherwise. They permit reasonable use of IDA to obtain these numbers, which customers cannot look up in their telephone books. Large users such as credit bureaus and other businesses should, at the same time be fairly assessed for the IDA calls they make. The two free calls per month should relieve much of the hardship from this charge while allowing for a more efficient way to recover the costs of providing this service. This charge would provide AT&T with about $140 million in revenues for its switched services in 1984.[49]

93. To summarize this analysis, we find that, without a rate change, AT&T's February 27 filing unreasonably understated its revenues (net of associated expenses) by at least $225 million. Adjustments are necessary to the claimed competitive loss and for revenues from IDA.

C. Overestimates of Expenses for Switched Services

94. AT&T's estimate of access expenses in its February 27 filing included charges by the exchange carriers for billing and collection. As explained in the first part of this Order, exchange carriers are hereby required to change their tariffs and contracts with AT&T for these services by targeting their charges to earn no more than the authorized interstate rate of return on these services. Higher charges would be unlawful. These revisions should reduce AT&T's 1984 switched access expenses by about $400 million.

95. Next, AT&T's estimate of its 1984 non-access expenses is unsupported and unreasonable for at least $125 million. AT&T's February/March 1984 forecast

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[45] This reduciton in AT&T's competitive loss claim assumes no MTS or WATS rate reduction. That is, we here correct one part of AT&T's claim in its February 27 filing using the basic framework of that filing. the rate reductions that we order in this section should further reduce AT&T's competitive losses. The effects of these rate reductions should be reflected in AT&T's estimated demand elasticities that we apply in paras. 105–106 *infra*.

[46] AT&T forecast its MTS access minutes-of-use at 100.246 billion. AT&T Response (April 11, 1984) at Exhibit 2. AT&T estimated that domestic MTS would account for 70 percent of total MTS revenues. AT&T Response (March 6, 1984) Appendix 1 at 4. Each minute of domestic MTS traffic involves two access minutes, but one minute of international MTS traffic involves only one access minute. Also, the average revenue per minute should be far higher for international than domestic MTS traffic. We estimate that 90 percent of MTS access minutes are for domestic MTS. Adding $200 million in MTS revenues for less competitive loss increases AT&T's forecast of domestic MTS revenues from $14.919 billion by 1.34%. AT&T Response (March 6, 1984) Appendix 1 at 4. We assume that $200 million in higher domestic MTS revenues would increase AT&T's domestic MTS access minutes by the same percentage. With an adjustment for these additional revenues, AT&T's MTS access minutes-of-use would rise by about 1.21 billion to about 101.456 billion.

[47] *See* comments in CC Docket No. 83–1145 of National Association of Regulatory Utility Commissioners, ITT World Communications, Satelco, MCI Telecommunications, Direct Marketing Association, Committee of Corporate Telecommunications Users, and Interstate Directory Assistance Users. We address the issues raised in Appendix C.

[48] ECA Tariff Order, FCC 84–51 (released February 17, 1984); Mimeo No. 2802 (released March 7, 1984) (order on non-NECA exchange access tariffs). We estimate from NECA's March 15 tariff that AT&T's directory assistance access expenses would average about 30 cents per message.

[49] AT&T initially estimated that its revenues from charging 50 cents per call, with one free call per month, for IDA would be $180 million in 1984. AT&T Response (March 6, 1984) Appendix 4. Later, AT&T and several exchange carriers estimated that this proposal would give AT&T $200 million in revenues in 1984. Public Notice No. 3368 (released April 4, 1984) at 3. We calculate that a 50 cent charge and allowing 3 free residential calls and no free business calls for IDA would reduce AT&T's revenues from $200 million to about $135 million. We also calculate that a 50 cent charge and allowing 3 free residential and 1 free business calls for IDA would reduce AT&T's revenues from about $200 million to about $120 million. The adjustment from $200 million to $140 million appears reasonable for a 50 cent charge and allowing 2 free residential and business calls.

of non-access interstate expenses, which includes nine separate non-access expense items,[50] shows a decline in the sum of these expenses from the October 3 tariff filing. The most notable individual change was that AT&T's maintenance-expenses estimate increased $327 million.[51] AT&T stated that this increase in interstate maintenance expenses was primarily attributable to four items: (1) new information showing right-to-use fees for updates to the Traffic Service Position System (TSPS) ($49 million); (2) new information showing billings from BOCs for the Trunk Integrated Record Keeping System (TIRKS) ($34 million); (3) different expense assignment procedures ($125 million); and (4) non-network maintenance expenses which had been erroneously omitted from the earlier estimate ($110 million).

96. Several commenting parties were sharply critical of AT&T's non-access expense changes. BCR stated that information is lacking to identify AT&T's changes in its expense adjustment procedures and what non-network maintenance expenses were omitted from the October view.[52] Lexitel stated that AT&T estimated maintenance expenses for decades and questioned why for the October filing AT&T used a proxy for expense assignment procedures and also why a normal expense such as non-network maintenance would be omitted.[53]

97. These late-filed changes with incomplete support cast doubt on the credibility of AT&T's overall maintenance expense estimation procedures. Furthermore, BCR stated that AT&T could achiever significant across-the-board decreases in non-access expenses (about $300 million) by exercising appropriate management techniques.[54] We find that AT&T has failed to justify the $125 million rise in estimated expenses attributed to using changed expense assignment procedures. This accounting shuffle may be nothing more than a guise for an unreasonable addition to projected expenses. Thus, even if certain legitimate expenses can be added to the October view, we think that a minimum of $125 million is a reasonable estimate of the amount by which AT&T's projections are overstated. In the future, AT&T can attempt to support its estimates by showing post-divestiture actual expenses and a more thorough explanation of its projection methodology. A rough apportionment of this expense reduction between AT&T's private line and switched services uses AT&T's estimate that 61 percent of its total maintencance expenses is allocated to switched services.[55] This adjustment lowers MTS and WATS maintenance expenses by $76 million.

98. We find that there should be several changes in AT&T's forecast of its switched access expenses (other than billing and collection). AT&T's estimate of $14.098 billion for its switched access charges and directory assistance expenses (excluding international information, billing expenses, WATS end-user charge, and sales and use tax) was filed before the exchange carriers filed their revised tariffs on March 15 and 19.[56] AT&T stated that its estimates were based on the charges shown in the exchange carriers' September 30, 1983, proposed tariffs, which were affected by our orders on February 17 and March 7 and the *Second Reconsideration Order*. As shown in AT&T's support figures filed March 6, AT&T's February 27 estimate uses a directory assistance charge of 51.0905 cents per message; yet, our February 17 order capped the operator portion of this charge at 25 cents per message, down from 49 cents per message in NECA's Septembr 30 tariff. Based on NECA's March 15 tariff, AT&T's directory assistance expenses would average about 30.36 cents per message. Also, AT&T's estimates for various rate elements vary from the rates per minute of use subsequently filed by the NECA: common line (6.55 cents for AT&T vs. 6.03 for NECA); LDS (0.953 cents for AT&T vs. 0.98 for NECA); and line termination (0.745 cents for AT&T vs. 0.79 for NECA).[57] There is dispute between AT&T and BCR over the AT&T average access expense for transport because of conflict over AT&T's average length of haul for switched access. While AT&T employed 1.223 cents per minute of use in its March 6 filing, it more recently claimed 1.5035 cents based on the NECA tariff rates. BCR, however, claimed that AT&T's mileage estimates were inflated and that average charge should be about 1.35 cents.[58] For purposes of this calculation, we use as a reasonable approximation 1.426 cents per minute of use for transport, midway between the recent AT&T and BCR estimates. In total, AT&T used switched access rates for these rate elements which are 2.55% higher than those based on NECA's March 15 tariff (9.471 cents rather that 9.2357 cents per swithed access minute). We use the figures filed in the NECA tariff and AT&T's MTS and WATS volume estimates.[59] Then, AT&T's 1984 switched access expenses drop by about $469 million from its February 27 and March 6 estimate ($126 million less for director assistance and $342 million less for other switched traffic).

99. The final adjustment to AT&T's switched expenses is for the switched access rate changes developed in the first part of this Order. In its March 6 filing, AT&T estimated that its MTS and WATS switched access minutes-of-use would be 145.167 billion. This figure would rise to about 146.377 billion after lowering AT&T's claim for competitive loss.[60] The switched access charge per minute corresponding to this level of AT&T MTS and WATS traffic is about 8.757 cents.[61] The difference between 9.2357 cents based on the NECA's March 15 filing and 8.757 cents for this level of AT&T MTS and WATS traffic is $701 million in reduced switched access expenses for AT&T.

[50] The nine-access expense categories listed were: maintenance; depreciation and amortization; traffic expense; commercial and marketing expense; operating rents; relief & pensions; corporate management fees; other general expenses; miscellaneous income charges. Two specific expense categories, and maintenance and other general expenses, showed substantial increases. Two other items, commercial and marketing expense, and miscellaneous income charges, showed smaller increases. The five remaining categories showed decreases.

[51] Several parties indicated that such a result is anomalous in view of the fact that total plant in service concurrently dropped by 7.6% (over $1 billion) and its traffic estimate also dropped. *See* the March 9, 1984, comments of the following parties: BCR Attachment 1, at 1–2; Mountain Bell, Northwest Bell, and Pacific Northwest Bell at 7; Pacific Bell and Nevada Bell at 13; Southwestern Bell at 11 and 13; Ameritech at 10; and Lexitel at 18–19.

[52] BCR Comments (March 9, 1984) Attachment 1, at 2. *See also* March 9, 1984, Comments of Mountain Bell, Northwest Bell and Pacific Northwest Bell at 7; GTE at 10.

[53] Lexitel Comments (March 9, 1984) at 18–19. *See also* Pacific Bell and Nevada Bell Comments (March 9, 1984) at 13.

[54] BCR Comments (March 9, 1984) at Exhibit 7.

[55] AT&T Response (March 6, 1984) Appendix 2 at Attachment 3.

[56] AT&T Response (March 6, 1984) Appendix 5 at 13; Letter from W. Stump, AT&T (March 22, 1984) at 4.

[57] AT&T Response (March 6, 1984) Appendix 5 at 13; NECA Description and Justification, Appendix 4 (March 15, 1984); Bell Atlantic Comments (March 9, 1984) at 4; NYNEX Reply Comments (March 16, 1984) at 7; BCR Comments (March 16 and April 6, 1984). We do no understand why AT&T continued ot use these wrong estimates of the NECA's rates even after the NECA's March 15 tariff filing. AT&T Response (April 19, 1984) Appendix 1 at 5. AT&T's estimates excluded the NECA's 0.0097 cents intercept charge, which we include in this calculation.

[58] BCR Comments (April 6, 1984) at Appendix C.

[59] AT&T estimated its WATS access minutes of use at 44.921 billion and its MTS access minutes of use at 100.246 billion. AT&T Respone (April 11, 1984) at Exhibit 2. We already applied 9.2357 cents per access minute in estimating the access expenses associated with the competitive-loss adjustment. *See* para. 91 *supra*.

[60] *See* Note 46 *supra*.

[61] *See* Appendix B.

100. To summarize this analysis, it is reasonable to believe that AT&T's expenses for its switched services would drop from its February 27 estimate by at least $1.646 billion without a rate reduction: $400 million less for billing and collection, $76 million less for maintenance, $469 million less for access from AT&T miscalculation, and $701 million less for access from the exchange carriers' rate reduction.

D. Effects of Changes in AT&T's Estimated Revenues and Costs on AT&T's Rate of Return

101. The following calculations show that the preceding adjustments to AT&T's estimated revenues and costs would, in the absence of a substantial MTS and/or WATS rate decrease, give AT&T a rate of return on its MTS and WATS services far exceeding the interstate authorized level of 12.75 percent.

102. AT&T estimated that is average net investment for MTS and WATS services is $7.107 billion.[62] A one-precent increase in its earnings ratio on these services requires a rise in net earnings of $71 million through some combination of higher revenues and lower expenses. With the marginal federal corporate income tax rate at 46 percent, a one-percent increase in its earnings ratio on these services requires a net earnings pre-tax increase of $131.5 million.

103. AT&T's March 6 estimates contain a 4.412 percent earnings ration on MTS and WATS services.[63] The preceding analysis estimated that, without a rate change, AT&T's revenues should be about $225 million higher (net of associated expenses) and its expenses $1.646 billion lower than it claimed on February 27. These adjustments would raise AT&T's projected earnings on its switched services by 14.228 percentage points. This would give AT&T a return of 18.640 percent on its MTS and WATS services.

104. This level of return is clearly unlawful. By our 1981 rate-of-return prescription, AT&T is required to target its rates to earn no more than 12.75%. One option for us is simply to require AT&T to file new MTS and WATS tariffs reflecting our adjustments to its claimed revenues and expenses. This option may involve substantial delay for AT&T to file its new tariffs, public comments, and our review. The time required for this process would delay much of the benefits to customers from the customer line charges on multi-line business subscribers and charges for IDA in terms of lower MTS and WATS rates, and would constitute an unjustified windfall to AT&T. A preferable option involves the Commission prescribing a prompt reduction from AT&T's currently-effective MTS and WATS tariffs. The simplest prescription for revised rates that the Commission can review quickly is an across-the-board reduction in all MTS and WATS usage rates. This approach also allows us to be confident that the rate reductions are not applied discriminatorily.

105. We find that, based on the available information, the rate reduction necessary to get AT&T down to 12.75% earnings on MTS and WATS is a prescribed 6.1 percent across-the-board decrease in MTS and WATS usage rates (*i.e.*, not including reductions in flat charges for WATS access lines or operator assistance charges). In responses to our public notice requesting comments on the effects of various MTS and WATS rate decreases on AT&T's earnings,[64] AT&T estimated that a 5.1% rate decrease for domestic and offshore MTS and a 5% out-WATS (not 800 service) rate decrease would decrease its MTS revenues by $338 million and decrease its WATS revenues by $187 million.[65] AT&T's estimated an own-price elasticity for domestic MTS (the response of demand for domestic MTS to a change in its price) of −0.59, and an own-price elasticity for all WATS (including 800 service) of −1.0.[66] AT&T stated that the MTS elasticity was not based on uniform changes for all MTS usage rates.[67] We employ −0.60 as a reasonable estimate of the own-price elasticity for an across-the-board rate change for domestic and offshore MTS.[68] As AT&T stated in an earlier filing, it is reasonable to employ −0.34 as an estimate of the own-price elasticity for an across-the-board rate change for international MTS.[69] Finally, we apply −1.0 as a reasonable estimate of the own-price elasticity for all WATS (including 800 service).

106. To estimate the revenue effects of these possible rate changes, we added to AT&T's forecast of 1984 domestic and offshore MTS revenues ($15.385 billion [70]) the $200 million in lower MTS competitive loss (see para. 91 *supra*) to obtain baseline domestic and offshore MTS revenues of $15.585 billion. We use AT&T's forecast of 1984 WATS and international MTS revenues, $6.832 billion and $5.71 billion, respectively.[71] With the -0.60 own-price elasticity, and across-the-board 6.1 percent domestic and offshore MTS usage rate decrease should stimulate demand for these services by 3.66% and decrease revenues by 2.66% ($415 million). Demand for international MTS should rise 2.07% in response to a 6.1 percent rate decrease, with revenues dropping 4.15% ($237 million).[72] Demand for WATS (including 800 service) should rise 6.1% in response to a 6.1 percent rate decrease, with no effect on revenues. In total, these rate changes should increase AT&T's switched access minutes by about 6.33 billion [73] and decrease its MTS and WATS revenues by about $652 million.

107. We expect that the additional traffic stimulated by this rate reduction will cause AT&T to incurr two types of expenses, access and non-access. As for access expenses, AT&T's higher traffic volume is associated with some higher costs for exchange carriers and lower per-minute switched access charges for AT&T. According to the calculations

[62] AT&T Response (March 6, 1984) Appendix 2, at Attachment 3.

[63] *Id.*

[64] Public Notice (released March 30, 1984). Attached to that public notice were Supplemental Comments of various exchange carriers recommending that the Commission "implement a 2% to 3% rate reduction on MTS as soon as AT&T can file revised tariffs."

[65] AT&T Response (April 3, 1984) Schedule 1. We recognize that AT&T's estimates are not based on across-the-board rate changes.

[66] *Id.* at 2 and n. **. AT&T stated that these are short-run elasticity estimates.

[67] *Id.*

[68] This slight adjustment to AT&T's estimate for the short-run response to selectively rate changes is to account for an across-the-board rate reduction. The adjustment is in the direction of AT&T's estimate of the domestic MTS long-run, across-the-board price elasticity. *See id.* and AT&T Response (March 6, 1984) Appendix 3 at 1.

[69] AT&T Overseas MTS Rate Reduction Filing (May 7, 1981) Vol. 2 4–5.

[70] AT&T Response (March 6, 1984) Appendix 1 at 4. The revenue figures used here are for all MTS revenues, including a small amount of revenues from non-usage rate elements. Our calculations may overstate slightly the revenue loss from the reduction in usage rates because we apply the elasticities to total revenues. The same point applies to international MTS and WATS revenues. We are using the best information available to us in these calculations and we do not believe that the delay necessary to obtain detailed data on AT&T's revenues from non-usage rate elements would serve the public interests.

[71] *Id.*

[72] AT&T has arrangements for compensating foreing telephone companies which participate in its international traffic. This calculation figures in the decline in revenues on AT&T's international traffic. We allow for some rise in AT&T's cost for compensating foreing telephone companies in para. 107 *infra*.

[73] *See* notes 46 and 59 *supra*. We use the estimate for overseas MTS of 2 billion access minutes, and the estimate of 8 billion access minutes for international MTS.

presented in the first part of this Order,[74] AT&T's switched access expenses for MTS and WATS will rise by about $74 million with its higher traffic volume.[75] AT&T's costs for billing and collection may also rise with the higher traffic volume, probably by about $7 million. As for non-access expenses, AT&T's higher traffic volume will cause it to incur higher costs for the interexchange portion of transmissions, perhaps some plant expansion costs, perhaps higher expenses for compensating foreign telephone companies, and perhaps higher maintenance expenses. We are uncertain of these non-access expenses, but believe that they are likely to be between $35 and $50 million. We use $42 million, about the midpoint of this range, as a reasonable estimate of these additional expenses.

108. The result of this 6.1 percent across-the-board reduction in MTS and WATS usage rates is a combination of lower revenues and higher expenses totaling about $775 million. This reduction would decrease AT&T's earnings on its MTS and WATS service by about 5.894%. We expect that this rate reduction will leave AT&T's earnings on MTS and WATS services at no less than 12.75%. We will rely on reports to be filed by AT&T to detect deviations in its revenues and expenses from the projections used in its February 27 filing and this Order. If actual data show that further rate reductions are necessary so that AT&T will earn no more than 12.75% with reasonably-incurred expenses, AT&T should file new tariffs or else we will prescribe additional rate reductions.

109. Finally, we consider the possibility that we should not have made any adjustment to AT&T's estimates on competitive loss and maintenance expenses. While we believe that these estimates were, in part, unsupported and unreasonable, we calculate AT&T's rate of return using its own numbers out of an abundance of caution. Without these adjustments, our figures for AT&T's revenues would be $85 million lower ($200 million in competitive loss net of associated expenses) and AT&T's expenses would be $76 million higher. This combination of lower revenues and higher expenses would reduce AT&T's earnings on MTS and WATS services by 1.224 percentage points, leaving it with a rate of return of 17.424% before the 6.1% rate reduction and 11.53% after this rate reduction. This latter figure far exceeds AT&T's 1983 earnings and would not be confiscatorily low. Still, we expect AT&T to earn 12.75% after this rate reduction.

III. Summary and Implementation

110. In the order establishing this investigation issued last October, our stated goal was "to resolve at least the major issues necessary to begin workable access arrangements." *Investigation Order* at para 3. Although we regretted the delay in implementation of access tariffs, we judged that an adequate opportunity for public comment and Commission review was needed in view of the important and substantial issues of lawfulness presented by these voluminous, novel tariffs. We have reviewed the initial 40,000 tariff pages, 160,000 pages of support material, additional thousands of pages of comments, further information we requested from the carriers, and the revised, corrected tariff filings. In the *ECA* and *Non-ECA Tariff Orders*, both over 400 pages long, we reviewed the tariff language in detail and, where necessary, prescribed revised provisions. In a separate order of nearly 200 pages we then reviewed the corrections. Although the special access provisions remain under review, we believe the major issues regarding the regulations and provisions for switched access have been resolved.

111. In this order, we conclude out initial review of the switched access rates. We find that the carriers have not sustained their burden to prove the reasonableness of the field charges and we prescribe appropriate revisions. The cost material submitted by the filing carriers was unsupported and impossible to evaluate in many instances. However, based upon the record compiled and on our own expertise, we have recalculated figures for a reasonable allowance of growth from actual 1983 accounts, and made adjustments for understated demand. Our calculations show that an 8.59 percent reduction in the rates for switched access charged to interexchange carriers is necessary. Because of this reduction and other factors, we also conclude that AT&T's rates for its services using switched access, MTS and WATS, should be reduced at least 6.1 percent. In both cases, we conclude on the basis of our analysis of the record that these adjustments will allow both local exchange carriers and AT&T to earn at the authorized 12.75 percent rate of return for switched services. The proposed and current higher rates, which would exceed this rate of return, are therefore unreasonable and unlawful.

112. We have dealt with both the exchange carriers' and AT&T's costs and rates in this single order for two reasons. First, a basic goal of our access charge plan is to ensure that customers benefit from the plan's introduction of more logical pricing. For customers, this benefit will occur only if appropriate reductions in long distance rates are implemented in tandem with access tariffs. The simultaneous effective date for access and long distance tariff revisions we established in this order should secure this benefit in the most repaid and accurate manner. Second, AT&T in its emergency petition contended that the *Second Reconsideration Order* and the access tariffs would have the effect of forcing upon it a confiscatorily low return. Its proposed solution was to increase OCC rates, and reduce BOC rates of return until equal access is available. Our analysis and conclusions in this order, however, make it unnecessary to consider AT&T's proposal. Its factual premise is in error or has been altered by our decisions on proper access rates. AT&T, we conclude, can offer at least a 6.1 percent rate reduction and still earn the allowed 12.75 percent return. We therefore do not address whether, if the facts were different, or indeed if the facts should change, some or all of the rule changes AT&T seeks should be granted. We could dismiss AT&T's Emergency Petition at this time. Out of an abundance of caution, however, we will hold it in abeyance until we have had an opportunity to review six months of actual operating results under the rates prescribed herein. Similarly, we do not reach or address the proposals for rate compromises and trade-offs proposed by United Telecommunications, Inc. and other exchange carriers [76] or the comments on that proposal. The access and MTS/WATS rate cuts we are ordering are not based upon increases in other rates such as special access or private line. Issues relating to those matters will be considered in later orders. The rate reductions in this order are based on switched access and MTS/WATS services alone.

113. This approach, including the procedures used and the overall results, is a proper and reasonable one. It recognizes the interrelationship of access and long distance rates and deals with them as a consistent whole rather

[74] *See* Appendix B.

[75] The $74 million figure is computed by subtracting the product of 8.443 cents per minute and 152.703 billion MTS and WATS access minutes and 146.377 billion MTS and WATS access minutes (before the rate reduction).

[76] dated March 29, 1984, placed on Public Notice March 30, 1984.

than piecemeal. It is based upon the extensive record we have developed in the course of several related proceedings which bear upon the costs and rates, and full opportunity for public scrutiny and comment at each stage. While we could have convened a full evidentary hearing on these issues, such a hearing was not necessary to reach a generally reasonable starting point for access rates. The basic cost issues in this investigation concerned projections of future developments for which written comments provided an adequate record. That record could not have been measurably improved by the test or oral cross-examination. The inevitable lengthy delay required by a formal hearing would also have been counter-productive. In sum, we afforded the full opportunity for hearing required by section 205(b) of the Act,[77] and the record establishes the need to prescribe reasonable rate reduction.

114. By allowing access tariffs to become effective based upon reasonable projections from actual numbers we can test the rates against operational experience, an approach which is likely to be more accurate and efficient than attempting to make further attempts to fine tune them. This is one instance where a month of experience is truly more valuable than a year of hearings. We are confident that our prescriptions herein will permit the carriers to earn rates within the zone of reasonableness. If our prescriptions prove too generous, we can require refunds of any excess earnings by ordering further reductions once we have had an opportunity to review some actual operating results. We are delegating authority to the Chief, Common Carrier Bureau to require regular reporting of carrier operating results so that we can be quickly apprised of the effects of our prescriptions and the need for fine tuning. This approach we believe, uses the best available information to fairly balance the public interest in rapid implementation of switched access tariffs, and the equally compelling interest in reasonable rates. As the D.C. Circuit observed:

> [T]here must be some reasonably prompt decision making point at which the FCC says: "To the best of our knowledge and expertise at this time, the rates are just and reasonable. Perfect, perhaps not, but just and reasonable, yes." That is all the statute requires. * * * The best must not become the enemy of the good, as it does when the FCC delays making any determination while pursuant the perfect tariff.[78]

115. The record and the circumstances also warrant the immediate flow-through of the access rate reductions to local customers in the form of lower MTS and WATS rates. AT&T should not receive a windfall from its savings in expenses for access. As our analysis shows, AT&T would earn far above its maximum allowable return of 12.75 percent if it retained all these savings. The actual amount of the excess is less clear, but we find that a reduction of 6.1 percent in MTS and WATS rates is required to bring AT&T down to its 12.75 percent rate of return. An immediate reduction is clearly preferable to an accounting order and possible refunds. It grants reasonable rate reductions now to the customers who are actually entitled to receive them, not a delayed refund to the general class of customer.

While we will require adjustments if AT&T's earnings prove excessive, the evidence of record and the public interest both support the immediate reductions we are ordering today. We conclude, on the basis of the present record, that a 6.1 percent across-the-board reduction applied to the existing MTS and WATS rates will be just and reasonable.

116. To eliminate unnecessary delay we are also specifying as precisely as possible the mechanisms to be followed by carriers in carrying out these conclusions. The NECA is directed to revise the CCL, CCL flat rate, and CCL FX rate elements as specified. No other rate changes are to be made in this filing except, as we describe below, in billing and collection. the NECA and other filing carriers are directed to include in this filing no other tariff changes which are not expressly required or approved in the Commission's April 27 Order, FCC 84–188, or in a waiver granted before the filing of the required transmittal. We will not consider waiver requests filed concurrent with or after the transmittal.[79] Carriers can of course propose other tariff changes in separate transmittals subject to the notice required by our rules.

117. The required transmittals shall apply only to the sections of the tariffs related to switched access, Sections 1 through 6 and 9 through 14 in the NECA and most other access tariffs. The filing carriers are directly to make all changes required by our April 27 Order. The filing is to be made, unless a waiver is granted, on May 18, 1984 advancing the effective date of these sections, as revised, to May 25, 1984. As we discussed above, billing and collection rates are to be set, effective May 25, 1984, to earn no more than a 12.75 percent return. Any higher rate would be unlawful. We recognize, however, that it may be difficult for carriers to prepare and file the cost support necessary to demonstrate that its rates will result in no more than this allowed return. As we do not wish to delay the other provisions, we will allow carriers two options. First, carriers may file lower billing and collection rates as part of their May 18 filings. (Proposals for any higher rates must be made in separate transmittals.) These must be accompanied by adequate cost support information. As part of these filings, the carriers may advance the effective date of the billing and collection section of the tariff (Section 8 in the NECA and most other tariffs) to May 25. Second, the carriers may continue to provide billing and collection under contract, but at no more than a 12.75 percent return level. Carriers may propose revisions to the tariff to implement this order before the present June 13 effective date upon at least one week's notice. Upon request, we will also allow a deferral of the June 13 date, provided the effective date is also deferred, until no later than August 1, 1984. Although we have in the past granted waivers of our cost support rules for billing and collection, all carriers are directed to file the information required by § 61.38 of our Rules. The prior waivers are hereby withdrawn.

118. Because we are allowing switched access provisions of the access tariffs to become effective while we continue our review of special access, interim arrangements are necessary for

[77] American Telegraph and Telephone Company v. F.C.C. 572 F. 2d 17, 23 (2d Cir.), *cert. denied* 439 U.S. 895 (1978); Florida East Coast Railway Company v U.S., 259 F. Supp. 993 (M. D. Fla.), *aff'd per curiam*, 386 U.S. 1299 (1967). *See also* Western Union v. F.C.C., 665 F. 2d 1126, 1152 (D.C. Cir 1981). As the Court stated in Vermont Nuclear Power Corp. v. National Resources Defense Council, Inc., 435 U.S. 519, 543 (1979), absent constitutional constraints or extremely compelling circumstances "administrative agencies should be free to fashion their own rules of procedure and to pursue methods of inquiry capable of permitting them to discharge their multitudinous duties."

[78] MCI v. F.C.C., 267 F. 2d 322 at 341, 342 (D.C. Cir. 1960). The prompt effectiveness of access tariffs will also promote the policy goals and schedules of the MFJ.

[79] Pursuant to a Bureau order in this proceeding (*Waiver Order*, Mimeo No. 2964, released March 16, 1984) Anchorage Telephone Utility, Fidelity and Bourbeuse Telephone Companies, Citizens Telephone Company, Matanuska Telephone Company, Orchard Farm Telephone Company and Walnut Hill Telephone Company were granted waivers to file revisions to their access tariffs on dates after the March 19th date established for non-NECA carriers. We will treat these filings and any relevant pleadings in a separate order. We will also handle the applications for special permission separately.

the latter services. We expect that carriers can work out such arrangements themselves. We intend to prescribe interim arrangements only if it is necessary.[80] Delay in special access provisions also warrants delay in the tariff recovery of the special access surcharge. The surcharge contributes to the Carrier Common Line revenue requirement but is included in the special access sections of the tariffs and applied to those lines. Complex problems of application and administration would likely arise if the provisions were to be pulled out of special access and allowed to become effective along with switch access provisions. We expect to address special access in less than a month, and this brief delay will have minimal revenue impact. In the event of any unforeseen delay in special access, we would review this issue separately.

119. We require AT&T to implement an immediate uniform, across-the-board 6.1 percent reduction in MTS and WTS rates by means of revisions to its currently-effective Tariffs FCC Nos. 263 and 259. AT&T may also file an IDA charge of no more than 50 cents per call, provided it offers at least two free IDA calls per month. The free calls may be limited to customers who had made at least two calls under the tariff in that month. The 6.1 percent across-the-board reduction should be applied to all usage based charges and be filed on the same schedule required for the NECA transmittal.[81] We recognize that some rounding of rates may be appropriate in applying the reduction. Any such rounding should be done in a manner which implements across-the-board reductions so far as possible.

120. In allowing switched access provisions to become effective, we also are applying, for the first time, the multiline business and Centrex CO customer line charges. These charges have been among the most controversial of the access plan. In the *Second Reconsideration Order*, for example, we delayed imposing customer line charges on residential and single-line business customers pending further study. Yet, the shift to more balanced cost recovery, which the customer line charges achieve, is essential both to our plan and to the long-run health of the exchange telephone companies. Any attempt to preserve the subsidies of the past would encourage uneconomic bypass of local companies which threatens their ability to provide the universal service Americans have come to expect and rely on. We are examining what steps can be taken in addition to the multiline business customer line charge to achieve our access plan objectives, and hopes to make a decision in December of this year.

121. We are particularly aware of the concerns expressed by the Congress over these charges. We have received a letter from nine Senators and another signed by 190 members of the House requesting that we delay or repeal multiline business customer line charges. They are concerned that these additional charges, coupled with increases in local telephone costs, would place a substantial burden on the limited resources of small businesses. We recognize that any change to pricing which better reflects costs inevitably increases some customers rates. These concerned legislations, however, could not have known that we would require offsetting decreases in MTS and WATS rates. The customer line charges, surcharges, and directory assistance charges allowed will cost local customers about $1.452 billion.[82] The 6.1 percent reduction in MTS and WATS rates will save customers much more, about $1.76 billion.[83] Consumers will benefit even more from the traffic stimulated by the rate reduction. We expect demand to increase by about 6.33 billion access minutes, at a savings of 1.17 cents per minute.[84] The additional gain in consumers' welfare would be about $37 million.[85] The total benefits to consumers should thus be about $1.8 billion, for a net benefit of $350 million. Moreover, the reduced rates may well result in lower rates from AT&T's long distance competitors. This is only the beginning. As the transition to cost based rates continues, long distance rates should fall sharply, and competition should keep rates low. All customers will benefit, but businesses large and small will be particularly helped. Lower long distances rates will reduce the costs of improved communication and coordination. Many businesses will benefit immediately. Further rate reductions will spread these benefits to more and more customers. Residential and single line business customers who share in the benefits of lower rates without at present paying customer line charges will gain increasing benefits in the form of reduced long distance rates as the plan proceeds.

122. Most importantly, the rate reduction will increase the productivity of all sectors of our nation's economy. By decreasing costs for transferring information and organizing activities, the reduction will spur more output, more jobs, and higher profits.[86] American business will be more competitive with foreign firms as this segment of operational costs shrinks, leading to higher export revenues and an improved balance of payments. While we do not attempt to quantify these benefits, we believe that there will be substantial additional gains for the nation from the changes we have ordered.

123. One related issue deserves mention. Our rules apply the business line charge in conformity with state and local practice. If the customer pays a local residential rate, the business line charge does not apply. 47 CFR 69.202. A number of letters from persons representing institutions which might be said to be residential in character have sought exemptions or modification of these rules. These include hotels, hospitals, orphanages, and schools. We believe, however, that it would be confusing, and potentially

[80] See the *Investigation Order*, para. 10.

[81] We are not implementing the rate reduction in AT&T's Tariff FCC Nos. 1 and 2. Those tariffs contain provisions and raise issues which may require further review or modification because of changed circumstances since they were filed in October. For example, the filed WATS rates and ICAM waiver for WATS would require revision and review. As filed they assume that WATS closed-end access is provided under the special access surcharge. It is now provided as switched access subject to the multiline business customer line charge. The proposed modifications in rate relationships between mileage bands for MTS and between 800 and WATS services also would require revision and review in light of the different access rates and other changes. In general, those filings have in significant part been overtaken by events. It is also desirable to begin the rate reductions for all customers and all interstate MTS and WATS, including calls within interstate LATAs and corridors to which Tariff 1 would not apply. It should, we conclude, be quicker, simpler, and fairer to apply the required 6.1 percent reduction to existing tariffs and rates. With respect to IDA charges, see Appendix C.

[82] The NECA estimates revenue from the multiline business customer line charge of $973 million, $108 million from embedded Centrex CO and $231 million from the surcharge for a total of $1.312 billion. NECA March 15, filing, D+J, vol. 1, p. 4–36. We estimate AT&T's revenue for IDA at $140 million.

[83] Based on AT&T's forecasts and our adjustment for competitive loss, its interstate MTS and WATS revenues would be $28.13 billion without a rate reduction. AT&T Response (March 6, 1984), Appendix 1 at 4. The exchange carriers' interstate MTS would be about $720 million. A 6.1 percent rate reduction from this $28.85 billion total, at the same level of traffic, would amount to savings of $1.76 billion.

[84] AT&T's average revenues per access minute should be about $.192 at current rates ($28.13 billion in revenues for 146.377 billion access minutes). A reduction of 6.1 percent would be about 1.17 cents.

[85] This is calculated by multiplying the increased demand (6.33 billion minutes) times the rate decrease ($.0117) times one-half.

[86] For one estimate, see Wharton Econometric Forecasting Associates, "Impact of the FCC Access Charge Plan on the U.S. Economy," November 1983.

discriminatory, for us to impose different standards for defining residential and business services from those applied by states. It also seems unnecessary. The states can remedy any hardship by adjusting the definitions and rates in their tariffs, and are in a better position to make the individualized, policy decisions that are likely to be involved.

124. We also take this occasion to deal with one request for reconsideration. Clear Lake Telephone Company, Clear Lake, Iowa, requests that we either allow the multiline business charge to go into effect only at the same time as the residential and single-line business charges, or redefine the charge to apply only to 5 or more access lines. It does not oppose customer line charges but believes the multiline charge is unfair to small businesses and may encourage them to terminate lines and phone systems. We see no reason to link multiline business charges to residential and single line business charges. We believe that a multiline business line charge will bring advantages to the public without any adverse impact on universal service. As noted above, we are continuing our review of the other potential charges. Business users are also generally the largest long distance users, so the lower long distance rates should be of greatest offsetting benefit to them. Moving the cutoff to 5 lines would substantially reduce the possible savings and further delay the beginning of this long needed process. We deny the request.

125. This order is in one sense a conclusion to this proceeding. It allows the tariffs to become effective and to replace past compensation mechanisms. Yet our investigation and review will continue. Many issues require further examination, as our analysis and the comments suggest. Special access must be reviewed. We will be working to develop cost and rate monitoring programs, so that we can test these initial rates against actual numbers within six months.[87] By that time we should have six months of data since divestiture and three months since the effective date of access tariffs. This should provide a reasonable data base for further analysis. Based on further review, we will consider needed changes in tariffs and rates and, if appropriate, refunds. We expect, by that time, that both predictable benefits of competition—rates close to costs, wider choice, better service—will be apparent. We also expect to see benefits which cannot be predicted—new offerings, and innovative technological advances.

126. Accordingly, it is ordered, that the tariffs considered herein are found to be unlawful to the extent indicated.

127. It is further ordered, that the revisions prescribed herein are just and reasonable pursuant to 47 U.S.C. 201–205.

128. It is further ordered, that the National Exchange Carrier Association and all exchange carriers, shall file revised tariff material in compliance with this order and our order released April 27, 1984, FCC 84–188, no later than May 18, 1984 with a scheduled effective date of May 25, 1984.

129. It is further ordered, that §§ 61.58, 61.59, 61.116, 61.118(b) of the Commission's Rules, 47 CFR 61.58, 61.59, 61.116 and 61.118(b) are waived to the extent required to file the above tariff revisions.

130. It is further ordered, that AT&T Communications shall file revised tariff material in compliance with this order no later than May 18, 1984 with a scheduled effective date of May 25, 1984.

131. It is further ordered, that §§ 61.58, 61.59, and 61.116 of the Commission's Rules, 47 CFR 61.58, 61.59 and 61.116 are waived for AT&T to the extent required to file tariff revisions implementing this order.

132. It is further ordered, that the petition filed by the State of Vermont is granted to the extent indicated herein.

133. It is further ordered, that the petition of Clear Lake Telephone Company is denied.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84–15375 Filed 6–7–84; 8:45 am]

BILLING CODE 6712–01–M

[87] Pending the development of a data reporting program tailored to the access tariffs and rates, all carriers are required to continue to file the current MR–1 data.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management (FEMA) has submitted to the Office of Management and Budget the following information collection packages for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067–0096
Title: Summary of State and Local Expenses for Emergency Management Assistance
Abstract: This 50–50 matching fund grant program requires this form to be submitted as a request or amended request for a financial contribution that constitutes the plan (including cost categories) under which the program funds will be distributed.
Type of respondents: State or Local Governments
Number of respondents: 56
Burden Hours: 112

Type: Extension of 3067–0090
Title: Staffing Pattern
Abstract: This 50–50 matching fund program uses this form to provide information on each individual personnel position under the Emergency Management Assistance (EMA) program.
Type of respondents: State or Local Governments
Number of respondents: 2,644
Burden Hours: 1,322

Type: Extension of 3067–0080
Title: State and Local Expenditures, Emergency Management Assistance
Abstract: This 50–50 matching grant program uses this form to monitor uses of funds by cost category, for summary and imperative analysis or object class expenditures in relation to grant output and for audit trail purposes.
Type of respondents: State or Local Governments
Number of respondents: 56
Burden Hours: 392

Copies of the above information collections request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 287–9906, 500 C. Street SW., Washington, D.C. 20472.

Comments should be directed to Ken Allen, Desk Officerfor FEMA, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: June 1, 1984.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 84–15385 Filed 6–7–84; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL HOME LOAN BANK BOARD

[No. 84–289]

Fair Housing and Nondiscrimination in Lending

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Loan Bank Board has submitted a request for extension through August 1987, without revision, of its information collection request, Fair Housing and Nondiscrimination In Lending, OMB No. 3068–0058, to the Office of Management and Budget for approval pursuant to 5 CFR 1320.12 pertaining to clearance of information collection requests.

Comments on the information collection request are welcome and should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503, Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Request for copies of the proposed information collection request and supporting documentation are obtainable at the Board address given below. Comments will also be available for public inspection at this address. Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552, Phone: 202–377–6933.

FOR FURTHER INFORMATION CONTACT: Richard Tucker, Director, Office of Community Investment, Federal Home Loan Bank Board, Telephone Number: 202–377–6211.

Dated: June 5, 1984.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84–15353 Filed 6–7–84; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL RESERVE SYSTEM

Georgia Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of th Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. 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.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 29, 1984.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Georgia Bancshares, Inc.*, Macon, Georgia; to acquire 100 percent of the voting shares of Tennille Banking Company, Tennille, Georgia.

B. Federal Reserve Bank of Chicago (Frankling D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *C.S. Bancshares, Inc.*, Connersville, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Central State Bank, Connersville, Indiana.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *State First Financial Corporation*, Texarkana, Arkansas; to become a bank holding company by acquiring 100 percent of the voting shares of The State First National Bank of Texarkana, Texarkana, Arkansas, and 100 percent of the voting shares of Commercial Investment Company, Texarkana, Arkansas, thereby indirectly acquiring First National Bank in Ashdown, Ashdown, Arkansas.

D. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Silver Lake Bancorporation, Inc.*, Silver Lake, Minneapolis to become a bank holding company by acquiring 91.17 percent of the voting shares of Citizens State Bank of Silver Lake, Silver Lake, Minneapolis.

E. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Beveridge Bancshares, Inc.*, Paxton, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Paxton, Nebraska.

2. *High Plains Bank Corp.*, Kiowa, Colorado; to acquire 98.133 percent of the voting shares of High Plains Bank of Elizabeth, N.A., Elizabeth, Colorado.

3. *Western Kansas Bancshares, Incorporated*, Ulysses, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Southwest Kansas National Bank, Ulysses, Kansas (In Organization).

F. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Charlotte Bancshares, Inc.*, Charlotte, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Charlotte State Bank, Charlotte, Texas.

Board of Governors of the Federal Reserve System, June 4, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–15372 Filed 6–7–84; 8:45 am]

BILLING CODE 6210–01–M

Marine Midland Banks, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the

evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than June 25, 1984.

A. **Federal Reserve Bank of New York** (A Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Marine Midland Banks, Inc.*, Buffalo, New York, The Hongkong and Shanghai Banking Corporation, Hong Kong, Kellett N.V., Curacao, Netherlands, and HSBC Holdings, B.V., Amsterdam, The Netherlands; to acquire Chronogram Corporation ("Chronogram"), Greenwich, Connecticut, and Chronogram International Corporation ("CIC"), Greenwich, Connecticut, and thereby engage in investment and financial advisory activities.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Banc One Corporation, Columbus, Ohio; to acquire UMLC Financial Corporation, Pasadena, California ("UMLC"), and thereby engage in the leasing of personal property and equipment on a full-payout basis and acting as agent, broker or advisor in the leasing of such property. UMLC's primary business activity is arranging lease transactions through its wholly-owned subsidiary, United Medical Leasing Company, in the form of limited partnerships. UMLC is the general partner in such transactions and each limited partnership is established to facilitate a single lease transaction. Its business is conducted throughout the United States.

Board of Governors of the Federal Reserve System, June 4, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-15373 Filed 6-7-84; 8:45 am]

BILLING CODE 6210-01-M

United Carolina Bancshares Corp., et al.; Applications To Engage De Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing 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.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 28, 1984.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 21261:

1. *United Carolina Bancshares Corporation*, Whiteville, North Carolina; to engage *de novo* through its subsidiary, UCB Financial Services Corporation, in the issuance and sale at retail of money orders having a face value of not more than $1,000. These activities would be conducted in the states of North Carolina and South Carolina.

B. **Federal Reserve Bank of St. Louis.** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Northwest Bancorporation of Arkansas, Inc.*, Fayetteville, Arkansas; to engage *de novo* in the underwriting of credit life, accident and health insurance. The activity to be conducted will be that of acting as a general agent representing credit life insurance companies whose products (credit life and accident and health insurance) will be directly related to an extension of credit by the subsidiary of Applicant, Northwest National Bank, Fayetteville, Arkansas. These activities will be conducted in the immediate market area served by Bank.

2. *Northwest Bancorporation of Arkansas, Inc.*, Fayetteville, Arkansas; to engage *de novo* in the arranging of commercial real estate equity financing, acting as an intermediary for the financing of commercial or industrial income producing real estate by arranging for the transfer of the title, control and risk of such real estate project to one or more investors. These activities would be conducted within a radius of 150 miles from the location of Applicant's subsidiary bank, Northwest National Bank, Fayetteville, Arkansas.

3. *Northwest Bancorporation of Arkansas, Inc.*, Fayetteville, Arkansas; to engage *de novo* in the activity of real estate appraising. these activities will be performed in immediate market area of Applicant's subsidiary bank, Northwest National Bank, Fayetteville, Arkansas.

4. *Northwest Bancorporation of Arkansas, Inc.*, Fayetteville, Arkansas; to engage *de novo* in the activity of making and servicing loans; including the making, acquiring, or servicing of loans or other extensions of credit (including issuing letters of credit and accepting drafts) for the company's account or the account of others, such as would be made for example, by the following types of companies: consumer finance; credit card; mortgage; commercial finance; and factoring. These activities would be conducted in the immediate market area of Applicant's subsidiary Bank, Northwest National Bank, Fayetteville, Arkansas, and within a radius of 150 miles from the location of Applicant.

Board of Governors of the Federal Reserve System, June 4, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-15374 Filed 6-7-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Basic Psychopharmacology Research Subcommittee; Meeting; Correction

This notice is to correct a document that was published in **Federal Register** Volume 49, No. 97, Pages 20909 and 20911 on May 17, 1984 as follows: The Basic Psychopharmacology Research Subcommittee of the Basic Psychopharmacology and Neuropsychology Research Review

Committee will begin at 10:00 a.m., June 7–8, instead of 9:00 a.m.; and the Aging Subcommittee of the Life Course and Prevention Research Review Committee meeting will be held at the Georgetown Hotel, Suite 217, 2121 P Street, NW., Washington, D.C. 20036, June 14–15, instead of the Sheraton Washington Hotel.

Dated: June 4, 1984.

Sue Simons,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 84–15352 Filed 6–7–84; 8:45 am]

BILLING CODE 4160–20–M

Centers for Disease Control

Cooperative Agreements, Preventive Health Services, Acquired Immunodeficiency Syndrome (AIDS) Surveillance and Associated Epidemiologic Investigations; Availability of Funds for Fiscal Year 1984

The Centers for Disease Control (CDC) announced that availability of funds in Fiscal Year 1984 for cooperative agreements for Acquired Immunodeficiency Syndrome (AIDS) active surveillance and associated epidemiologic investigations and a collaborative study of AIDS transmission among homosexual males. The Catalog of Federal Domestic Assistance Number is 13.118. This program is authorized by section 301(a) of the Public Health Service Act (42 U.S.C. 241(a)), as amended. Office of Management and Budget clearance under the Paperwork Reduction Act may be required for this project.

Eligible applicants for this program are the official public health agencies of State and local governments, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa, which have either:

A. Reported at least 30 AIDS cases that meet the CDC surveillance case definition:

1. Presence of reliably diagnosed disease at least moderately indicative of underlying cellular immune deficiency (e.g, Kaposi's sarcoma in patients who are less that 60 years of age or patients with *Pneumocystis carinii* pneumonia or other opportunistic infections); and

2. Absence of known causes of underlying immune deficiency and of any other reduced resistance reported to be associated with the disease; or

B. Documented at least 50 patients with well-characterized symptoms of the AIDS-related complex, which may represent mild or early AIDS (i.e., prolonged and unexplained generalized lymphadenopathy, thrombocytopenia, thrush, etc.).

Eligible State and local health agencies are strongly encouraged to coordinate their request for assistance, ideally in a single application, to ensure the most efficient use of State, local, and Federal resources.

Eligible applicants for this surveillance program may include a research component to perform a collaborative study of male to male transmission of AIDS. Applicants submitting requests with this component will be expected to demonstrate the capability to:

1. Identify and locate a minimum of 120 male sex partners of male AIDS patients, with at least 60 of these sex partners being steady and 60 nonsteady (the exact definition of "steady" vs. "nonsteady" to be developed jointly by those approved for funding and CDC);

2. Identify and locate a minimum of 240 male sex partners of apparently healthy homosexual males as controls with at least 120 of these sex partners being steady and 120 nonsteady; and

3. Examine, obtain laboratory specimens from, and interview these 360 male sex partners using a standard interview format (to be developed jointly with CDC) within the first year of this agreement.

Since funds set aside to study sexual transmission of AIDS among homosexual males must be awarded competitively, and separate narrative and budget is required for these activities if included in a continuation application.

Applicants must demonstrate that AIDS surveillance and associated epidemiological investigations cooperative agreements funds will be used primarily for activities to improve the identification and reporting of AIDS and AIDS-related complex cases, conduct epidemiologic investigations of selected cases, and establish a central registry of cases in the official public health department. Applicants requesting funds to study the risk of sexual transmission of AIDS among homosexual males must demonstrate that funds will be used to locate, examine, interview, and collect laboratory specimens from cases, controls, and their sex partners.

Evaluation and ranking of new surveillance applications will be based on the following factors:

1. The total number of AIDS cases reported since June 1981 that meet the CDC surveillance case definition.

2. The total number of patients with well-characterized symptoms which may represent mild or early AIDS.

3. The applicant's understanding of the AIDS problem and the purpose of the cooperative agreement.

4. The qualifications and time allocation of the proposed staff and a description of how the project will be administered.

5. A proposed schedule for accomplishing the activities of the cooperative agreement, including time frames.

6. The applicant's current activities in AIDS surveillance and research including relationships to other AIDS investigators in the area.

7. How the applicant will develop and implement a surveillance system for AIDS among physicians and hospitals, including establishing and maintaining a central registry of cases, and how epidemiologic investigations of selected cases (e.g., cases associated with blood transfusions) will be conducted.

8. Demonstration of close collaboration and working relationships between the public health department and those medical institutions diagnosing and treating patients with AIDS and related illnesses.

In addition to the above, evaluation of new and renewal applications containing a component for the study of AIDS transmission among homosexual males will be based on the following factors:

1. Details of the applicant's plan to study the transmission of AIDS among homosexual males including:

a. How patients will be located and interviewed for sex partners.

b. Proposed examination procedures for sex partners, including collection and processing of laboratory specimens and facilities available.

c. How controls will be selected, located, and interviewed.

2. The qualifications and time allocation of proposed staff for this component.

Objectives and Cooperative Activities

A. Objectives

The objectives of this cooperative agreement are to assist high priority areas in designing and implementing:

1. Active surveillance for AIDS and associated epidemiologic investigations to determine incidence trends, identify risk groups and risk factors, and provide opportunities for epidemiologic and

laboratory studies of AIDS and related disorders.

2. A study to determine the risk of sexual transmission of AIDS among homosexual males.

B. Cooperative Activities

The collaborative and programmatic involvement of CDC and recipients of funds is as follows:

1. *Recipient Agency Activities*

a. Design and conduct surveillance activities directed to improving the reporting of all AIDS cases and suspected cases diagnosed in the public health agency's geographic jurisdiction.

b. Establish systems with physicians, hospitals or clinics, cancer registries, laboratories, and other public health agencies for identifying and reporting cases.

c. Develop and maintain a central registry of all reported cases which includes epidemiologic and clinical information for individual cases, and which allows for rapid uniform updates and retrieval of case information for regular and special tabulations of data for analysis.

d. Evaluate the cost-benefit effectiveness of surveillance approaches.

e. In consultation with CDC, analyze, present, and publish the results of surveillance activities and collaborative studies of the sexual transmission of AIDS among homosexual males.

f. Conduct epidmiologic investigations of cases that have no identifiable risk factors including possible blood transfusions-related cases and their donors.

g. Design and conduct a study of the sexual transmission of AIDS among homosexual males including identifying, locating, examining, and interviewing male sexual partners of male patients with AIDS and male sexual partners of apparently healthy homosexual male controls.

2. *Centers for Disease Control Activities*

a. Collaborate in the design, development, and implementation of surveillance and associated epidemiologic investigations including specific approaches to AIDS surveillance and epidemiologic investigations, methods for establishing and maintaining a central registry of cases, and publication of findings.

b. Provide criteria for the surveillance definition of AIDS cases and case report forms.

c. Assist the public health agencies in analyzing data from reported cases including incidence trends and groups at risk.

d. Provide onsite technical assistance in planning, operating, and evaluating surveillance activities and collaborative studies of the sexual transmission of AIDS among homosexual males.

e. Assist the public health agencies in conducting epidemiologic investigations of selected AIDS cases including those with no identifiable risk factors.

f. Assist the public health agencies in the design, development, and implementation of collaborative studies to determine the risk of sexual transmission of AIDS among homosexual males including examination procedures, interview format, analysis of data, and publication of findings.

Progress reports of cooperative agreement activities will be submitted by the recipients of funds quarterly for the first year and semiannually thereafter. Financial status reports are required no later than 90 days after the end of each budget period. Final financial status and progress reports are required 90 days after the end of a project period.

During Fiscal Year 1984, an estimated $1,800,000 will be available for this program. Of this amount, $852,000 has been set aside for noncompeting continuation applications, and awards totaling $685,621 have already been made to complete funding of approved applications submitted under the previous announcement. The balance of $262,379 and any additional funds, depending upon availability, will be used to make one to three new surveillance project awards of $50,000 to $100,000 each and one to two sex partner study components of $75,000 to $150,000 each.

Applications should be submitted for a 1-year budget period and 1- to 3-year project period. Continuation awards within the project period will be made by CDC on the basis of satisfactory progress in meeting project objectives and on the availability of funds. Funding estimates outlined above may vary and are subject to change due to budgetary uncertainties.

Cooperative agreement funds may be used to support personnel and to purchase supplies and services directly related to AIDS surveillance and epidemiologic investigation activities. funds may not be used to supplant funds supporting existing AIDS activities provided by the health department or to support construction costs.

Applications for a new surveillance cooperative agreement must include a narrative which summarizes:

1. The background and need for project support including information that relates to factors by which the applications will be evaluated.

2. The objectives of the proposed project which are consistent with the purpose of the cooperative agreement and which are measurable and time-phased.

3. The methods that will be used to accomplish the objective of active surveillance and epidemologic investigations of selected cases, including those with no identifiable risk factors.

4. The methods that will be used to evaluate the success of active surveillance and epidemiologic investigations.

5. Fiscal information pursuant to utilization of awarded funds in a manner consistent with the purpose and objectives of the project.

6. Any other information that will support the request for assistance.

Applications, including a component for the study of AIDS transmission among homosexual males, must include a narrative which addresses items 1, 2, 5, and 6 above and summarizes:

1. The methods which will be used to accomplish the study objectives. Of special importance will be the methods used to identify, locate, schedule for interview, and obtain laboratory specimens from AIDS patients, controls, and their sex partners.

2. The methods which will be used to evaluate the success of study components.

The original and one copy of the application must be submitted on or before 4:30 p.m. (e.d.t) on July 23, 1984, to Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Room 107A, Atlanta, Georgia, 30305. One additional copy should be simultaneously submitted to the appropriate Department of Health and Human Services Regional Office Listed below.

Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Applications which do not meet the criteria in either paragraph 1. or 2. above are considered late applications and will

not be considered in the current competition.

Applications are subject to the review requirements of the National Health Planning and Resources development Act of 1974, as amended, but are not subject to intergovernmental review pursuant to Executive Order 12372.

Information on application procedures, copies of application forms, and other material may be obtained from Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Room 107A, Atlanta, Georgia 30305, or by calling (404) 262-6575 or FTS 236-6575. Technical assistance may be obtained from Lawrence D. Zyla, telephone (404) 329-3651, FTS 236-3651, or E. Thomas Starcher, telephone (404) 329-3472, FTS 236-3472, AIDS Activity, Center for Infectious Diseases, Centers for Disease Control, Atlanta, Georgia 30333.

Dated: May 31, 1984.

James O. Mason, M.D., Dr.P.H.,

Director, Centers for Disease control.

Department of Health and Human Services (HHH) Regional Offices

Regional Health Administrator, PHS, HHS Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203; (617) 223-6827

Regional Health Administrator, PHS, HHS Region II, Federal Building, 26 Federal Plaza, Room 3337, New York, New York 10278; (212) 264-2561

Regional Health Administrator, PHS, HHS Region III, Gateway Building No. 1, 3521-35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101; (215) 596-6637

Regional Health Administrator, PHS, HHS Region IV, 101 Marietta Towers, Suite 10007, Atlanta, Georgia 30323; (404) 221-2316

Regional Health Administrator, PHS, HHS Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606; (312) 353-1385

Regional Health Administrator, PHS, HHS Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202; (214) 767-3879

Regional Health Administrator, PHS, HHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106; (816) 374-3291

Regional Health Administrator, PHS, HHS Region VIII, 1185 Federal Building, 1961 South Street, Denver, Colorado 80294; (303) 837-6163

Regional Health Administrator, PHS, HHS Region IX, 50 United Nations Plaza, San Francisco, California 94102; (415) 556-5810

Regional Health Administrator, PHS, HHS Region X, 2901 Third Avenue, M.S./402, Seattle, Washington 98121; (206) 442-0430.

[FR Doc. 84-15470 Filed 6-7-84; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

Burns-Biotec Laboratories' Cortisate-10 (Prednisolone Sodium Phosphate) Injection; Withdrawal of Approval of Nada

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Burns-Biotec Laboratories, Inc., that provides for intravenous use of prednisoline sodium phosphate sterile injection for treating horses and dogs when an adrenal glucocorticoid and/or anti-inflammatory effect is required. The Sponsor requested the withdrawal of approval.

EFFECTIVE DATE: June 18, 1984.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Center for Veterinary Medicine (formerly Bureau of Veterinary Medicine) (HFV-214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1846.

SUPPLEMENTARY INFORMATION: Burns-Biotec Laboratories, Inc., 8530-8536 K St., P.O. Box 3113, Omaha, NE 68103, is the sponsor of NADA 97-566 which provides for intravenous use of Cortisate-10 (prednisolone sodium phosphate) Injection for treating horses and dogs when an adrenal glucocorticoid and/or anti-inflammatory effect is required.

The application was originally approved July 11, 1978 (43 FR 29769). By letter of March 28, 1984, the sponsor requested withdrawal of approval of the NADA because the product is not being manufactured or marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 97-566 and all supplements for Cortisate-10 Injection is hereby withdrawn, effective June 18, 1984.

In a final rule published elsewhere in this issue of the **Federal Register**, the regulation reflecting the approval is removed.

Dated: June 4, 1984.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 84-15347 Filed 6-7-84; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84M-0185]

Picker International; Premarket Approval of Vista MR™ 1100/2055

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the nuclear magnetic resonance (NMR) imaging systems, Models 1100 and 2055 (Vista MR™ 1100/2055), sponsored by Picker International, Highland Heights, OH. After reviewing the recommendation of the Radiologic Devices Panel, FDA notified the sponsor that the application was approved because the devices had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by July 9, 1984.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, Center for Devices and Radiological Health (formerly National Center for Devices and Radiological Health) (HFZ-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

SUPPLEMENTARY INFORMATION: On February 14, 1983, Picker International, Highland Heights, OH 44143, submitted to FDA an application for premarket approval of the NMR imaging systems, Models 11 and 2055 (Vista MR™ 1100/2055), devices that are indicated for the production of images that: (1) Correspond to the distribution of protons exhibiting NMR; (2) depend upon the NMR parameters (proton density, flow velocity, spin-lattice relaxation time (T1), and spin-spin relaxation time (T2)); and (3) display the soft tissue structure of the head and neck. When interpreted by a trained physician, these images yield

information that can be useful in the determination of a diagnosis. All other uses of the Vista MR™ 1100/2055 remain investigational. The application was reviewed by the Radiologic Devices Panel, an FDA advisory committee, which recommended approval of the application. On May 10, 1984, FDA approved the application by a letter to the sponsor from the Director of the Office of Device Evaluation of the Center for Devices and Radiological Health.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Center for Devices and Radiological Health—contact Charles H. Kyper (HFZ–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA's action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before July 9, 1984, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 1, 1984.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 84–15351 Filed 6–7–84; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Auburn Dam Task Force Committee

Notice is hereby given in accordance with the Federal Advisory Committee Act, as amended, that a meeting of the Auburn Dam Task Force Committee will be held from 2:00 p.m. to 4:00 p.m. on Thursday, June 21, 1984, in the Resources Building Auditorium, 1416 Ninth Street, Sacramento, California. The purpose of this meeting is to present an outline as to scope and elements of the Committee mission and organization.

This meeting will be open to the public.

Uncertainty of acceptance of appointment from the final membership of the Committee and final approval of the Charter for the Committee prevented the Committee meeting notice to be published at least 15 days prior to the meeting.

Further information concerning this meeting may be obtained from Richard Atwater, Special Assistant to the Commissioner, Bureau of Reclamation, 18th and C Streets, NW., Washington, D.C. 20240 (202–343–4115).

Dated: June 5, 1984.

Harold W. Furman II,

Deputy Assistant Secretary for Water and Science, U.S. Department of the Interior.

[FR Doc. 84–15413 Filed 6–7–84; 8:45 am]

BILLING CODE 4310–10–M

Federal/State Auburn Dam Task Force; Establishment

This notice is published in accordance with section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463). Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior is establishing the Federal/State Auburn Dam Task Force. The purpose of the Committee will be to review financial participation, to make recommendations concerning partnership agreements, to allocate costs based on benefits to be derived, to determine financial capabilities of the beneficiaries and to make recommendations of contractual/organizational mechanisms for completion of the Auburn Dam.

Further information regarding the committee may be obtained from the Assistant Secretary, Water and Science, U.S. Department of the Interior, 18th & C Streets, NW., Washington, D.C. 20240.

The certification of establishment is published below.

Certification

I hereby certify that the Federal/State Auburn Dam Task Force is in the public interest in connection with the performance of duties imposed on the Department of the Interior by Pub. L. 98–161, 79 Stat. 615 (September 2, 1965).

Dated: April 27, 1984.

William Clark,

Secretary of the Interior.

[FR Doc. 84–15430 Filed 6–7–84; 8:45 am]

BILLING CODE 4310–10–M

Bureau of Land Management

Overnight Camping Restriction Order Established; Salem District, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of overnight camping restriction order for developed recreation sites, designated Areas of Critical Environmental Concern, and selected recreation management areas within the Salem District, Oregon.

SUMMARY: Overnight camping is permitted within the following developed recreation sites and recreation management areas for a period not to exceed the maximum number of days of continuous occupancy shown:

Recreation site/area name	Maximum days of continuous occupancy
Alder Glen	14
Alsea Falls	14
Dovre	14
Elkhorn Valley	14
Fan Creek	14
Fishermen's Bend	10
Quartzville Recreation Corridor	16
Scaponia	14
Yellowbottom	16

Under special circumstances, the Salem District Manager may authorize extensions to these maximum length-of-stay periods. However, the granting of an extension is a discretionary matter

and must be approved, in writing, on a case-by-case basis.

Overnight camping is prohibited yearlong within the following developed recreation sites and designated Areas of Critical Environmental Concern:

Developed Recreation Sites

Canyon Creek
Dogwood
Elk Bend
Missouri Bend
Wildwood

Areas of Critical Environmental Concern

Big Canyon Outstanding Natural Area
Carolyn's Crown-Shafer Creek Research Natural Area
Columbia River Gorge
Elk Creek Bald Eagle Area
Grass Mountain Research Natural Area
High Peak-Moon Creek Research Natural Area
Little Grass Mountain Outstanding Natural Area
Little Sink Research Natural Area
Lost Prairie
Marys Peak Outstanding Natural Area
Middle Santiam Terrace
Nestucca River (outside of Alder Glen, Dovre and Fan Creek Recreation Sites)
Rickreall Ridge
Saddleback Mountain Research Natural Area
Sandy River Gorge Outstanding Natural Area
Sheridan Peak
Snow Peak
Soosap Meadows
Table Rock Outstanding Natural Area
The Butte Research Natural Area
Valley of the Giants Outstanding Natural Area
William's Lake
Yaquina Head Outstanding Natural Area

A copy of this restriction order is conspicuously posted at the Salem District Office (1717 Fabry Road, SE., Salem, Oregon), and at each site or area listed herein. Maps showing the location of all affected sites and areas are also available for review at the Salem District Office.

This restriction order does not apply to any Federal, State or local officer, or any member of an organized rescue or firefighting force actively involved in the performance of an official duty. It also does not apply to recreation uses or activities other than overnight camping.

EFFECTIVE DATE: June 30, 1984.

FOR FURTHER INFORMATION CONTACT:

Scott S. Abdon, Outdoor Recreation Planner, Salem District Office, Bureau of Land Management, (503) 399–5787

or

Gary Stumpf, Cultural Resource Specialist, Salem District Office, Bureau of Land Management, (503) 399–5613.

SUPPLEMENTARY INFORMATION: This restriction order is necessary to:

(1) Preclude any individual or group from camping overnight at a developed recreation site or recreation management area for an excessively long period, thereby denying others visitation opportunities;

(2) Prevent or reduce the incidence of unauthorized, long-term occupancy of developed recreation sites or recreation management areas from occurring under the guise of recreational use;

(3) Maintain, and promote the orderly use of, developed recreation sites that are specifically designed and operated for day-use recreation purposes only; and

(4) Preserve and protect the natural, cultural and scenic resource values associated with designated Areas of Critical Environmental Concern.

Authority for implementing this restriction order is contained in the Code of Federeal Regulations, Title 43, Chapter II, Part 8360, Subparts 8364 and 8365. Any person failing to comply with the overnight camping restrictions described in this notice may be subject to a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months as specified in the Code of Federal Regulations, Title 43, Chapter II, Part 8360, §8360.0–7.

This restriction order is effective June 30, 1984, and shall remain in effect unless revised, revoked or amended.

Dated: May 31, 1984.

Joseph C. Dose,

District Manager, Salem.

[FR Doc. 84–15384 Filed 6–7–84; 8:45 am]

BILLING CODE 4310–33–M

Realty Action Sale of Public Land in the Bakersfield District, California

AGENCY: Bureau of Land Management Interior.

ACTION: Correction of notices of realty action.

SUMMARY: Three notices of realty action for sales of public land in the Bakersfield District, California, contain an error which is corrected by this notice. The three notices were published in the **Federal Register** as follows:

Realty Action Sale of Public Land in Calaveras County, California. April 24, 1984. Page 17597.
Realty Action Sale of Public Land in Monterey and San Benito Counties, California. May 24, 1984. Page 21996.
Realty Action Sale of Public Land in Monterey County, California. May 24, 1984. Page 22001.

SUPPLEMENTARY INFORMATION: A correction is made to the sale terms and conditions published for all three sales. If two or more envelopes containing valid bids of the same amount are received, the determination of which is to be considered the highest bid shall be by drawing. The drawing shall be held by the authorized officer immediately following the opening of the sealed bids. If two or more adjacent landowners choose to exercise their right to meet the high bid, they will be offered the opportunity to immediately submit a second sealed bid. If these second sealed bids are identical, the successful bidder will be selected by drawing.

All other sale terms and conditions remain as originally published in the three notices of realty action.

FOR FURTHER INFORMATION CONTACT: Timothy R. Salt, Assistant District Manager for the Division of Lands and Renewable Resources, Bakersfield District, Bureau of Land Management, 800 Truxtun Avenue, Room 311, Bakersfield, CA 93301; (805) 861–4191.

Dated: June 1, 1984.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 84–15474 Filed 6–7–84; 8:45 am]

BILLING CODE 4310–40–M

[U–54110]

Utah—Invitation To Participate in Coal Exploration Program; Alpha Investments, Inc.

Alpha Investments, Inc., is inviting all qualified parties to participate in a program for the exploration of coal reserves on the Roan Cliffs, approximately 50 miles northeast of Green River, Utah. The lands are located in Grand and Uintah Counties and are described as follows:

T. 16 S., R. 23 E., SLM, Utah
Secs. 25, 26, & 35, all.
T. 17 S., R. 23 E., SLM, Utah
Secs. 1, 3, 10–14, 24, & 25, all.
T. 15 S., R. 24 E., SLM, Utah
Secs. 34 & 35, all.
T. 16 S., R. 24 E., SLM, Utah
Secs. 1, 3, 5, 9, 10, 11, 14, 15, 17–22, 29, 30, & 31, all.
T. 17 S., R. 24 E., SLM, Utah
Secs. 6, 7, 18, 19, 20, 29, & 30, all.
Containing 22,122.55 acres.

Any party electing to participate in this exploration program must send written notice of such election to the Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111, and to Alpha Investments, Inc., 50 West Broadway, Suite 1000, Salt Lake City, Utah 84101. Such written notice must be received within 30 days after the publication of this notice in the **Federal Register**.

Any party wishing to participate in this exploration program must share all cost on a pro rata basis. A copy of the exploration plan, as submitted by Alpha Investments, Inc., is available for public review during normal business hours in the following office, under serial number U-54110: Bureau of Land Management, Room 1400, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

W. R. Papworth,

Deputy State Director for Operations.

[FR Doc. 84-15392 Filed 6-7-84; 8:45 am]

BILLING CODE 4310-DQ-M

National Park Service

Cuyahoga Valley National Recreation Area Advisory Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Cuyahoga Valley National Receation Area Advisory Commission will be held beginning at 9 a.m. (EST) on Saturday, June 30, 1984, at the Happy Days Visitor Center located on West Streetsboro Road, 1 mile west of Route 8 in Peninsula, Ohio.

The Commission was established by the Act of December 27, 1974, 88 Stat. 1788, 16 U.S.C. 460ff-4, to meet and consult with the Secretary of the Interior on matters relating to the administration and development of the Cuyahoga Valley National Recreation Area.

The members of the Commission are as follows:

Mrs. Tommie Patty (Chairperson)
Mr. John Craig
Mrs. William Hutchison
Mr. James S. Jackson
Mrs. George Klein
Mr. Stanley Mottershead
Mr. C. W. Eliot Paine
Mr. Melvin J. Rebholz
Mr. F. Eugene Smith
Ms. R. Robbie Stillman
Dr. Robert W. Teater

The meeting will consist of a brief business session followed by a tour of the National Recreation Area for onsite discussions of new developments, special projects, resource problems, and other items of special interest.

The meeting will be open to the public. Interested persons may submit written statements. Such statements should be submitted to the official listed below prior to the meeting. Members of public wishing to participate in the on-site tour must provide own transportation.

Further information concerning this meeting may be obtained from Lewis S. Albert, Superintendent, Cuyahoga Valley National Recreation Area, 15610 Vaughn Road, Brecksville, Ohio, 44141, telephone (216) 526-5256. Minutes of the meeting will be available for public inspection 3 weeks after the meeting, at the office of Cuyahoga Valley National Recreation Area, located at 15610 Vaughn Road, Brecksville, Ohio 44141.

Dated: May 31, 1984.

James L. Ryan,

Acting Regional Director, Midwest Region.

[FR Doc. 84-15438 Filed 6-7-84; 8:45 am]

BILLING CODE 4310-70-M

Kobuk Valley National Park Subsistence Resource Commission; Meeting

AGENCY: National Park Service Alaska Region, Interior.

ACTION: Subsistence Resource Commission Meeting.

SUMMARY: The Alaska regional office of the National Park Service announces a forthcoming organizational meeting of the Kobuk Valley National Park Subsistence Resource Commission. The following agenda items will be discussed:

1. Approval of minutes.
2. Title VIII workshop/responsibilities.
3. Subsistence hunting program.
4. Hunting seasons and dates.
5. Residency requirements.
6. State management plan for caribou.
7. Moose populations.
8. Waterfowl spring hunting (status of Migratory Bird Treaty Act).
9. Aircraft transportation.
10. State subsistence law (Attorney General interpretation).
11. Natural and healthy population/Title VIII.
12. Coastal zone management plan (effects).
13. Other business.

DATE: The meeting will begin at 8:00 a.m. on June 26, 1984, and conclude the afternoon of June 27, 1984.

ADDRESS: The meeting will be held in the Nana Conference Room, Kotzebue, Alaska.

FOR FURTHER INFORMATION CONTACT: Mack Shaver, Superintendent, Kobuk Valley National Park, P.O. Box 287, Kotzebue, Alaska 99752.

SUPPLEMENTARY INFORMATION: The Kobuk Valley National Park Subsistence Resource Commission is authorized under Title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96-487.

Dated: May 31, 1984.

Robert L. Peterson,

Acting Regional Director, Alaska Region.

[FR Doc. 84-15437 Filed 6-7-84; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-18; Sub-54X]

The Chesapeake and Ohio Railway Company; Abandonment; In Saginaw County, MI; Exemption

The Chesapeake and Ohio Railway Company (C&O) filed a notice of exemption for an abandonment under 49 CFR 1152 Subpart F—*Exempt Abandonments.* The line to be abandoned is C&O's interest in a line railroad known as the Superior Street Spur (owned jointly by C&O and Grand Trunk Western Railroad Company) between Valuation Station 45+00 and Valuation Station 68+68 at the line, in Saginaw, Saginaw County, MI, a distance of 0.45 miles.[1]

C&O has certified (1) that no local traffic has moved over the line for at least 2 years, and that there is no overhead traffic on the line, and (2) that no formal complaint filed by a user of rail service on the line or a State or local governmental entity acting in behalf of such user regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The Public Service Commission (or equivalent agency) in Michigan has been notified in writing at least 10 days prior to the filing of this notice. *See Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on July 10 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by June 21, 1984, and petitions for reconsideration, including environmental, energy and public use concerns, must be filed by July 2, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

[1] By Notice of Exemption served September 19, 1983, GTW was authorized to abandon its interest in this line of railroad.

A copy of any petition filed with the Commission should be sent to C&O's representative: Rene J. Gunning, Suite 2204, 100 North Charles Street, Baltimore, MD 21201.

If the notice of exemption contains false or misleading information, the use of the exemption is void ab initio.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: May 31, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-15547 Filed 6-7-84; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: The Signal Companies, Inc., 11255 North Torrey Pines Road, LaJolla, CA 92037

2. Wholly-owned subsidiaries which will participate in the operations, and states of incorporation:

(i) The Garrett Corporation, a Delaware corporation
(ii) Ampex Corporation, a Delaware corporation
(iii) UOP Inc., a Delaware corporation
(iv) Kellog Rust Inc., a Delaware corporation
(v) Wheelabrator-Frye Inc., a Delaware corporation
(vi) MPB Corporation, a Delaware corporation
(vii) CPC Engineering Corporation, a Massachusetts corporation
(viii) Johnson Screens, Inc., a Delaware corporation
(ix) Sinclair & Valentine Company, Inc., a Delaware corporation
(x) Frye Copysystems, Inc., a Delaware corporation
(xi) Neptune Measurement Company, a Delaware corporation
(xii) Neptune Water Meter Company, an Alabama corporation
(xiii) Neptune Microfloc, Inc., an Oregon corporation

1. Parent Corporation: Thomas Industries Inc., P.O. Box 35120, 207 East Broadway, Lousiville, KY 40232.

2. Wholly owned subsidiaries which will participate in the operations:

Subsidiaries and State of Incorporation

Builders Brass Works, P.O. Box 2043, 3474 Union Pacific Avenue, Los Angeles, CA 90023—California
C & M Products Limited, 189 Bullock Drive, Markham, Ontario L3P 1W4—Ontario, Canada
Contempra Industries, Inc., P.O. Box 97, 371 Essex Road, Neptune, NJ 07753—New Jersey
Capri Lighting, Inc., 6430 East Slauson Avenue, Los Angeles, CA 90040—California
Contempra Industries International, Inc., P.O. Box 97, Neptune, NJ 07753—New Jersey
Lennon Wall Paper Company, P.O. Box 8, 807 Fourth Avenue, Joliet, IL 60434—Delaware
Oliver-MacLeod Limited, P.O. Box 730, 5 Edward Street, Gravenhurst, Ontario P0C 1G0—Ontario, Canada
Pouliot Designs Corporation, 4700 Valley Industrial Boulevard, Shakopee, MN 55379—Minnesota
Thomas Industries Express, Inc., P.O. Box 6769, 1700 Gilbert Street, Hopkinsville, KY 42240—Kentucky
Thomas Industries International, Inc., P.O. Box 35120, 207 East Broadway, Louisville, KY 40232—Delaware
Thomas Industries of Tennessee, Inc., P.O. Box 35120, 207 East Broadway, Louisville, KY 40232—Tennessee.

James H. Bayne,

Secretary.

[FR Doc. 84-15414 Filed 6-7-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of a Consent Decree Pursuant to the Resource Conservation and Recovery Act and the Refuse Act; BASF Wyandotte Corp.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on May 16, 1984, a proposed consent decree in *United States* v. *BASF Wayandotte Corp.*, Civil Action No. 80-73699, was lodged with the United States District Court for the Eastern District of Michigan. The proposed consent decree concerns contaminated conditions at a former waste dump site near the Detroit River. This action was brought under the Resource Conservation and Recovery Act of 1976 and under the Refuse Act. The State of Michigan intervened as a plaintiff.

The proposed consent decree requires BASF Wyandotte Corporation (BASF) to install a compacted clay cover over the contaminated portion of the site and complete surface grading of the whole site. The decree also requires construction of a berm and a new drainage system and implementation of a shoreline stability program. The remedial program is scheduled to be completed by July 1, 1985, and BASF would undertake a 30-year inspection and groundwater monitoring program thereafter.

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 ot 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. *BASF Wyandotte Corp.*, D.J. Ref. 90-7-1-120.

The proposed decree may be examined at the Office of the United States Attorney, 231 W. Lafayette, Detroit, Michigan 48226 and at the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the proposed 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, 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. In requesting a copy, please endorse a check in the amount of $7.50 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht, II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84-15383 Filed 6-7-84; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 18, 1984.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 18, 1984.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 31st day of May 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Blaw-Knox Equipment (USWA)	Pittsburgh, PA	5/18/84	5/14/84	TA-W-15,334	Steel fabrication.
Borg and Beck Clutch (UAW)	Chicago, IL	5/21/84	5/15/84	TA-W-15,335	Automotive clutches.
Chein Industries, Inc. (company)	Burlington, NJ	5/23/84	5/15/84	TA-W-15,336	Decorated metal containers (housewares).
Ferroxcube (company)	Saugerties, NY	5/18/84	5/16/84	TA-W-15,337	Digital recording heads and assemblies for computer industry.
M.P. Goodkin, Inc. (company)	Irvington, NJ	5/23/84	5/16/84	TA-W-15,338	Reproduction equipment.
National Steel Corp., Great Lakes Steel Div. (USWA)	Ecorse, MI	5/22/84	5/18/84	TA-W-15,339	Flat rolled carbon and black iron.
Ronson Metals Corp. (company)	Newark, NJ	5/23/84	5/16/84	TA-W-15,340	Rare Earth Metals and alloys.
Rueping East, Inc. (workers)	Taunton, MA	5/21/84	5/18/84	TA-W-15,341	Tanning upper shoe leather.
Sandy-Mac-Food (company)	Pennsauken, NJ	5/23/84	5/15/84	TA-W-15,342	Cooked ham.
Wheatland Tube Co. (USWA)	Wheatland, PA	5/23/84	5/18/84	TA-W-15,343	Continuous weld carbon steel pipe.
Audiofidelity Enterprises, Inc. (company)	Rahway, NJ	5/23/84	5/17/84	TA-W-15,344	Records and tapes.
Certified Creations, Inc. (workers)	New York, NY	5/29/84	5/20/84	TA-W-15,345	Ladies' shoes.
Consolidation Coal Co., Turkey Gap Mine (workers)	Dott, WV	5/29/84	5/23/84	TA-W-15,346	Metallurgical coal.
Ingersoll-Rand Co. (USWA)	Phillipsburg, NJ	5/30/84	5/18/84	TA-W-15,347	Pumps, compressors, turbo machinery.
Staneth Corporation (company)	Middlesex, NJ	5/30/84	5/24/84	TA-W-15,348	Gaskets and machine packing.
Transamerica Delaval, Inc., Delroyd Div. (USWA)	Trenton, NJ	5/30/84	5/9/84	TA-W-15,349	Worm gear speed reducers.
Chanin Clothing Co. (workers)	New York, NY	5/25/84	5/22/84	TA-W-15,350	Men's clothing.

[FR Doc. 84-15441 Filed 6-7-84; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Arizona State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health Administration (hereinafter called the Regional Administrator OSHA) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On October 29, 1974, notice was published in the **Federal Register** (39 FR 39037) of the approval of the Arizona plan and the adoption of Subpart CC to Part 1952 containing the decision.

The Arizona plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.20 provides that where "* * * any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State Program, a program change supplement to a State plan shall be required." In response to Federal Standards changes, the State has submitted its changes by letter, with attachments, dated October 3, 1983, from Larry Etchechury, Director to Russell B. Swanson, Regional Administrator, and incorporated as part of the plan. The State standards reflect Federal standard changes to 29 CFR Part 1910: 29 CFR 1910.106, Attendant Exemption and Latch-Open Devices; 29 CFR 1910.401 and 1910.402, Educational/Scientific Diving; 29 CFR 1910.1025, Fit Test of Respirators-lead; 29 CFR 1910.95, Occupational Noise, Hearing Conservation Amendment. These standards are contained in the Arizona Occupational Safety and Health Standards, which were adopted after public hearings and the resolution adopted by the Industrial Commission of Arizona, Division of Occupational Safety and Health Act of 1972.

2. *Decision.* Having reviewed the State submission in comparison with Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly should be approved.

3. *Location of Supplement for Inspection and Copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Room 11349, San Francisco, California 94102; and Director, Division of Occupational Safety and Health, 1624 W. Adams, Phoenix, Arizona 85007; and Directorate of Federal Compliance and State Programs, Room N3700, 200 Constitution Avenue, NW., Washington, D.C. 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Arizona plant as a proposed change and making the OSHA Regional Administrator's approval effective upon publication for the following reasons:

The standards are identical to the Federal standards which were promulgated in accordance with Federal

law including meeting requirements for public participation.

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective June 8, 1984.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at San Francisco, California, this 4th day of May 1984.

Russell B. Swanson,

Regional Administrator.

[FR Doc. 84-15440 Filed 6-7-84; 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 84-54; Exemption Application No. D-4060 et al.]

Grant of Individual Exemptions; the Defined Contribtution Pension Plan and Trust for Employees of Benzing Inc. et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices states that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have repesented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, Oct. 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 406(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

The Defined Contribution Pension Plan and Trust for Employees of Benzing, Inc. (the Money Purchase Plan) and the Profit Sharing Plan and Trust for Employees of Benzing, Inc. (the Profit Sharing Plan) (Collectively, the Plans) Located in Orlando, Florida

[Prohibited Transaction Exemption 84-54; Exemption Application Nos. D-4060 and D-4082, respectively]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, effective November 1, 1982, to the consummated acquisition and holding by the Profit Sharing Plan and the prospective acquisition and holding by the Plans of third party security agreements (the Notes), generated from insurance premium financing, from Benzing, Inc. (the Employer), provided that:

(1) No more than 25 percent of the assets of each of the Plans is invested in premium financing arrangements;

(2) Each of the Notes is acquired for no more than its fair market value;

(3) The Notes are guaranteed by the Employer; and

(4) Decisions regarding acquisition and holding of the Notes by the Plans are made by the trustee of the Plans, Florida National Bank.

Effective Date: The exemption is effective November 1, 1982.

Temporary Nature Of Exemption: The exemption is temporary in nature and will expire 7 years after the date of grant.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 13, 1984 at 49 FR 14816.

For Further Information Contact: Mrs. Mary Jo Fite of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

ESI Profit Sharing Retirement Plan and Trust (the Plan) Located in Portland, Oregon

[Prohibited Transaction Exemption 84-55; Exemption Application No. D-4401]

Exemption

The restrictions of section 406(a) and section 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the lease of certain improved real property by the Plan to Electro Scientific Industries, Inc., a party in interest with respect to the Plan, provided the terms of the lease are at least as favorable to the Plan as those the Plan could obtain in a similar lease with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 3, 1984 at 49 FR 13214.

For Further Information Contact: Mrs. Miriam Freund of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

St. Paul Federal Savings Employees Pension Plan and St. Paul Federal Savings and Loan Association Profit Sharing Plan (the Plans) Located in Chicago, Illinois

[Prohibited Transaction Exemption 84-56; Exemption Application Nos. D-4534 & D-4535, respectively]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, effective October 25, 1979, to certain interest-bearing loans from St. Paul Federal Savings and Loan Association of Chicago, the employer whose employees are covered by the Plans, to the Plans.

Effective Date: The exemption is effective October 25, 1979.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 3, 1984 at 49 FR 13216.

For Further Information Contact: Mrs. Mary Jo Fite of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

Norquist Salvage Corp., Inc. Profit Sharing Plan (the Plan) Located in Burlingame, California

[Prohibited Transaction Exemption 84-57; Exemption Application No. D-4596]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by the Plan of an interest (the Partnership Interest) in a real estate limited partnership to Norquist Salvage Corp., Inc., the sponsor of the Plan, for $50,000 in cash, provided that the sales price for the Partnership Interest is no less than the fair market value of the Partnership Interest at the time of such sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 30, 1984 at 49 FR 12773.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523-8194. (This is not a toll-free number).

Morgan Guaranty Trust Company of New York (MGT)—Commingled Pension Trust Funds: Money Market Investments—Intermediate (Fund A); Special Situation Investments—International Dollar Fixed Income (Fund B); Bonds—Marketable Long Term (Fund C); Bond—Private Placements (Fund D); Fixed Income Direct Placements—Corporate Medium Term (Fund E); Located in New York, New York

[Prohibited Transaction Exemption 84-58; Exemption Application No. D-4775]

Exemption

The restrictions of section 406(b)(2) of the Act shall not apply to the consolidation by MGT of (a) all of Funds A and C and all the public bonds, cash and cash equivalents held in Fund B into a new single commingled pension trust fund, and (b) all of Funds D and E and the private placements held in Fund B into another new single commingled pension trust fund, provided that the aggregate fair market value of the interests of each plan participating in any of these funds (collectively, the Funds) upon completion of the consolidation equals the aggregate fair market value of such plan's interests in the Funds immediately preceding the consolidation.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 3, 1984 at 49 FR 13217. Paragraph 7 of the Summary of Facts and Representations in the **Federal Register** printing of said notice contained several typographical errors. For the record, said paragraph 7 as it should have been printed is set forth below:

7. MGT proposes to transfer all the assets held in Fund A and all the public bonds, cash and cash equivalents held in Fund B to Fund C and to issue units of participation in Fund C to the plans participating in Funds A and B so that such plans will own units of participation in Fund C having a market value on the date of transfer equal to the aggregate market value of each such plan's interest in the assets transferred from Funds A and B. MGT also proposes to transfer all the assets held in Fund D and the private placements held in Fund B to Fund E and to issue units of participation in Fund E to the plans participating in Funds D and B so that such plans will own units of participation in Fund E having a market value on the date of transfer equal to the aggregate market value of each such plan's interest in the assets transferred from Funds D and B. (A Plan participating in Fund B would receive for tis interest in Fund B interests in Funds C and E in proportion to the value of assets transferred from Fund B to Funds C and E.) Funds A, B, and D would thereupon terminate. After the consolidation, Fund C will be renamed the Fixed Income—Public Bonds Fund and will be governed by an amended and restated trust agreement; and Fund E will be renamed the Fixed Income—Private Placements Fund and will be governed by an amended and restated trust agreement.

The applicant represents that interested persons were notified of the typographical errors and were furnished copies of both the **Federal Register** printing of the notice of proposed exemption and also the corrected paragraph 7.

For Further Information Contact: Mrs. Miriam Freund of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Morgan Guaranty Trust Company of New York (MGT) Commingled Pension Trust Fund—Common Stocks: Consumer and Service Sector (Fund I); Technology and Machinery Sector (Fund II); Finance, Regulated and Transportation Sector (Fund III); Natural Resources and Processing Sector (Fund IV); Located in New York, New York

[Prohibited Transaction Exemption 84-59; Exemption Application No. D-4871]

Exemption

The restrictions of section 406(b)(2) of the Act shall not apply to the consolidation by MGT of Funds I, II, III, and IV (collectively, the Sector Funds) into a new single commingled pension trust fund, provided that the fair market value of the interests of each plan participating in such fund shall upon completion of the consolidation equal the aggregate fair market value of such plan's interests in the Sector Funds immediately preceding the consolidation.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 3, 1984 at 49 FR 13219.

For Further Information Contact: Mrs. Miriam Freund of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Jackson, Jones & Price, Inc. Retirement Pension and Profit-Sharing Plan (the Plan) Located in Tustin, California

[Prohibited Transaction Exemption 84-60; Exemption Application No. D-5090]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of a parcel of undeveloped property (the Property) located in Riverside County, California, by Mr. and Mrs. Stanley R. Jones, to Mr. Jones' account in the Plan, for $90,400 in cash, provided such amount does not exceed the fair market value of the Property on the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 1, 1984 at 49 FR 18651.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Wake Pathology Associates, P.A. Pension Plan and Trust (the Plan) Located in Raleigh, North Carolina

[Prohibited Transaction Exemption 84–61; Exemption Application No. D–5112]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of a 71% interest in a parcel of undeveloped property (the Property) located in Wake County, North Carolina, by Dr. and Mrs. J. Ron Edwards to Dr. Edwards' individually directed account in the Plan, for $59,000 cash, provided such amount does not exceed the fair market value of the interest in the Property on the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 1, 1984 at 49 FR 18652.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

El Camino Anesthesia Medical Group, Inc. Money Purchase Pension Plan (the Plan) Located in Los Altos Hills, California

[Prohibited Transaction Exemption 84–62; Exemption Application No. D–5125]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale of certain real property by the Plan to Alfred Dennis Surtees, M.D., a party in interest with respect to the Plan, provided that the terms of the sale are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party at the time of the consummation of the transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published April 24, 1984 at 49 FR 17625.

For Further Information Contact: Ms. Linda M. Hamilton of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 5th day of June, 1984.

Elliot I. Daniel,

Acting Assistant Administrator for Fiduciary Standards, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 84–15421 Filed 6–7–84; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–3934, et al.]

Proposed Exemptions; O. C. Tanner Company Retirement and Savings Plan et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

O.C. Tanner Company Retirement and Savings Plan; O.C. Tanner Company Sales Representatives Retirement and Savings Plan; O.C. Tanner Manufacturing Retirement and Savings Plan (Collectively, the Plans) Located in Salt Lake City, Utah

[Application Nos. D–3934, D–3935 and D–3936]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to a series of loans (the Loans) by the Plans to the O.C. Tanner Company (the Employer), involving up to 25% of each of the Plans' assets, provided that the terms of the transactions are not less favorable to the Plans than those obtainable in arm's length transactions with unrelated parties.

Effective Date: This proposed exemption, if granted, will be effective July 1, 1984.

Summary of Facts and Representations

1. The Plans are qualified employee profit sharing plans with 780 participants and total assets of approximately $9.7 million as of December 1982. The Employer is a closely held corporation engaged in the manufacture and marketing of emblematic jewelry. The trustee of the Plans is Obert C. Tanner and the administrative committee appointed to manage and administer the Plans includes Messrs. O. Don Ostler, W. Lowell Benson and Arie Leeflang, all of whom are employees of the Employer.

2. The Plans propose to make the Loans over a period of 10 years to the Employer involving up to, but never in excess of, 25% of the assets of each of the Plans, the amount of the Loans to be adjusted quarterly.[1] The Plans will share the Loans in proportion to their respective assets, so that for each calendar quarter the Loans will represent the same percentage of assets of each of the Plans. The principal amount of the Loans will become fixed for the duration of the Loans at the end of 10 years, that is no additional disbursements will be made after 10 years from the date of the first disbursement.

3. The Loans will be repaid in 60 quarterly payments of interest and principal, each equal to the amount that would be necessary to amortize the current principal amount of the Loans at the then interest rate, in 20 equal consecutive quarterly payments. Since the amount of the Loans will vary, payments will be calculated as if the entire outstanding principal balance on the Loans were to be repaid with interest in level payments over 5 years. The Employer will be charged a rate of interest no less than the fair market rate of interest that would be charged by an unrelated lender for arms' length loans of comparable amount, security, terms, and conditions, as determined by the independent fiduciary (see representation 6). The interest rate will be adjusted at least annually and may be adjusted also whenever the principal amount of the Loans is increased or, in the opinion of the independent fiduciary, whenever, the market rate for comparable loans changes sufficiently that a lender would reasonably be expected to request that the terms of the loans be renegotiated. Notwithstanding the foregoing, the rate of interest on the Loans shall always equal or exceed the average rate of interest charged for five-to-ten year first mortgage loans on prime commercial property in Salt Lake City, as determined by the independent fiduciary.

4. The Loans will be secured by a first mortgage on the Employer's manufacturing facilities and related real property (the Property), located at and in the vicinity of 1930 South State Street, Salt Lake City, Utah. The mortgage will be evidenced by a standard Trust Deed, designating the Plans as beneficiaries and the independent fiduciary as trustee. The Property has been appraised by Paul H. Meiling an independent MAI certified appraiser, to have a fair market value of $12.3 million as of January 31, 1983. Thus, the Loans would presently represent less than 20% of the value of the improved real estate that will secure them. The Employer represents that it will add any additional collateral that may be required while the Loans are outstanding to assure that the value of the collateral is at all times equal to at least 200% of the outstanding balance of the Loans. A certified MAI appraiser will review this valuation at least annually. During the Loans' outstanding period, the Property will be kept adequately insured for the benefit of the Plans against fire or other loss at the expense of the Empolyer, and the independent fiduciary will determine at least annually that adequate insurance has been maintained.

5. In the event that the independent fiduciary shall retain or engage an attorney or attorneys to collect, enforce, or protect the Plans' interests with respect to the Loans, the Empolyer shall pay all of the costs and expenses of such collection, enforcement, or protection, including reasonable attorneys' fees, and the independent fiduciary may take judgment for all such amounts, in addition to the unpaid principal balance of Loans and accurued interest thereon.

6. The trustee of the Plans will appoint Kent D. Watson, C.P.A. (Mr. Watson), of Price Waterhouse, Salt Lake City, Utah, a certified public accountant who is experienced with both large and small business operations and is the partner in charge of Price Waterhouse office in Salt Lake City, to serve as an independent fiduciary for the proposed Loans. Mr. Watson has no other relationship with the Empolyer or the Plans. Mr. Watson has been advised by legal counsel with regard to his duties, responsibilities, and liabilities as a fiduciary under the Act. Mr. Watson represents that he is aware of and understands the requirements of the Act and his responsibilities under it. In addition to reviewing the specific terms and conditions of the proposed Loans, Mr. Watson has represented that he will (a) examine the Plans' investment portfolio; (b) consider the cash flow needs of the Plans; (c) give consideration to whether a sale of any of the Plans' assets us necesary; (d) examine the diversification of each Plan's assets in light of the loan investment; and (e) review the terms of the Loans of assure that they comport with the Plan's investment schemes. Mr. Watson will determine, prior to the making or increase of the Loans, that the Loans are appropriate and suitable as an investment for the Plans, that they are sound and reasonable under the

[1] The Plans' presently have 2 pre-Act loans made to the Employer outstanding. The loans are represented to satisfy section 414(c)(1) of the transitional rules. These loans would be paid off with funds borrowed under the terms of this proposed exemption. The applicant has requested that the exemption be effective July 1, 1984 because the pre-Act loans must be paid off by that date. The Department expresses no opinion as to the applicability of section 414 to the pre-Act loans in this proposed exemption.

circumstances and that any sale or liquidation of assets held by the Plans that might be required in order to make such loan or increase is prudent and reasonable. Mr. Watson will be responsible under the loan agreement for supervising the Loans to ensure that (1) the amount of the Loans never exceeds 25% of each Plan's assets, (2) the interest rate is always at least a fair market rate, (3) the Loans are at all times secured by a first mortgage on property worth a least 200% of the outstanding principal obligation, and (4) installments and repayment of the Loans are timely made. Mr. Watson has examined the terms of the proposed Loans and has initially determined that they are appropriate and suitable for the Plans. He will be required to make the the same determination immediately prior to consummation of each of the transactions and will be empowered and required to approve each increase in the principal amount of the Loans. He will further be empowered and directed to enforce the terms of the loan agreement between the Plans and the Employer, including bringing suit or other apporpriate process against the Employer in the event of default, allowing 10 days of foreclose on the mortgage; ascertaining at least annually that the Employer is maintaining adequate insurance on the Property in the Plans' favor against fire or other loss; and reporting at least annually to the trustee of the Plans on the performance of the Loans, including whether the value of the collateral ramains equal to at least 200% of the outstanding balance of the Loans. As independent fiduciary, Mr. Watson will be entitled to such information from the Employer and the Plans as may reasonably be necessary to fulfill his responsibilities, and he shall be paid reasonable compensation plus reimbursement for reasonable expenses, if any, including legal or appraisal fees or costs, as agreed upon with the trustee of the Plans. The Employer may also indemnify him for his acts performed reasonably and in good faith, while acting as the independent fiduciary.

7. In summary, the applicant represents that the proposed transactions meet the statutory criteria for an exemption under section 408(a) of the Act because: (a) the Loans are secured by real estate with an appraised value that is and will remain at least twice the amount of the Loans; (b) the Employer will insure the Property and add additional collateral so that the value of collateral securing the Loans is alwasy at least 200% of the outstanding balance of the Loans; (c) the Loans will be administered by an indepdendent fiduciary; and (d) the trustee and the independent fiduciary have determined that the transactions are appropriate for the Plans and is in the best interest of the Plans' participants and beneficiaries and protective of their interests.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Texas Automatic Sprinklers Pension Plan (the Plan) Located in Dallas, Texas

[Application No. D–4813]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The proposed continuation past June 30, 1984 of two leases (the Leases) of certain improved real property by the Plan to Texas Automatic Sprinklers, Inc. (the Employer), the sponsor of the Plan; and (2) the proposed guaranty of the Employer's obligations under one of the Leases by Sam P. Wallace Company, Inc. (Parent), the parent company of the Employer; provided that such transactions are on terms and conditions at least as favorable to the Plan as the Plan could obtain in dealing with an unrelated party.

Summary of Facts and Representations

1. The Plan is a defined benefit pension plan with 109 participants and total assets of $5,939,208 as of September 30, 1983. The Employer is a Delaware corporation with a net worth of $12,700,000 as of October 31, 1983. The Employer is engaged in the business of the manufacture and installation of automatic water sprinkler systems used for fire prevention. The trustee of the Plan is the Texas American Bank/Dallas (the Trustee), which represents that it has substantial fiduciary experience under the Act and is wholly independent of an unrelated to the Employer except as Trustee of the Plan.

2. Among the assets of the Plan are two parcels of improved real property, one of which is located in Dallas, Texas (the Dallas Property) and one of which is located in Houston, Texas (the Houston Property). The Dallas Property consists of 1.66 acres of land and an office building thereon located at 7800 John Carpenter Freeway in Dallas. The Dallas Property is utilized by the Employer as its principal place of business and has been leased by the Plan to the Employer continuously under a lease (the Dallas Lease) effective April 1, 1974. The Houston Property consists of a 143,660 square foot parcel of land and an office building thereon located at 1277 Boyles Street in Houston. The Houston Property is utilized by the Employer as a branch office and has been leased by the Plan to the Employer continuously under a lease (the Houston Lease) effective November 1, 1969. The Employer asserts that the Dallas and Houston Leases are each a lease involving a party in interest pursuant to a binding contract in effect on July 1, 1974, as defined under section 414(c)(2) of the Act, and therefore are statutorily exempt until June 30, 1984.[2] The Employer is requesting an exemption to permit the continuation of the Dallas and Houston Leases past June 30, 1984.

3. The Dallas Lease is a triple net lease for a term of 15 years commencing April 1, 1974. The interests of the Plan in the execution of the Dallas Lease were represented by Mercantile National Bank at Dallas (Mercantile), which was the trustee of the Plan at the time and which represented the Plan as an independent fiduciary under the Dallas Lease until succeeded by a successor bank. The successor bank to Mercantile is the Trustee, which continues to act as an independent fiduciary on behalf of the Plan for all purposes under the Dallas Lease. The Trustee will continue to represent the interests of the Plan for all purposes under the Dallas Lease for the duration of its term. Under the Dallas Lease the Employer is required to pay all taxes, full extended coverage insurance, costs of repair and maintenance, and any other expenses related to the Dallas Property. The Dallas Lease requires the Employer to indemnify the Plan against any and all claims, liens, or other demands arising from the Employer's use of the Dallas Property. On April 8, 1983, at the Trustee's request the Dallas Property was appraised for its fair market rental value by Foster-Price Appraisal Services, Inc. (Foster-Price), an independent professional real estate appraisal firm located in Dallas. Foster-Price represents that as of that date the Dallas Property had a fair market rental value of $5,160.17 per month. On September 1, 1983, the Employer and the

[2] The Department expresses no opinion as to whether the Leases are exempt until June 30, 1984 under 414(c)(2) of the Act.

Trustee executed an amendment to the Dallas Lease which set the rental for the Dallas Property at $5,160.17 per month and which requires the rental to be reviewed on May , 1986, the approximate midpoint of the remaining term, by a qualified real estate appraiser acceptable to the Employer and the Trustee. Additionally, on July 1, 1984, the day after the expiration of the statutory exemption under section 414(c)(2) of the Act, the Trustee will undertake an independent review of the fair market rental value of the Dallas Property as of that date in light of all then-existing market conditions to determine whether the rental established on September 1, 1983 continues to provide the full fair market rental value return to the Plan. If the Trustee finds at that time that the fair market rental value of the Dallas Property has increased above that established on September 1, 1983, the rental under the Dallas Lease will be increased accordingly. Pursuant to the amendment executed September 1, 1983, requiring another rental review on May 1, 1986, if the selected appraiser at that time finds that the fair market rental value of the Dallas Property has increased since July 1, 1984, the rental under the Dallas Lease will be increased accordingly to the new fair market rental value of the Dallas Property. On April 8, 1983, Foster-Price also appraised the fair market value of the Dallas Property. Foster-Price represents that as of that date the fair market value of the Dallas Property was $585,000. The Trustee represents that based on this valuation the Dallas Property represents 9.9% of the total assets of the Plan as of September 30, 1983.

4. The Houston Lease is a triple net lease for a term of 20 years commencing November 1, 1969. The interests of the Plan in the execution of the Houston Lease were represented by Mercantile, the trustee of the Plan at that time. Mercantile's successor bank, the Trustee, succeeded as trustee of the Plan and continues to represent the interests of the Plan under the Houston Lease. The Trustee will continue to represent the interests of the Plan for all purposes under the Houston Lease for the duration of its term. Under the Houston Lease the Employer is required to pay full extended coverage insurance, all taxes, all costs of maintenance and repairs and any other expenses related to the Houston Property. The Houston Lease requires the Employer to indemnify the Plan against any and all claims, liens or other demands against the Houston Property arising from the Employer's use thereof. On August 10, 1983, at the Trustee's request the Houston Property was appraised for its fair market rental value by Coldwell Banker Real Estate Appraisal Services (Coldwell Banker), an independent professional real estate appraisal firm located in Houston. Coldwell Banker represents that as of that date the Houston Property had a fair market rental value of $7,258.83 per month. On September 1, 1983, the Employer and the Trustee executed an amendment to the Houston Lease which set the rental for the Houston Property at $7,258.83 per month and which requires the rental to be reviewed on August 1, 1986, the approximate midpoint of the remaining term, by a qualified real estate appraiser acceptable to the Employer and the Trustee. Additionally, on July 1, 1984, the day after the expiration of the statutory exemption under section 414(c)(2) of the Act, the Trustee will undertake an independent review of the fair market rental value of the Houston Property as of that date in light of all then-existing market conditions to determine whether the rental established on September 1, 1983 continues to provide the full fair market rental value return to the Plan. If the Trustee finds at that time that the fair market rental value of the Houston Property has increased above that established on September 1, 1983, the rental under the Houston Lease will be increased accordingly. Pursuant to the amendment executed September 1, 1983, requiring another rental review on May 1, 1986, if the selected appraiser at that time finds that the fair market rental value of the Houston Property has increased since July 1, 1984, the rental under the Houston Lease will be increased accordingly to the new fair market rental value of the Houston Property. On August 10, 1983, Coldwell Banker also appraised the fair market value of the Houston Property. Coldwell Banker represents that as of that date the fair market value of the Houston Property was $725,000. The Trustee represents that based on this valuation the Houston Property represents 12.2% of the total assets of the Plan as of September 1, 1983.

5. The Employer represents that aside from the Dallas and Houston Properties there are no other Plan assets to which the Employer has any relationship or of which the Employer is a lessee, user, or issuer. It is proposed that the Employer's obligations under the Houston Lease past June 30, 1984 will be guaranteed by the Parent, and the Employer is requesting an exemption to permit this guarantee. The Parent, which owns 100% of the Employer's stock, is a diversified mechanical contractor specializing in commercial and industrial fire protection, pollution control and energy contracting. The Parent had a net worth of $23,220,000 as of October 31, 1983. The guarantee will provide that the Parent is responsible for any default or deficiency on the part of the Employer in the payment or rent and the performance of any obligations under the Houston Lease.

6. The Trustee represents that it has examined and evaluated the proposed continuation of the Dallas and Houston Leases past June 30, 1984 and has determined that the continuation of such lease arrangements will be in the best interests and protective of the Plan and its participants and beneficiaries. The Trustee represents that the rate of return which the Dallas and Houston Properties provides to the Plan is in excess of the rate of return being achieved by the majority of the pension plans managed by the Trustee. Additionally, the Trustee represents that the rate of return on the Dallas and Houston Properties is substantially higher than the rate of return on all other Plan assets. The Trustee represents that the Dallas and Houston Properties represent only 22.1% of total Plan assets as of September 1, 1983 and that total Plan assets are well diversified by type and industry. The Trustee represents that the terms and conditions of the Dallas and Houston Leases are protective of the Plan because they insulate the Plan from costs of maintenance and repair of the subject properties. The Trustee notes that the Plan's investment in the Houston Property, the more valuable of the subject properties, will be additionally secured by the Parent's guarantee of the Employer's obligations under the Houston Lease. Finally, the Trustee represents that the Plan's interests under the Dallas and Houston Leases will be adequately protected and represented by the Trustee, which will continue as an independent fiduciary on behalf of the Plan to monitor compliance with the Leases' terms and will take any and all actions necessary to enforce the Employer's obligations thereunder and remedy any breach or deficiency which might occur.

7. In summary, the applicant represents that the criteria of section 408(a) of the Act will be satisfied in the subject transactions for the following reasons: (1) The interests of the Plan in all aspects of the proposed transactions will be represented by the Trustee, which will approve and monitor the subject transactions on behalf of the Plan for their duration; (2) the Leases

ensure that the Plan will continue to receive rent at the fair market rental values of the subject properties; (3) the Plan's investment in the Houston Property will be secured by the Parent's guarantee of the Employer's obligations under the Houston Lease; and (4) the Plan's investments in the Dallas and Houston Properties constitute only 22.1% of the total assets of the Plan and the Trustee has determined that the assets of the Plan are well diversified by type and industry.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Associated Anesthesiologists of Toledo, Inc. Employees' Profit Sharing Plan and Trust (the Plan) Located in Toledo, Ohio

[Application No. D–4984]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the leasing of certain oil paintings by the Plan to Drs. Robert F. Brinkley, Jose Guerra, John R. Wesley and Ian Williamson (the Participants), provided that the terms and conditions of such leases are and will remain at least as favorable to the Plan as those it could obtain from an unrelated third party.

Summary of Facts and Representations

1. The Plan is a profit sharing plan established on April 2, 1970 with 32 participants as of August 31, 1982. The Plan had net assets of $2,424,039 as of August 31, 1983. The First National Bank of Toledo, Inc., an Ohio banking corporation with its principal place of business in Toledo, Ohio is the trustee (the Trustee) for the Plan. Section 5.1(B) of the Plan document provides that each participant shall have the right to instruct the Trustee as to the investment and re-investment of all or any portion of the participant's account.

2. The Plan holds title to various oil paintings purchased between the years 1976 through 1978.[3] The Trustee, pursuant to instructions by the Plan Participants purchased the paintings from Kurt E. Schon, Ltd. of New Orleans, Louisiana, the gallery which had initially purchased them from Harold Hitchcock, Dan Samuels, Gene Pierre Sierrier and Gene Pierre Alaux, the artists. Such paintings were purchased only for the benefit of the Participants who directed that they be purchased under this feature of the Plan.[4]

3. At about the time the purchase orders were placed, the Trustee learned of the necessary light, temperature, humidity and other climatic controls that were necessary to preserve the quality and value of the paintings and determined that it would be unable to hold the paintings in its vault without damage. The Trustee and the Participants then began a comprehensive search of local museums and commercial galleries to find a proper place to store the paintings, but were unable to find any institution or commercial gallery which would be willing to store the paintings on an indefinite basis, although the paintings were displayed from time to time by various art galleries in Toledo and elsewhere. Consequently, the paintings were stored in the homes of the Participants who had directed their purchase.

4. In 1979, the Internal Revenue Service (the Service) conducted an audit of the Plan and assessed an excise tax under section 4975 of the Code contending that placing the paintings in the homes of the Participants constituted a prohibited transaction. Following the Service's determination, the paintings were removed from the homes of the Participants and relocated on a temporary basis with the Trustee and at the residences of various other persons interested in art throughout Toledo. Two of the Participants, Ian Williamson and John Wesley, contested the Service's determination by filing petitions in the United States Tax Court on March 22, 1982.[5] In May 1983, these cases came up for trial, but the applicant and the Service agreed to settle these cases on the following basis:

(a) Locating the paintings in the homes of the Participants constituted a prohibited transaction under section 4975(c)(1)(D) of the Code as a transfer to, use by or for the benefit, of, a disqualified person of the income or assets of a plan.

(b) The amount involved with respect ot the prohibited transaction within the meaning of section 4975(a) of the Code was the fair rental value of the paintings.

(c) The fair rental value of the paintings is 5% per year of the fair market value of the paintings determined from time to time.

(d) No further excise taxes would be imposed if the paintings were relocated in the homes of the Participants under a lease from the Plan providing fro an annual rental equal to 5% of the appraised value of the paintings.

(e) The Service is aware that this leasing arrangement would have to be approved by the Department and therefore this exemption request was then made a condition to the entire settlement in the Tex Court.

5. The applicants seek and exemption to lease the various oil paintings owned by the Plan to the Participants. Mr. Thomas M. Bayer (Mr. Bayer) an unrelated appraiser with International Fine Arts Association, Inc. of New Orleans, Louisiana appraised the paintings on January 26, 1984 to have a current replacement value as follows:[6]

Painting	Artist	Appraised value
Imaginative Landscape	Hitchcock	$12,000
Ceremony at Sunset	do	8,000
Protective Angels	do	10,000
A Forest Path	do	10,000
Figures by a Brook	do	8,000
Rose Des Vents	Alaux	4,000
Sea Mist	Hitchcock	10,000
The Dreamer	Samuels	10,000
Riverside Retreat	Hitchcock	10,000
Castel Moat	do	2,500
Apres le Deluge	Serrier	9,000
Camelot	Hitchcock	10,000
Sacrament of Destiny	Samuels	12,000
Palace of Charlemagne	Hitchcock	15,000

[3] In this proposed exemption the Department expressed no opinion as to whether the Plan's acquisition and holding of the artwork or the prior dealings with the Participants violated any provision of Part 4 of Title I of the Act.

[4] *Painting and artist*

(1) "Imaginative Landscape", Hitchcock; "Ceremony at Sunset", Hitchcock.

(2) "Protective Angels", Hitchcock.

(3) "A Forest Path", Hitchcock; "Figures by a Brook", Hitchcock; "Rose Des Vents", Alaux.

(4) "Sea Mist", Hitchcock; "The Dreamer", Samuels; "Riverside Retreat", Hitchcock; "Castle Moat", Hitchcock; "Apres le Deluge", Serruer; "Camelot", Hitchcock; "Sacrament of Destiny", Samuels; "Palace of Charlemagne", Hitchcock.

(1) Sub-Account 410267310, Participant, Robert F. Binkley, M.D.

(2) Sub-Account 410267320, Participant, Jose Guerra, M.D.

(3) Sub-Account 410267360, Participant, John R. Wesley, M.D.

(4) Sub-Account 410267370, Participant, Ian Williamson, M.D.

[5] *John R. Wesley v. Commissioner*, Docket No. 6307–82. *Ian Williamson v. Commissioner*, Docket No. 6308–82.

Cases continued by Judge Chalot of the United States Tax Court pending the outcome of the exemption requests.

[6] Mr. Bayer represents that the current replacement value of an artist's work is at least equal to, and ordinarily is greater than, the work's fair market value.

6. The leases will be for a 1 year term with a rental rate of 5% of the replacement value of each painting leased. The leases can be renewed on an annual basis, but in no event beyond 15 years from the execution of the original leases. Should the leases be renewed, the Trustee will adjust the rental rate to ensure that the Plan always receives a fair market rate of return. The Participants will acquire and maintain all risk insurance during the term of the leases in an amount equal to the replacement value of the paintings and shall bear all expenses incidental to the proposed transactions.

7. Mary T. Wolfe, an unrelated art expert and consultant with more than 20 years of experience in the art consulting field, stated that the rental rate set forth in the leases, that being 5% per year of the current replacement value of the paintings, is a fair market value rate of return for the paintings.

8. The Trustee has reviewed the proposed lease transactions and states the following:

(a) No relationship exists between the Trustee and the employer under the Plan or any participant or beneficiary thereunder other than the relationship existing as a result of serving as Trustee.

(b) The proposed transactions are in the best interests of the parties involved and the participants and beneficiaries of the Plan.

(c) The proposed transactions will provide the effected Plan participants with an investment producing a favorable rate of return.

(d) The Trustee and a qualified independent art expert have determined that the monthly rental charged by the Plan, currently 5% per year of the replacement value of the paintings, is based on the fair market value rate of return for the paintings.

(e) The Trustee has the authority to terminate the proposed transactions and will take any and all actions necessary to protect the interest of the Plan and of the participants and beneficiaries thereunder, including but not limited to cancelling all leases and selling the paintings.

(g) The Trustee shall have exclusive authority, discretion and responsibility for monitoring the terms and provisions of the proposed transactions and for verifying that the lease fees are timely paid and the insurance coverage is adequate (including verification that the Plan is properly named as beneficiary under the insurance policy and that the policy will cover the theft or disappearance of the paintings and any damage or destruction thereof due to fire or any other cause). In addition, as the art appreciates, the Trustee may require additional insurance coverage.

(h) The Participants shall bear all expenses incidental to the proposed transactions.

9. In summary, the applicant represents that the proposed leases meet the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The leases will provide the Plan with an investment producing a fair market value rate of return;

(b) The rental paid to the Plan has been approved by the Trustee and by an independent art expert;

(c) The Participants have agreed to insure the paintings and name the Plan as beneficiary of the insurance policy;

(d) The Trustee has reviewed the terms of the leases and has stated that they are in the best interests of the Plan and its participants and beneficiaries;

(e) The Trustee has exclusive authority and discretion to monitor the proposed leases to ensure compliance with its terms and conditions; and

(f) The Participants are the only parties affected by the proposed transactions and desire that the transactions be consummated.

Notice To Interested Persons: Since the Participants are the only persons affected by the proposed transaction, it has been determined that there is no need to distribute notice to interested persons. Comments and hearing requests are due 30 days after the date of publication of this notice in the **Federal Register**.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Paul W. Lawrence Construction Co., Inc., Profit Sharing Plan (the Plan) Located in Hastings, Minnesota

[Application No. D-5206]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code shall not apply for a period of six years to: (1) the proposed sales by the Paul W. Lawrence Construction Co., Inc. (the Employer), the sponsor of the Plan, of its interests in contracts for deed or residential first mortgage loans (collectively, the Contracts) to the Plan, provided that the terms and conditions of such sales are at least as favorable to the Plan as those which the Plan could receive in similar transactions with an unrelated party; and (2) the guarantee of the Contracts by the Employer, Paul W. Lawrence (Lawrence) and/or his wife.

Effective Date: If this proposed exemption is granted, the effective date will be March 17, 1984.

Summary of Facts and Representations

1. On March 17, 1981 (46 FR 17166), the Department granted a temporary exemption (PTE 81-24) which permitted for a period of 3 years beginning March 17, 1981 the sales by the Employer of its interests in Contracts to the Plan. The applicant is requesting an exemption herein which will permit the continuation of such sales for a period of 6 years from March 17, 1984.

2. The Plan is a profit sharing plan with six participants. As of March 31, 1983, the Plan had net assets of $392,906. Lawrence and his wife own 100% of the stock of the Employer. The trustees (the Trustees) of the Plan are Lawrence and Samuel Hertogs. Samuel Hertogs is not a shareholder but is an officer and director of the Employer.

3. The Employer purchases undeveloped real estate, sub-divides the same, constructs homes on the real estate and obtains mortgages thereon. The Employer then sells the homes to purchasers under a contract for deed or a residential first mortgage loan. A contract for deed is a contract whereby the owner in fee simple absolute (the Vendor), or the Vendor's assignee agrees by contract to convey to the buyer (Vendee) by a warranty deed, accompanied by an abstract of title or torrens certificate showing good and marketable title in the Vendor, the fee simple title to the premises upon the payment by the Vendee of the principal and interest due from the Vendee to the Vendor under the contract for deed. A residential first mortgage loan may be a conventional, FHA or VA loan. The Employer is requesting an exemption for a three-year period to sell the above described Contracts to the Plan for a cash purchase price of the lesser of the Employer's cost or the market value of the Contract. If the Employer receives any premium or additional consideration in connection with such contracts, such premium will be passed along to the Plan. The Employer will receive no financial benefit from any Contract sold to the Plan. The proposed exemption would also exempt the guarantee of the Contracts by the

Employer, Lawrence and/or his wife in such transactions.

4. The Contracts that the Employer is proposing to sell to the Plan are not seasoned in the sense that they have not been in existence for any period of time. The proposed transactions would involve new construction by the Employer. In making residential loans and reviewing residential loan applications, the Employer will follow the Federal National Mortgage Association (FNMA) guidelines. The factors influencing acceptability would include the credit record and financial statements of the loan applicant, the ratio between expenses to be assumed as a result of the loan and the stabilized income of the applicant, verification of employment, the age and condition of the property offered as security (determined by inspection), the value of the security and the ratio of the loan sought to the value of the security. The Plan will not purchase any Contract where the loan to value ratio exceeds 85% and any Contract where the Plan does not have the first interest in the property underlying the Contract.

5. The Plan will not purchase any Contract which upon its purchase would put the value of all Contracts owned by the Plan at 50% or more of the current value of the assets of the Plan. No more than 10% of Plan assets will be invested in any one Contract and the Plan will not purchase more than one Contract from any mortgagor or Vendee. All Contracts purchased by the Plan will meet all FNMA underwriting criteria. Also, there will be an apprisal of the underlying security by an FNMA approved independent appraiser prior to any purchase of a Contract by the Plan. In addition, the purchaser of the property will be required to maintain casualty insurance on the property subject to the contract at all times during the term of the Contract.

6. Prior to any purchase by the Plan of the Employer's interest in a Contract, a party unrelated to the Plan or the Employer, Mr. John Poepl (Poepl), president of the Vermillion State Bank in Vermillion, Minnesota, will determine whether each such transaction is a suitable investment for the Plan and that the terms of the proposed transactions are at least as favorable to the Plan as those which the Plan could receive in the same type of transaction with an unrelated party. Poepl acknowledges his role as an independent fiduciary of the Plan and represents that he is aware of his duties and responsibilities as such under the Act. No Contract will be purchased by the Plan in which the annual return is less than 12%. Poepl will also supervise the servicing of all transactions. The Employer will service the Contracts at no cost to the Plan. In addition, the Trustees represent that the proposed transactions are in the best interests and protective of the participants and beneficiaries of the Plan.

7. The Employer, Lawrence and his wife jointly and severally guarantee as follows:

To repurchase, at the higher of the Plan's cost or the current market value, any contract with accrued interest more than three months delinquent in payments at any time during the life of the Contract. If the Employer has not purchased the Contract for deed with the accrued interest within ten days of the Contract being three months in arrears in payments, Lawrence or his wife shall do so within ten days thereafter.

8. As of June 30, 1983, the Employer had total net assets of $1,461,511. As of December 31, 1982, Mr. & Mrs. Paul W. Lawrence had total assets in excess of $8,000,000.

9. The Plan has invested in contracts for deed since 1967. Since 1967, there have never been any defaults that have not been cured on any contracts for deed or mortgages thereon, except one contract for deed where the house was repossessed and resold at a gain to the Plan. During the period that PTE 81-24 was in effect, the Plan purchased Contracts in the amount of $201,673. As a return on the Contracts, the Plan received nearly $28,771 in interest and $9,916 in discounts which gave the Plan a net return on the Contracts of 19.2%. Contracts presently constitute approximately 26% of the assets of the Plan.

10. The applicants represent the proposed transactions will satisfy section 408(a) of the Act as follows: (1) The Trustees represent that the proposed transactions are in the best interests of the participants and beneficiaries of the Plan; (2) the proposed transactions will be approved and monitored by an independent party; (3) the exemption will be a temporary exemption for six years; (4) the Plan will receive a high rate of return on its investments; and (5) the Employer, Lawrence and/or his wife will provide guarantees.

For Further Information Contact: Richard Small of the Department, telephone (202) 523-7222. (This is not a toll-free number.)

Lindquist & Vennum Profit Sharing Retirement Plan and Trust (the Plan) Located in Minneapolis, Minnesota

[Application No. D-5212]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to a series of loans by the Plan to Lindquist & Vennum (the Employer) over a five year period, the aggregate amount of such loans not to exceed 25% of Plan assets, provided that the terms and conditions of such transactions are at least as favorable to the Plan as those obtainable by the Plan in arm's length transactions with unrelated parties.

Summary of Facts and Representations

1. The Plan is a profit sharing plan which had 126 participants and net assets of approximately $3,500,000 as of December 31, 1983. The trustee of the Plan (the Trustee) is F & M Marquette Bank of Minneapolis, Minnesota. The administrator and sponsor of the Plan is the Employer. The Employer is a Minnesota general partnership engaged in the practice of law. Investment decisions for the Plan are made by an investment committee comprised of partners of the Employer.

2. The Plan proposes to make a series of loans (the Loans) to the Employer over a five-year period, the aggregate outstanding amounts of such Loans not to exceed 25% of the Plan's assets at any point in time. The five-year period will begin on the date a grant of the exemption request is published in the **Federal Register**. The last such Loan will be repaid before the end of the five-year period. The Loan proceeds will be used by the Employer either to purchase office equipment, leasehold improvements, furniture and fixtures for its existing offices and for new offices leased by the Employer in Minneapolis, Minnesota, or to repay a portion of revolving credit loans which have been extended to the Employer by the Trustee. The applicant states that the loans extended to the Employer by the Trustee are indexed to the prime rate of the Trustee and bear a lower rate of interest than that which will be received

by the Plan with respect to the proposed Loans.

3. Each of the Loans will be subject to following conditions:

a. No Loan will be made if, at the time of its making, it would cause more than 25% of Plan assets to be invested in Loans to the Employer.

b. Each Loan will be secured by a perfected first security interest in the items purchased and in certain accounts receivable of the Employer. The items purchased will be insured by the Employer against fire and other hazards with the Plan named as the beneficiary of the insurance policy. The applicant states that the accounts receivable of the Employer are unencumbered and represent fees owed for services performed. Payment of the accounts receivable is not conditioned on the future performance of services nor on the satisfaction of future conditions. Approximately 93% of the Employer's accounts receivable are collected within ninety days. Any accounts receivable pledged to the Plan as collateral will be less than ninety days old. As of February 29, 1984, the Employer's accounts receivable less than ninety days old exceeded $1,300,000.

c. Each Loan will be collateralized in an amount equal to at least 200% of the outstanding balance of such Loan, and this level of collateral will be maintained over the entire term of the Loan.

d. The maximum length of any Loan will be sixty months and the interest rate on each Loan will be fixed at a rate of 2% above the prime rate set by the Trustee on the date of execution of such Loan.

4. First American Bank & Trust Company of Marshall (the Bank) has agreed to act as an independent fiduciary for the Plan with respect to the proposed Loans. The Bank represents that it has no commercial relationship with either the employer or the principals of the Employer. The Bank has previously acted as an independent fiduciary in connection with similar transactions involving other plans and represents that it clearly understands its responsibilities and liabilities as a fiduciary under the Act. The Bank has reviewed the Plan's financial statements, the Plan's portfolio and the terms and conditions of the proposed Loans and represents that the Loans are protective of and in the best interest of the Plan's participants and beneficiaries. Specifically, the Bank reviewed the terms and conditions of the Loans with respect to the diversification of the Plan's portfolio, the liquidity of the Plan's investments, the Plan's future needs for liquidity and the rate of return on the Plan's investments. The Bank will approve and monitor each of the proposed Loans to ensure that each Loan is properly and sufficently secured, that the collateral for the Loans is maintained at a level of 200% of the outstanding Loan balances, that the Loan payments are made in a timely manner, that the proper rate of interest is being set and paid and that all terms and conditions of the Loan are being complied with. The Bank will not authorize any Loan unless the collateral used to secure it has a value of at least 200% of the amount of the Loan. Further, the Bank will not authorize any Loan if, at the time of its making, it would cause more than 25% of Plan assets to be invested in Loans to the Employer. The Bank represents that it has been empowered and directed to take any enforcement actions necessary to protect the rights of the Plan with respect to the Loans.

5. In summary, the applicant represents that the proposed transactions satisfy the statutory critieria of section 408(a) of the act because:

(a) No Loan will be made if, at the time of its making, it would cause more than 25% of Plan assets to be invested in Loans to the Employer;

(b) The Loans will be collateralized throughout their duration in an amount not less than 200% of the aggregate outstanding Loan balances;

(c) The Plan will have perfected first security interests in the collateral;

(d) The Plan will receive a high rate of return on a secure investment; and

(e) The Loans will be approved, monitored and enforced by the Bank, acting as an independent fiduciary for the Plan with respect to the Loans.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523-8972. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsiblility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 5th day of June 1984.

Elliot I. Daniel,

Acting Assistant Administrator for Fiduciary Standards, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 84-15418 Filed 6-7-84; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-3427]

Withdrawal of the Proposed Exemption Involving the Cattlemens Profit Sharing Plan (the Plan) Located in Santa Rosa, California

In the **Federal Register** dated October 15, 1982 (47 FR 46163), the Department of Labor (the Department) published a notice of pendency of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by the Internal Revenue Code of 1954. The notice of pendency concerned an application filed on behalf of Cattlemen's, Inc. (the Employer) and it involved a proposed loan (the Loan) by the Plan to the Employer of an amount

equal to the lesser of $300,000 or 30 percent of the Plan's assets.

By letters dated October 15, 1982 and January 31, 1983, the applicant's representative notified the Department that he was no longer seeking an exemption for the Loan described in the above cited notice since some of the terms of the proposed transaction had been changed. Therefore, the Department is hereby withdrawing the notice of pendency.

Signed at Washington, D.C., this 25th day of May 1984.

Elliot I. Daniel,

Acting Assistant Administrator for Fiduciary Standards, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 84-15420 Filed 6-7-84; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meeting

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held at 1100 Pennsylvania Avenue NW., Washington, D.C. 20506:

Date: June 26-27, 1984.
Time: 9:00 a.m. to 4:30 p.m.
Room: 430.
Program: This meeting will review Challenge Grant applications from Professional Associations and Other Nonprofit Organizations.

The proposed meeting is for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meeting will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority To Close Advisory Committee Meetings, dated January 15, 1978, I have determined that this meeting will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506; or call (202) 786-0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 84-15409 Filed 6-7-84; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Polar Programs; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Polar Programs.

Date & time: June 28, 1984, 8:30 a.m.-8:00 p.m. June 29, 1984, 8:30 a.m.-3:00 p.m.

Place: Room 543, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed—June 28, 12:30 p.m.-8:00 p.m. June 29, 8:30 a.m.-12:00 noon. Open—June 28, 8:30 a.m.-11:30 a.m. June 29, 1:00 p.m.-3:00 p.m.

Contact persons: Dr. Edward P. Todd, Division Director, Division of Polar Programs, Room 620, National Science Foundation, Washington, D.C. 20550. Telephone: (202) 357-7766.

Purpose of committee: Serves to provide expert advice to the U.S. Antarctic Program and the Arctic Program, including advice on polar operations support, budget planning, polar coordination and information and science programs.

Agenda:

June 28

8:30 a.m.-11:30 a.m. Discussion of the Operations Section
12:30 p.m.-8:00 p.m. Review of Polar Ocean Sciences Program

June 29

8:30 a.m.-12:00 noon Review of Polar Ocean Sciences Program
1:00 p.m.-3:00 p.m. Other business

Reason for closing: The meeting will deal with a review of grants and declinations in which the Committee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of peer review documentation pertaining to applicants. Any non-exempt materials that may be discussed at this meeting (proposals that have been awarded) will be inextricably intertwined with the discussion of exempt materials and no further separation is practical. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, National Science Foundation, on July 6, 1979.

Summary minutes: May be obtained from Contact Person.

Dated: June 5, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84-15480 Filed 6-7-84; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Science and Engineering Education; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Science and Engineering Education.

Date and time: June 25, 1984: 9:00 a.m.-5:00 p.m. (Room 540). June 26, 1984: 9:00 a.m.-4:30 p.m. (Room 338).

Place: National Science Foundation, 1800 G Street N.W., Washington, D.C. 20550.

Type of meeting: Open.

Contact Person: Dr. Laura P. Bautz, Acting Assistant Director, Directorate for Science and Engineering Education, National Science Foundation, Washington, D.C. 20550 Telephone (202) 357-7557.

Summary Minutes: May be obtained from Dr. Laura P. Bautz, Acting Assistant Director, Directorate for Science and Engineering Education, National Science Foundation, Washington, D.C. 20550.

purpose of committee: The Advisory Committee for Science and Engineering Education provides Advice and recommendations concerning science and engineering education.

Agenda:

June 25, 1984

a.m.—Status Report and Discussion on *Precollege* Programs
p.m.—Status Report and Discussion on *Research Career Development* Program
FY 1986 and Long Range Plans

June 26, 1984

a.m.—Continuation of Discussion of *Precollege* Programs
p.m.—Continuation of Discussion of *Research Career Development* Program
Continuation Discussion of FY 1986 and Long Range Plans

Dated: June 5, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84-15468 Filed 6-7-84; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Poplar Street Bridge; Public Hearing

In connection with its investigation of the ramming of the Poplar Street Bridge by the tow of the M/V ERIN MARIE at St. Louis, Missouri, on April 26, 1984, the National Transportation Safety Board will convene a public hearing at 10 a.m., June 11, 1984, in the Gallery Room, Bel Air Hilton, 333 Washington Avenue, St. Louis, Missouri.

Dated: June 5, 1984.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

[FR Doc. 84-15453 Filed 6-7-84; 8:45 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: New.
2. The title of the information collection: Survey of Users of Gauges Under General License
3. The form number if applicable: Not applicable.
4. How often the collection is required: One time.
5. Who will be required or asked to report: A sample of persons that use gauges containing byproduct material.
6. An estimate of the number of responses: 300
7. An estimate of the total number of hours needed to complete the requirement or request: 175
8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Not applicable.
9. Abstract: Gauges containing radioactive byproduct material are used in a number of industrial applications under a general license established by the Commission. NRC will conduct a survey of a sample of users to acquire data for a study of the effectiveness of the general license in protecting public health and safety.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395-7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland, this 4th day of June 1984.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 84-15465 Filed 6-7-84; 8:45 am]

BILLING CODE 7590-01-M

[Negative Declaration Docket No. 50-148]

University of Kansas; Renewal of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to Facility Operating License No. R-78 to the University of Kansas (the licensee) which renews the license for operation of the reactor facility located on the campus of the University of Kansas in Lawrence, Kansas. The facility is a research reactor that operates at an average power level of 10 kilowatts (thermal). The amended license extends the duration of Facility License No. R-78 to April 7, 1990.

The amended license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I. Those findings are set forth in the amended license. Notice of the proposed issuance of this action was published in the **Federal Register** on May 2, 1980 at 45 FR 29452. No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for the renewal of the Facility Operating License and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action.

The Commission also has prepared a Safety Evaluation Report (NUREG-1051) for the renewal of the Facility Operating License and has concluded that the facility can continue to be operated by the licensee without endangering the health and safety of the public.

For further details with respect to this action, see (1) the application for amendent dated March 4, 1980, as supplemented, (2) Amendment No. 14 to License R-78, (3) the Commission's related Safety Evaluation Report (NUREG-1051) and (4) the Environmental Impact Appraisal. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. Copies of items (2) and (4) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Copies of NUREG-1051 may be purchased by calling (301) 492-9530 or by writing to the Publication Services Section, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, the 31st day of May 1984.

For the Nuclear Regulatory Commission.

Cecil O. Thomas,

Chief, Standardization & Special Projects Branch, Division of Licensing.

[FR Doc. 84-15464 Filed 6-7-84; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council; Renewal

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), it is hereby determined that the Renewal of the White House Science Council is necessary, appropriate, and in the public interest in connection with the performance of duties imposed upon the Director, Office of Science and Technology Policy, by the Presidential Science and Technology Advisory Organization Act of 1976 and other applicable law. This determination follows consultation with the General Services Administration, pursuant to section 9(a)(2) of the Federal Advisory Committee Act and the GSA Interim Rule on Federal Advisory Committee Management (48 FR 19324, April 28, 1983).

1. Name of Group: White House Science Council.

2. Purpose: The purpose of the White House Science Council is to advise the Director, Office of Science and Technology Policy (OSTP), on science and technology issues of national concern. The Council shall concern itself with specific issues assigned by the Director, OSTP, and will keep him informed of changing perspectives in the science and technology communities.

3. Effective Date of Establishment and Duration: The renewal of the White House Science Council is effective upon filing of the charter with the Director, OSTP, and with the standing committees of Congress having legislative jurisdiction over the Office of Science and Technology Policy. The White House Science Council will terminate on December 31, 1985, unless sooner extended.

4. Membership: Members of the White House Science Council will be appointed by the Director, Office of Science and Technology Policy. That appointment shall be subject to review every 365 days unless earlier terminated. The Council shall consist of no more than 15 members. Additional technical experts will be utilized as needed to constitute panels and study groups.

5. Advisory Group Operation: The White House Science Council will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92–463), GSA Interim Rule on Federal Advisory Committee Management (48 FR 19324), and other directives and instructions issued in implementation of the Act.

Jerry D. Jennings,

Executive Director.

Office of Science and Technology Policy

Charter

White House Science Council

1. *Committee's Official Designation:* White House Science Council (WHSC).

2. *Objectives and Scope of Activities and Duties:*

- The Purpose of the WHSC is to advise the Director, Office of Science and Technology Policy (OSTP), on science and technology issues of national concern.
- In furtherance of this mission the WHSC shall concern itself with specific issues assigned by the Director, OSTP, and will keep him informed of changing perspectives in the science and technology communities.

3. *Duration:* The Council will terminate on December 31, 1985, unless sooner extended.

4. *Official to Whom the Council Reports:* The WHSC will report to the Director, OSTP.

5. *Agency Responsible for Providing Necessary Support for this Council:* Office of Science and Technology Policy.

6. *Description of Duties:* The duties of the Council are solely advisory and are stated in paragraph 2 above.

7. *Costs:* The estimated annual operating cost of the Council is $50,000.

8. *Estimated Number and Frequency of Meetings:* The White House Science Council shall normally meet six times each year at regular intervals, and at such other times as may be called by the Director, OSTP. In addition, 10–15 meetings each year by subgroups are anticipated.

9. *Subgroups:* Subgroups may be formed to conduct studies on specific issues assigned by the Director, OSTP.

10. *Members:* WHSC members shall be appointed by the Director, OSTP. That appointment shall be subject to review every 365 days unless terminated earlier. The WHSC shall consist of no more than 15 members. *The Director, OSTP shall appoint a Chairman and Vice Chairman from the members of the Council.*

The Council shall utilize additional technical experts as needed to constitute its panels and study groups. *These technical experts shall be appointed by the Director, OSTP and shall serve as Associate Members of the Council. The term of the appointment shall be for the duration of the panel upon which the Associate Member serves or 365 days, whichever is sooner, unless terminated earlier by the Director.*

This Charter for the Advisory Committee named above is hereby approved on:

Date: December 22, 1983.

Jerry D. Jennings,

Committee Management Officer.

Date filed: December 22, 1983.

[FR Doc. 84–15428 Filed 6–7–84; 8:45 am]

BILLING CODE 3170–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Columbia River Basin Fish Propagation Panel Meeting

AGENCY: Columbia River Basin Fish Propagation Panel of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council)

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- Call to Order.
- Approval of Minutes.
- Staff Update.
- Panel Memo to Council.
- Reprogramming Response Review.
- Public Comment.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Columbia River Basin Fish Propagation Panel.

DATE: June 11, 1984, 9:00 a.m.

ADDRESS: The meeting will be held at the Seattle Airport Hilton, Seattle, Washington (please check at hotel for room name).

FOR FURTHER INFORMATION CONTACT: Mark Schneider, (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 84–15412 Filed 6–7–84; 8:45 am]

BILLING CODE 0000–00–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13991; 812–5822]

Prudential-Bache Securities Inc., et al.; Filing of Application

June 4, 1984.

Notice is hereby given that Prudential-Bache Securities Inc. (the "Sponsor"), on behalf of (1) Prudential-Bache Unit Trusts, Financial Guaranty Insurance Company, Insured Long Term Series 1, (2) Prudential-Bache Unit Trusts, Discount Series 1, (3) Prudential-Bache Unit Trusts, Long Term Series 1, and (4) all subsequently issued series of Prudential-Bache Trusts (the "Trusts"), 100 Gold Street, New York, N.Y. 10292, filed an application on April 13, 1984, and an amendment thereto on May 25, 1984, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting it from the provisions of section 22(d) of the Act, and, pursuant to section 11(a) of the Act, permitting the exchange of units of any series of the Trusts for units of any other series thereof at a reduced fixed sales charge per unit. 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 applicable provisions.

The application states that the Trusts are unit investment trusts registered under the Act, each of which is sponsored by the Sponsor (but may, in the future, be sponsored by additional

sponsors). According to the application, whereas the structures of the various series will be similar in most respects, the investment objectives of the series may differ, depending upon the nature of the underlying portfolio. The application further states that there are no exchange Trusts available at the present time.

According to the application, the Sponsor acquires a portfolio of securities, satisfying the standards applicable to the investment objectives of the particular series. These securities are then deposited in trust with a corporate fiduciary in exchange for certificates representing units of undivided interest in the deposited portfolio.

These units are then offered to the public at a public offering price which is based upon the offering prices of the underlying securities plus a 4% sales charge. The application states that the sales charge applicable to future series may vary. The application further states that, although not legally obligated to do so, the Sponsor intends to maintain a secondary market for the units of outstanding series and continually offer to purchase such units at prices based upon the offering side evaluation of the underlying bonds, as determined by an independent evaluator.

The application states that the Sponsor seeks authority to offer an exchange option (the "Exchange Option") to holders of units (the "Certificateholders") of the various series of the Trusts for which a secondary market is from time to time maintained. According to the application, a Certificateholder wishing to dispose of those of his units for which a secondary market is maintained would have the option to exchange his units for units of any other series of the Trusts for which a secondary market is also maintained. It is not presently contemplated that Certificateholders would be permitted to exchange their units for units of other series which are available on original issue, the Sponsor might at some future date determine to permit such exchanges and therefore desires that any order issued pursuant to this application also apply to units of the same series or any series of the Trusts which are available on original issue. The application further states that the Sponsor intends to hold the Exchange Option open under most circumstances, but reserves the right to modify, suspend, or terminate it at any time without further notice to Certificateholders.

The application states that an exchange transaction would operate essentially identically to any secondary market transaction, except that the Sponsor would seek authority to allow a reduced sales charge in a transaction pursuant to the Exchange Option. The application represents that units of any series repurchased by the Sponsor will be resold at a price based upon the offering side evaluation of the underlying securities divided by the number of units outstanding (the "Offering Price"), plus a sales charge of 4%. The Sponsor seeks authority to sell units pursuant to the Exchange Option at the Offering Price, plus a fixed charge of $15 per unit (approximately 1.5% of the Offering Price, depending upon changes in the market value of the underlying securities). The Sponsor, however, reserves the right to increase or decrease the fixed sales charge from time to time in the event of fluctuations in the costs of professional assistance or operational expenses in connection with these exchange transactions. According to the Sponsor, any increase in the fixed charge will be limited to an amount reflecting increased costs of professional assistance or operational expenses in connection with the exchange transactions and in no event will that fee exceed the sales load that would normally be imposed.

According to the application, the Certificateholder would be permitted to acquire, pursuant to the Exchange Option, only whole units and any excess dollar amounts representing the difference between the sales price of the units submitted for exchange and the price of the units to be acquired in the exchange would be remitted to the Certificateholder. The application asserts that this sales charge compares favorably to the regular 4% sales charge applicable to non-exchange transactions in connection with primary and secondary sales of units of the Trusts and that such a sales charge is warranted because it will cover the reasonable costs related to the exercise of the Exchange Option and give Certificateholders an opportunity to share in expected cost savings.

Notice is further given that any interested person wishing to request a hearing on the applicaion may, not later than June 25, 1984, 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. Fizsimmons,

Secretary.

[FR Doc. 84-15458 Filed 6-7-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13990; 811-1595]

Travelers Equities Fund, Inc.; Filing of Application

June 4, 1984.

Notice is hereby given that Travelers Equities Fund, Inc. ("Applicant"), One Tower Square Hartford, CT 06115, registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end, management investment company, filed an application on May 24, 1984, for an order of the Commission, pursuant to section 8 (f) of the Act, declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the provisions thereof which are relevant to a consideration of the application.

Applicant states that it registered under the Act on February 16, 1968, by filing a Form N-8B-1 pursuant to section 8(b) of the Act. According to Applicant, it also filed on that date a registration statement on Form S-5 pursuant to the Securities Act of 1933, which became effective on May 27, 1969. Applicant was incorporated under Maryland law in 1968.

Applicant represents that an Agreement and Plan of Reorganization (the "Agreement"), made on March 9, 1984, between Applicant and Keystone Custodian Funds, Inc., as trustee for Keystone Custodain Fund, Series K-2 ("K-2"), was approved by its board of directors on January 27, 1984, and by two-thirds of its shareholders on March 30, 1984. Pursuant to the Agreement, on April 27, 1984, Applicant (a) transferred all of its assets to K-2 in exchange for shares of beneficial interest of K-2 and the assumption by K-2 of all of the liabilities of Applicant, (b) distributed the K-2 shares pro-rata to Applicant's shareholders in complete liquidation for each of its shares held on that date, and (c) dissolved. The application states

that, as of April 27, 1984, there were 4,629,485.2945 shares of Applicant's common stock with an aggregate net asset value of $45,063.57.

Applicant further represents that, on April 30,1984, it filed Articles of Transfer with the Department of Assessments and Taxation of the State of Maryland and, on May 9, 1984, it filed Articles of Dissolution with the same Department.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 25, 1984, 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. 84-15457 Filed 6-7-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13992; 812-5808]

The Value Line Tax Exempt Fund, Inc. Filing of Application

June 4, 1984.

Notice is hereby given that The Value Line Tax Exempt Fund, Inc. ("Applicant"), 711 Third Avenue, New York, New York 10017, registered under the Investment Company Act of 1940 ("Act") as an open-end diversified, management investment company, filed an application on March 29, 1984, and an amendment thereto on May 29, 1984, 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 rights to sell its portfolio securities to brokers or dealers. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of the applicable provisions.

Applicant, organized as a Maryland corporation on October 18, 1983, states that its investment objective is to provide investors with maximum income exempt from federal income taxes while avoiding undue risk to principal. Applicant further states that it will pursue this objective by offering two separate and distinct portfolios, the Money Market Portfolio and the High Yield Portfolio, each of which will have substantially all of its assets invested in investment grade municipal securities with interest exempt from federal income tax. Under normal conditions, Applicant's assets will be invested so that at least 80% of the annual income will be exempt from federal income taxes. Applicant, in accordance with Rule 2a-7 of the Act, intends to compute the current price per share in the Money Market Portfolio by using the amortized cost method of portfolio valuation.

Applicant proposes to improve its portfolio liquidity by purchasing "stand-by commitments" from banks or broker-dealers. Applicant represents that it intends to enter into stand-by commitments only on behalf of the Money Market Portfolio and solely for the purpose of facilitating portfolio liquidity.

Applicant represents that stand-by commitments it acquires: (1) Will be in writing and will be physically held by Applicant's custodian; (2) will be exercisable by Applicant at any time 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 securities dealers or banks which, in the investment adviser's opinion, present minimal credit risks; and (5) will not be transferrable, although any municipal obligation purchased subject to stand-by commitments could be sold to a third party at any time, even though the stand-by commitment remains outstanding. In addition, Applicant states that each commitment's exercise price will be (a) Applicant's acquisition cost of the municipal obligations purchased subject to the commitment (excluding any accrued interest that Applicant pays at the time of acquistion), less any amortized market premium or plus any amortized market or original issue discount during the period Applicant owns the securities, plus (b) all interest accrued on the underlying municipal obligations since the most recent interest payment date during the period the municipal obligations are held by Applicant. Applicant also states that the acquisition or exercisability of a stand-by commitment for the Money Market Portfolio will not affect the valuation or maturity of the underlying portfolio security.

Applicant represents that the total amount "paid", directly or indirectly, for outstanding stand-by commitments will not exceed ½ of 1% of the value of Applicant's total assets calculated immediately after any stand-by commitment is acquired. The application indicates that since Applicant will value the municipal obligations in the Money Market Portfolio on an amortized cost basis, the amount payable under a stand-by commitment will be the same as the value assigned by Applicant to the underlying obligations. Applicant submits that in the unlikely event that the market or fair value of the municipal obligations in the Money Market Portfolio were not substantially equivalent to the amortized cost value, Applicant would value the municipal obligations on the basis of available market information and hold them to maturity. In such a situation Applicant expects that, in order to avoid imposing a loss on a dealer or bank (thus jeopardizing Applicant's business relationships with them) the stand-by commitments would not be exercised.

Applicant states that stand-by commitments may be available without the payment of any direct or indirect consideration; however, if deemed necessary or advisable, Applicant will pay for stand-by commitments, either separately in cash or by paying a higher price for the municipal obligations that are acquired subject to the stand-by commitments. Applicant further asserts that it is difficult to evaluate the likelihood of the use of, or the potential benefit of, a stand-by commitment. Consequently, Applicant's board of directors intends to determine that stand-by commitments have a "fair value" of zero, regardless of whether any direct of indirect cosideration is paid. Where Applicant has paid for a stand-by commitment, its cost will be reflected as an unrealized loss for the period during which it is held. In addition, Applicant states that for purposes of computing the dollar-weighted average maturity of the Money Market Portfolio, the maturity of a portfolio security shall not be considered shortened or otherwise affected by any stand-by commitment.

Applicant states that the proposed acquistion of stand-by commitments will not affect the calculation of its net asset value per share and will not pose new investment risks. Applicant represents that the investment adviser intends to evaluate periodically the credit of institutions issuing stand-by

commitments. Applicant contends that the acquisition of stand-by commitments will not meaningfully expose Applicant's assets to the entrepreneurial risks of the investment banking business. Applicant also states that it will not acquire stand-by commitments to promote reciprocal practices, to encourage the sale of its shares, or to obtain research services.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 25, 1984, 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. 84-15459 Filed 6-7-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21007; File No. SR-AMEX-84-15]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc.; Relating to Wire Access and Transaction Charge Rate Changes

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 17, 1984, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In order to implement an agreement between the American Stock Exchange and the Chicago Board of Trade with respect to inter-exchange access to options and futures contracts on the Amex Major Market Index ("XMI") and Amex Market Value INDEX ("XAM"), the Exchange is proposing the following policy and fee changes; (1) amendment of the Exchange's wire access policy to permit the installation of direct telephone wires from the floor of the Board of Trade to Amex member booths on the Amex floor solely for the purpose of entering orders in XMI and XAM index options; and (2) extension of the Exchange's 6¢ per contract proprietary option transaction charge to qualified CBT members who trade in either XMI and XAM options on the Amex, in lieu of the normal 30c per contract customer rate.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) *Purpose.* In September 1983, the Exchange entered into a licensing agreement with the Chicago Board of Trade, whereby the CBT would be permitted to trade futures contracts on our two broad-based options indexes, the XMI and XAM. The agreement also provided that both exchanges would take appropriate steps to facilitate inter-market trading between the index options and futures. The CBT hopes to get CFTC approval of its contract market applications on the XMI and XAM futures by late June. In order to assure that Amex's obligations are performed and in place at the outset of futures trading, the Exchange is requesting approval of two rule changes that are necessary to implement this aspect of the agreement.

Presently, Exchange policy prohibits non-member access to our trading floor through direct telephone lines to members' booths. In order to facilitate entry of options orders by CBT members, it is proposed that the Exchange's wire access policy by modified to permit the installation of direct telephone wires from the floor of the Board of Trade to Amex member booths solely for the purpose of entering orders in XMI and XAM index options. The CBT will accord Amex members similar access for the purpose of entering orders in XMI and XAM index futures.

Each exchange also agreed to permit trading in its market by the other's members at the same transaction charge rate assessed its own members. The Exchange is therefore proposing to extend its 6¢ per contract proprietary options transaction charge to qualified CBT members who trade in either XMI or XAM options on the Amex, in lieu of the normal 30¢ per contract customer rate. Again, the CBT is according Amex members the same privilege.

(2) *Basis.* The proposed rule changes are generally consistent with section 6(b) (4) and (5) of the Exchange Act in that they are intended to encourage by means of reciprocal access inter-market trading between members of the Amex and the Chicago Board of Trade in related options and futures products, in the interests of greater pricing efficiency and liquidity and enhanced competition.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule changes will enhance competition, both on an intra- and inter-market basis, by extending access to the Exchange's broad-based index options to participants in the corresponding futures market and by making it possible for Amex floor members to obtain access to the XMI and XAM futures market.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

(a) With respect to the first part of this filing covering the proposed change in the Exchange's wire access policy, within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to

[1] 15¢ per contract when contract under $1.00.

which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

(b) With respect to the second part of this filing covering the change in the proprietary option transaction charge rate, the foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary of appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commssion, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 29, 1984.

For the Commission by the Divisoin of Market Regulation, pursuant to delegated authority.

Dated: May 31, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–15462 Filed 6–7–84; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 21015; File No. SR–OCC–84–7]

Self-Regulatory Organization; Filing and Immediate Effectiveness of Proposed Rule Change by the Options Clearing Corp.

June 4, 1984.

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 April 27, 1984, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described below. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

OCC's proposal increases existing fees and establishes certain new fees for providing participants or their agents with daily options trade ("Data Service") on computer tapes or through data terminals.[1] OCC is changing its fees to cover its increased costs from converting to a new communications system and from adding non-equity options activity to its Data Service. OCC is also setting fees for use of its recently approved, on-line communication system.[2] The following chart summarizes OCC's proposal:

OCC's Current and Proposed Monthly Fees:

Data Service Fees	Current	Proposed
(1) Clearing Member Pick-Up of Magnetic Tape:		
Equity	$150	$250.
Non-equity	N/A	250.
Early Data Service (equity) [3].	100	100.
(2) Direct Data Service to OCC installed equipment in member's office [4].	700	$1,597 (CPU/CPU).
		$1,753 (CPU/tape).
Member serving as Direct Data* agent for receipt of other [5] members' data.	150 credit	No credit.
(3) Direct data service to Agent:		
Equity:	150	250.
Non-equity	N/A	250.
On-Line Service Fees:		
(a) On-line service with direct data service.	N/A	100.
(b) On-line service without direct data service [4].	N/A	615.

[1] OCC's Early Data Service provides daily options data several hours earlier than it would otherwise be available.

[2] OCC currently charges $700 for providing equity options information. Under the proposal, OCC will provide both equity and non-equity options data through this service. OCC will charge $1,597 to transmit that data from OCC's central processing unit ("CPU") to a member's CPU. The fee is $1,753 per month for direct transmission to a tape in a member's office.

[3] A clearing member received this credit for serving as another member's Direct Data Service agent, provided that the agent's fees could not be less than $150.

[4] This fee includes $100 for network operating costs plus the costs for dedicated communication lines and dedicated equipment in OCC's data centers, which Direct Data Service users currently help to defray. In addition, all "on-line" system users must lease or acquire OCC compatible equipment, such as display terminals and printers. OCC will not charge any "on-line" fees until the system expands beyond its present two participants.

[1] This proposed rule change supersedes a previous proposed fee increase that was not implemented. *See* File No. SR–OCC–83–8 and related Securities Exchange Act Release No. 19798 (May 23, 1984), 48 FR 24505 (June 1, 1983).

[2] This system enables OCC and its participating members to communicate and transmit options transactions data directly through automated, display terminals. For a detailed description of the system, *see* File No. SR–OCC–83–15, and the Commission's related Approval Order, Securities Exchange Act Release No. 20983 (May 22, 1984), 49 FR 22427 (May 29, 1984).

OCC believes that its proposal is consistent with section 17A of the Act because it allocates OCC's costs in an equitable manner among clearing members using the services.

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Reference should be made to File No. SR–OCC–84–7.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at

the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-15460 Filed 6-7-84; 8:45 am]

BILLING CODE 8010-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Public Comments: Certain Self-Stripping Electrical Tap Connectors

On May 24, 1984, the United States International Trade Commission referred to the President for review its determination that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, and in the sale, of certain self-stripping electrical tap connectors which infringe a U.S. patent causing injury to an efficient and economically operated United States industry. The Commission ordered the products involved excluded from entry into the United States.

Under section 337(g), the President, for policy reasons, may disapprove the Commission's determination within sixty days following receipt of the determination and record. If disapproved by the President, the determination, and any order issued under its authority, would be without force or effect. The President also may approve the determination, making it, and any order issued under its authority, final on the date the Commission receives notice. The determination, and any related order, becomes final automatically following the sixty day review period, if the President has not disapproved it.

Interested parties may submit comments concerning foreign or domestic policy issues that should be considered by the President in making his decision regarding this case. Parties commenting on issues of domestic policy should refer to the portion of the Commission's record in which that issue was discussed. Parties should provide a rationale if the domestic policy issue was not raised before the Commission.

Comments may not exceed 15 letter-sized pages, including attachments. Twenty copies of the submission must be provided. Comments must be delivered by the close of business, Friday, June 29, 1984, to the Secretary, Trade Policy Staff Committee, 600 17th Street, NW., Washington, D.C. 20506.

For further information, call Alice Zalik (202)395-3432.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 84-15477 Filed 6-7-84; 8:45 am]

BILLING CODE 3190-01-M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980; Forms Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Forms Under Review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Request for information, including copies of the forms proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for Tennessee Valley Authority, 395-7313.

Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751-2524, FTS 858-2524.

Type of Request: Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection.

Title of information collection: Salary Survey for Salary Policy Bargaining Unit Employees

Frequency of use: Annual

Type of affected public: State or Local Governments, Federal Agencies or Employees, Non-Profit Institutions

Small businesses or organizations affected: None

Federal budget functional category code: 999

Estimated number of annual responses: 60

Estimated total annual burden hours: 180

Estimated annual cost from appropriated funds: 0

Need For and Uses of Information: TVA conducts an annual survey of firms, Federal agencies, and state and local governments whose employees perform work similar to that of TVA's salary policy employees. TVA uses the data during annual negotiations to determine prevailing rates of pay and benefits in the vicinity as required by the TVA Act.

Date: June 1, 1984.

John W. Thompson,

Manager, Corporate Services, Senior Agency Official.

[FR Doc. 84-15395 Filed 6-7-84; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Values for War Risk Insurance

AGENCY: Maritime Administration, Transportation.

ACTION: Determination of Ship Values for War Risk Insurance, effective January 1, 1984.

SUMMARY: Pursuant to the procedure stated at 46 CFR 309.1, the required biannual notice is hereby given of the stated valuation of individual vessels upon which interim binders for war risk hull insurance have been issued. The valuations set forth herein constitute just compensation for the vessels to which they apply, and have been computed in accordance with sections 902(b) and 1209(a)(2) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1242(b), and 1289(a)(2)). The authority to make these vessel valuations was delegated to the Maritime Administrator by the Secretary of Transportation by DOT Order 1100.60 (August 6, 1981). Such stated valuations apply to vessels covered by interim binders for war risk hull insurance, Form MA-184, prescribed by 46 CFR Part 308. In accordance with Public Law 96-195, authority to issue such war risk insurance will expire on September 30, 1984.

The interim binders listed below shall be deemed to have been amended as of January 1, 1984, by inserting in the space provided therefore, or in substitution for any value appearing in such space, the stated valuations of the respective vessels that appear on the list. Such stated valuations shall apply with respect to insurance attached during the period January 1, 1984, to June 30, 1984 inclusive, subject to reservation by the Maritime Administration of the right to revise the values assigned herein. The assured shall have the right, within 60 days after the date of publication of this notice, or within 60 days after the

attachment of the insurance under the interim binder to which a specific valuation applies, whichever date is later, to reject such valuation and proceed as authorized by 46 U.S.C. 1289(a)(2).

(Catalog of Federal Domestic Assistance Program No. 20.803 War Risk Insurance)

By Order of the Maritime Administrator.

Dated: June 4, 1984.

Murray A. Bloom,

Assistant Secretary.

[FR Doc. 84-15475 Filed 6-7-84; 8:45 am]

BILLING CODE 4910-81-M

National Highway Traffic Safety Administration

Denial of Petition for Defect Remedy Hearing

This notice sets forth the reasons for the denial of a petition by Conradin Caron of Rialto, California, to conduct a hearing to determine whether a manufacturer had reasonably met its obligation to remedy a safety-related defect (15 U.S.C. 1416).

On October 25, 1983, Mr. Caron wrote NHTSA alleging leakage of gasoline through the filler neck on his 1980 Volkswagen Rabbit. He stated that he had submitted his vehicle for repair in response to the manufacturer's notification of campaign 81V-058, and that the condition persisted. NHTSA contacted Volkswagen of America, Inc., who arranged for a further inspection of Mr. Caron's car. The inspection showed that all recall components were in place and that there was no leakage in the vicinity of the fuel filler neck. Because Volkswagen had met its responsibility to correct a safety-related defect in the vehicle in question, Mr. Caron's petition was denied on January 24, 1984.

(Sec. 156, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1416); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on May 10, 1984.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 84-15394 Filed 6-7-84; 8:45 am]

BILLING CODE 4910-59-M

Denial of Petition To Commence Defect Proceeding

This notice sets forth the reasons for the denial of a petition to commence a proceeding to determine whether to issue an order pursuant to section 152(b) of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1412(b).

On July 5, 1983, a petition was submitted on behalf of James G. McCloud of Toledo, Ohio asking for investigation of a possible safety-related defect in 1976 Toyota Corolla station wagons, alleging that its unibody frame is subject to premature corrosion-induced failures. Mr. McCloud stated that his wife's vehicle had collapsed without warning while being driven in October 1982.

The National Highway Traffic Safety Administration (NHTSA) reviewed its records and found no complaints of a similar nature. No accidents or injuries related to the problem have been reported. The problem reported by the petitioner appears to be an isolated instance.

NHTSA concluded that there was no reasonable possibility that an order of the nature requested would be issued at the conclusion of an investigation, and denied the petition on March 27, 1984.

(Sec. 124, 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1410a, 1412); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on May 10, 1984.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 84-15393 Filed 6-7-84; 8:45 am]

BILLING CODE 4910-59-M

Quality of Crash Test Data Acquisition Systems; Briefing

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

ACTION: Notice of Briefing.

SUMMARY: This notice announces a public briefing on a NHTSA research contract to determine and improve the quality of crash test data acquisition systems. The contractor, MGA Research Corporation (MGA), will present a briefing on its efforts to design a new signal waveform generator for use in the test program.

DATES: The meeting will be held on July 9, 1984, beginning at 9:00 A.M.

ADDRESS: The meeting will be held at the National Highway Traffic Safety Administration, Room 6200, 400 Seventh Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Kanianthra, National Highway Traffic Safety Administration, Room 6207, 400 Seventh Street, S.W., Washington, D.C. 20590; telephone (202) 426-4820.

SUPPLEMENTARY INFORMATION: In 1980, the NHTSA initiated a contract with MGA to determine and improve the quality of the date collected for the New Car Assessment Program crash test. As a part of the study, MGA designed and developed a signal waveform generator, which is a device capable of placing a precise and repeatable set of signals into a crash test data acquisition system. The waveform generator was then used at various crash test facilities to measure the accuracy of their data acquisition systems. The results of the initial study are reported in "Test Site Instrumentation Study." (Publication No. DOT-HS-305-9790.)

Based on the initial series of tests, MGA is redesigning the waveform generator to improve its reliability, accuracy, and stability under various environmental conditions. At the public meeting, MGA will present a technical review of the design changes being considered.

Issued on June 1, 1984.

Michael M. Finkelstein,

Associate Administrator for Research and Development.

[FR Doc. 84-15432 Filed 6-7-84; 8:45 am]

BILLING CODE 4910-59-M

VETERANS ADMINISTRATION

Information Collections Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice. The Veterans Administration has submitted to OMB for review the following information collection requirements under the provisions of 5 CFR Part 1320 (Paperwork Reduction Act, Pub. L. 96-511). The following information is listed for each reporting requirement: (1) The department or staff office requesting the information collection requirement; (2) the title of the information collection requirement; (3) the form number, if applicable; (4) how often the information will be collected; (5) who will be required or asked to report; (6) an estimate of the total number of responses; (7) an estimate of the total number of hours needed to make responses; and (8) an indication of whether section 3504(h) of Pub. L. 96-522 applies.

ADDRESSES: Information on and copies of the information collection requirements can be obtained from Patricia Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. Comments and questions about the items on this list should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Dick Eisinger, Desk Officer for VA, 726 Jackson Place NW., Washington, D.C. 20503, (202) 395-6880.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: June 4, 1984.

By Direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Reporting Requirements

(1) Office of the General Counsel
(2) Requirements for recognition of organizations (38 CFR 14.628(e))
(3) Not applicable
(4) One-time
(5) Non-profit institutions
(6) 3 responses
(7) 45 hours
(8) Submitted purusant to 5 CFR Part 1320

* * * * *

(1) Office of the General Counsel
(2) Form and place of filing claims (38 CFR 14.616)
(3) Not applicable
(4) Recordkeeping requirement (10 years)
(5) Individuals or households; State or local governments; Farms; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small Businesses or organizations
(6) Not applicable
(7) Not applicable
(8) Submitted pursuant to 5 CFR 1320

* * * * *

(1) Office of the General Counsel
(2) Lists of names and addresses (38 CFR 1.519(a))
(3) Not applicable
(4) When a list is applied for
(5) Non-profit institutions; Small businesses or organizations
(6) 170 responses
(7) 170 hours
(8) Submitted pursuant to 5 CFR Part 1320

[FR Doc. 84-15415 Filed 6-7-84; 8:45 am]

BILLING CODE 8320-01-M

Privacy Act of 1974; Amendment of System Notice, Additional Routine Use Statement

Notice is hereby given that the VA (Veterans Administration) is considering a new routine use for the system of VA records entitled "Compensation, Pension, Education and Rehabilitation Records-VA" (58VA21/22/28) as set forth on page 372 of the **Federal Register** of January 5, 1982.

The Internal Revenue Service has requested all Federal agencies including the Veterans Administration to report as income under Internal Revenue Code section 61(a)(12) the outstanding balance, not including interest, of any indebtedness which was discharged or forgiven. To facilitate reports to the Internal Revenue Service, the Treasury Department has issued Form 1099-G which includes necessary identifying information i.e., the name, address, ZIP code and the social security number of the person reported as receiving the income. The VA has determined that the proposed use of the data is a necessary and proper use of information in this system of records. Therefore, a routine use statement number 45 is proposed.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed system of records to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All relevant material received before July 9, 1984, will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until July 20, 1984. If no public comment is received during the 30-day review period allowed for public comment or unless otherwise published in the **Federal Register** by the Veterans Administration, the revised proposed use statement included herein is effective July 9, 1984.

Approved: May 30, 1984

Harry N. Walters,

Administrator.

In the system identified as 58VA21/22/28, "Compensation, Pension, Education and Rehabilitation Records-VA, "appearing at 47 FR 372, the following addition is made:

58VA21/22/28

SYSTEM NAME:

Compensation, Pension, Education and Rehabilitation Records-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

45. The beneficiary's name, address, social security number and the amount (excluding interest) of any indebtedness waived under 38 U.S.C. 3102, or compromised under 4 CFR Part 103 may be disclosed to the Treasury Department, Internal Revenue Service, as a report of income under 26 U.S.C. 61(a)(12).

[FR Doc. 84-15398 Filed 6-7-84; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 112
Friday, June 8, 1984

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).

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1

FARM CREDIT ADMINISTRATION

Federal Farm Credit Board; Special Meeting

AGENCY: Farm Credit Administration.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of a special meeting of the Federal Farm Credit Board.

DATES AND TIMES: The special meeting is scheduled to start at 8:30 a.m., Thursday, June 14 and continue to 12:00 noon on Friday, June 15.

ADDRESS: Federal Farm Credit Board Special Meeting, Hilton Inn South, 7901 E. Orchard, Englewood, Colorado 80111.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Auberger, Secretary to the Federal Farm Credit Board, 1501 Farm Credit Drive, McLean, VA 22102-5090, (703-883-4010).

SUPPLEMENTARY INFORMATION: A special meeting of the Federal Farm Credit Board with the board of directors of the Central Bank for Cooperatives and Farmbank Services is being held to discuss various issues pertinent to those institutions, their operations, and relationship with the Farm Credit Administration. A separate discussion also will be held with a delegation of directors and management from the Farm Credit Banks of Spokane to discuss issues relative to the Federal Intermediate Credit Bank of Spokane and production credit associations.

The special meeting will be open to the public except for an Executive Session of the Federal Farm Credit Board and at which staff of the Farm Credit Administration may be in attendance. The matters to be considered at the special meeting are:

Central Bank for Cooperatives

Escalating Cost of Providing Credit to Farmers and Their Cooperatives
Implementing International Services to Cooperatives

Farmbank Services

Relationships with District Banks
Role of Farmbank Services in Farm Credit System Long-Range Planning
Financial Related Services
System Public Information Program

Dated: June 5, 1984.

Donald E. Wilkinson,

Governor.

[FR Doc. 84-15578 Filed 6-6-84; 3:34 pm]

BILLING CODE 6705-01-M

2

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m.—June 13, 1984.

PLACE: Hearing Room One—1100 L Street, NW., Washington, D.C. 20573.

STATUS: Open.

MATTER TO BE CONSIDERED: 1. Docket No. 84-13: In the Matter of the Authority of the Malaysia-Pacific Rate Agreement to Serve Alaska—Consideration of the Record.

CONTACT PERSON FOR MORE INFORMATION: Bruce A. Dombrowski, Assistant Secretary, (202) 523-5725.

Bruce A. Dombrowski,

Assistant Secretary.

[FR Doc. 84-15567 Filed 6-6-84; 2:30 pm]

BILLING CODE 6730-01-M

3

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: Approximately 11:00 a.m., Wednesday, June 13, 1984, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: June 6, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-15572 Filed 6-6-84; 2:55 pm]

BILLING CODE 6210-01-M

4

FEDERAL RESERVE SYSTEM

(Board of Governors).

TIME AND DATE: 10:00 a.m., Wednesday, June 13, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Publication for comment of proposed changes in return item service and pricing.[1]

2. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: June 6, 1984

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-15573 Filed 6-6-84; 2:55 pm]

BILLING CODE 6210-01-M

5

LEGAL SERVICES CORPORATION

Appropriations and Audit Committee Meeting

TIME AND DATE: The meeting will commence at 2:00 p.m. and continue until all official business is completed, Friday, June 22, 1984.

PLACE: Office of Personnel Management, Auditorium, 1900 "E" Street, NW., Washington, D.C.

[1] Anyone planning to attend specifically for this item should call 452-3206 on Tuesday, June 12, 1984, to assure that it has not been postponed to a future meeting.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda
2. Approval of Minutes—April 16, 1984
3. Second Quarter Budget Review
4. Proposed Budget Modification
5. Selection of Corporation Auditor
6. Recipient Bonding

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272–4040.

DATED ISSUED: June 6, 1984.

LeaAnne Bernstein,

Secretary of the Corporation.

[FR Doc. 84–15562 Filed 6–6–84; 1:53 pm]

BILLING CODE 6820–35–M

6

NATIONAL COUNCIL ON THE HANDICAPPED

TIME AND DATE: 9:00 a.m.–4:00 p.m., June 23, 1984.

PLACE: Texas Rehabilitation Commission, 158 East Riverside Drive—Room 101B, Austin, Texas.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED: Consumer Presentations: Questions and Discussions.

Note.—Any person requiring an interpreter or other special services, please contact NCH staff no later than June 19, 1984.

CONTACT FOR MORE INFORMATION: Harvey C. Hirschi, Executive Director, NCH, 202–732–1276.

Harvey C. Hirschi,

Executive Director, National Council on the Handicapped.

[FR Doc. 84–15549 Filed 6–6–84; 12:35 pm]

BILLING CODE 6820–BS–M

7

NUCLEAR REGULATORY COMMISSION

DATE: Week of June 11, 1984.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE DISCUSSED:

Monday, June 11

2:00 p.m.
Status Report on Decommissioning Issues (Public Meeting)

Tuesday, June 12

2:00 p.m.
Briefing on USI A–44 (Station Blackout) and A–45 (Shutdown Decay Heat Removal Requirements) (Public Meeting)

Wednesday, June 13

10:00 a.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6) (Tentative)

Friday, June 15

10:00 a.m.
Discussion of Role of the Staff/Ex Parte (Public Meeting)

2:00 p.m.
Continuation of 4/24 Discussion of Possible Steps to Avoid Licensing Delays to Include Discussion of Last Minute Allegations (Public Meeting)

ADDITIONAL INFORMATION:

Affirmation of Shoreham—Appeal Board Certification in ALAB–769 was held on May 31 (Public Meeting).

Affirmation of Final Rule on ATWS was held on June 1 (Public Meeting).

DOE Briefing on Draft Mission Plan scheduled for June 1, *postponed.*

Discussion of Grand Gulf Order was held on June 1 (Public Meeting).

Staff Briefing on TMI–1 UCS 2.206 Emergency Feedwater Petition scheduled for June 4, *postponed.*

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410,

Walter Magee,

Office of the Secretary.

June 4, 1984.

[FR Doc. 84–15436 Filed 6–5–84; 4:32 pm]

BILLING CODE 7590–01–M

8

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of June 11, 1984, at 450 Fifth Street, NW., Washington, D.C.

A closed meeting will be held on Tuesday, June 12, 1984, at 10:00 a.m. An open meeting will be held on Thursday, June 14, 1984, at 2:30 pm.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Treadway, Cox and Marinaccio voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, June 12, 1984, at 10:00 a.m., will be:

Settlement of administrative proceedings of an enforcement nature.

Formal order of investigation.

Institution of administrative proceedings of an enforcement nature.

Institution of injunctive actions.

Opinion.

The subject matter of the open meeting scheduled for Thursday, June 14, 1984, at 2:30 p.m., will be:

1. Consideration of whether to propose for adoption amendments to Rule 10b–4 (17 CFR 240.10b–4) that would require delivery to the offeror of all shares tendered by guarantee and would extend the recent prohibition of hedged tendering to cover the writing of certain exchange-traded call options. For further information, please contact M. Blair Corkran at (202) 272–2853.

2. Consideration of whether to adopt certain amendments to Guide 1 of the Securities Act Industry Guides and Guide 1 of the Exchange Act Industy Guides to provide for disclosure by electric and gas utilities of the extent, causes and consequences of below book value equity issuances. For further information, please contact Elliot M. Pinta at (202) 272–2589.

3. Consideration of American Stock Exchange proposed rule change to amend its stock allocation procedures on a twelve month pilot basis to allow issuers the option of selecting a specialist unit from a list of seven recommended by the Exchange's Allocations Committee. For further information, please contact Judith L. Levy at (202) 272–7345.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Marianne Keler at (202) 272–2014.

Dated: June 5, 1984.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84–15456 Filed 6–5–84; 8:45 am]

BILLING CODE 8010–01–M

federal register

Friday
June 8, 1984

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notice

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

California:	
CA84–5007	May 18, 1984.
CA84–5001	Mar. 30, 1984.
Illinois: IL83–2066	Aug. 12, 1983.
Michigan: MI82–2042	July 9, 1982.
West Virginia: WV83–3022	Nov. 18, 1983.
Delaware: DE82–3015	June 4, 1982.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Connecticut: CT83–31 (CT84–3016)	June 3, 1983.
Nevada: NV83–5103 (NV84–5014)	Mar. 18, 1983

Signed at Washington, D.C. this 1st day of June 1984.

Nancy M. Flynn,

Deputy Assistant Administrator.

BILLING CODE 4510-27-M

DECISION NO. CA84-5007- MOD#1 49 FR 21245-May 18, 1984	Basic Hourly Rates	Fringe Benefits
Imperial, Inyo, Kern, etc., Counties, California		
Change:		
Tile Setters:		
Area 1	$17.35	4.40
TRUCK DRIVERS: Group 15	16.21	6.80
Add:		
Boilermaker-Blacksmith (storage tank erection)	17.25	4.00
Boilermaker-Blacksmith (storage tank repair)	16.05	4.00
PAINTERS:		
Area 4.		
High Iron & Steel Construction, Bridges over 30 ft.:		
Steel, Sandblaster, Waterblaster, Power Cleaning, Steam Cleaning	20.73	3.61
Steeplejack (Spray)	21.73	3.61
OMIT		
PAINTERS		
Area 4.		
High Iron & Steel Construction, Bridges over 30 ft.:		
Steel, sandblaster waterblaster, Power cleaning, Steam cleaning, Steeplejack (Spray)	20.73	3.61

DECISION #CA84-5001 - MOD. #3 (49 FR 12873 - March 30, 1984) Alameda, Alpine, Amador, Butte, Calaveras ... Counties, etc., California	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians: Area 1	$22.56	$7.298 +3%

DECISION NO. DE82-3015 - MOD #15 (47 FR 24526 - June 4, 1982) STATE OF DELAWARE	Basic Hourly Rates	Fringe Benefits
CHANGE:		
MOD. #15 published June 1, 1984 To Read MOD. #14 Published June 1, 1984		
MOD. #14 Published May 25, 1984 To Read MOD. #13 published May 25, 1984		

DECISION NO. WV83-3022 - MOD. #8 (48 FR 52547 November 18, 1983) Statewide West Virginia excluding the Counties of Jefferson and Morgan, Berkley	Basic Hourly Rates	Fringe Benefits
OMIT:		
CEMENT MASONS & PLASTERERS:		
Area 3	8.70	
Area 4		
Plasterers	9.10	.10

DECISION NO. IL83-2066 - Mod. #2 (48 FR 36780 - Aug. 12, 1983) Bond, Calhoun, Clinton, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, St. Clair, and Washington Counties, Illinois	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters & Piledrivers:		
Area 2	$16.785	$2.90
Cement Masons:		
Area 2	18.675	
Ironworkers:		
Area 1	17.80	2.45
Line Construction:		
Area 3:		
Linemen	18.06	3.25+3½%
Groundman Truck Driver	16.86	3.25+3½%
Groundman Truck Driver with Winch	17.16	3.25+3½%
Area 4:		
Lineman	18.10	1.00+8½%
Groundman Equipment Operator	16.89	1.00+8½%
Groundman Truck Driver With Winch	12.85	1.00+8½%
Groundman Truck Driver	12.10	1.00+8½%
Groundman	11.54	1.00+8½%
Laborers(Heavy Construction):		
Area 18:		
Class 1	15.90	2.50
Class 2	16.00	2.50
Class 3	16.05	2.50
Class 4	16.15	2.50
Class 5	16.15	2.50
Class 6	16.35	2.50
Class 7	16.40	2.50
Class 8	16.90	2.50
Class 9	17.425	2.50
Area 19:		
Class 1	14.90	2.50
Class 2	15.00	2.50
Class 3	15.05	2.50
Class 4	15.15	2.50
Class 5	15.25	2.50
Class 6	15.35	2.50
Class 7	15.40	2.50
Class 8	15.90	2.50
Class 9	16.425	2.50
Area 20:		
Class 1	15.25	2.15
Class 2	15.75	2.15
Class 3	15.775	2.15
Class 4	15.525	2.15
Class 5	16.775	2.15
Class 6	15.775	2.15

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits
Area 21:		
Class 1	$15.65	$1.75
Class 2	16.15	1.75
Class 3	16.20	1.75
Class 4	16.95	1.75
Area 22:		
Class 1	16.35	1.05
Class 2	16.45	1.05
Class 3	16.60	1.05
Class 4	16.85	1.05
Class 5	17.875	1.05
Area 23:		
Class 1	15.40	1.95
Class 2	15.65	1.95
Class 3	15.70	1.95
Class 4	15.90	1.95
Area 27:		
Class 1	15.25	2.15
Class 2	15.50	2.15
Class 3	15.75	2.15
Class 4	16.775	2.15
Area 29:		
Class 1	15.95	1.45
Class 2	16.20	1.45
Class 3	16.80	1.45
Class 4	16.45	1.45

Group Descriptions for Laborers Area 27:
Class 1 - General Laborer, Diamond point Drill
Class 2 - Septic Tanks, Cess Pools, or Dry Wells, new or old; Sandblasting; Handling Creosoted Materials, Raking or luting Asphalt; Burning & Cutting with torch; Working Labor Foreman; Feeders, Mixers & Nozzle Men on Gunnite
Class 3 - Hod Carriers
Class 4 - Dynamite and Powder Men

MODIFICATIONS P. 3

DECISION #MI82-2042 - Mod. #5
(47 FR 29976 - July 9, 1982)
Statewide, Michigan

	Basic Hourly Rates Zone 1	Basic Hourly Rates Zone 2	Basic Hourly Rates Zone 3	Basic Hourly Rates Zone 4	Basic Hourly Rates Zone 5
Change:					
Laborers: Highway, Airport & Bridge Construction:					
Class A	$13.60	$12.81	$12.34	$12.20	$12.02
Class B	13.34	12.51	12.07	11.83	11.65
Class B-1	13.17	12.63	12.16	12.17	11.99
Class B-2	12:94	12.41	11.93	11.96	11.77
Class C	13.09	12.32	11.85	11.77	11.58
Class D	12.94	12.12	11.66	11.52	11.34
Class E	12.85	12.06	11.58	11.40	11.21
Class F	12.82	11.94	11.48	11.34	11.15
Fringes remain $2.64.					
Omit:					
Laborers: Highway, Airport & Bridge Construction:					
Class G	12.37	11.52	11.07	10.93	10.75
Class H	9.37	8.52	8.07	7.93	7.75
Add:					
Laborers: Highway, Airport & Bridge Construction:	Zone 1	Zone 2			
Class G	$12.82	$11.94			
Class H	9.82	8.94			
Fringe Benefits remain at $2.64.					
Definition of Zones:					
Zone 1: Genesee, Macomb, Monroe, Oakland, Washtenaw & Wayne Counties					
Zone 2: Remainder of State.					

SUPERSEDEAS DECISION

STATE: CONNECTICUT — COUNTIES: STATEWIDE
DECISION NO. CT84-3016 — DATE: Date of Publication
Supersedes Decision No. CT83-3021 dated June 3, 1983 published in 48 FR 25090.
DESCRIPTION OF WORK: Building (excluding single family homes and apartments up to and including 4 stories); Residential (in Fairfield and Litchfield Counties only); Heavy (excluding tunnel construction); and Highway Construction Projects.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS		
Area 1	19.47	3.49
Area 2	18.20	3.31
Area 3	17.63	4.13
BOILERMAKERS	18.16	3.441
BRICKLAYERS; CEMENT MASONS; CEMENT FINISHERS; MARBLE MASONS; PLASTERERS; STONE MASONS; TERRAZZO WORKERS; TILE SETTERS:		
BUILDING CONSTRUCTION		
Area 1	16.38	4.45
Area 2	17.95	2.68
Area 3	17.83	2.55
Area 4	16.80	2.10+a
HEAVY & HIGHWAY:		
Area 1	12.60	3.35
Area 2	13.37	2.58
Area 3 & 4	13.60	2.35
CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN; LATHERS; RESILIENT FLOOR LAYERS:		
BUILDING CONSTRUCTION:		
Area 1	15.00	1.80
Area 2	14.73	1.80
Area 3	15.05	2.30+ b+c
Area 4	15.05	2.40
Area 5	14.65	2.90
Area 6:		
Carpenters	15.70	1.68
Millwrights	16.20	1.68
HEAVY & HIGHWAY CONSTRUCTION		
Area 1 & 2	15.20	1.80+d
Area 3	14.45	2.30+ c+d
Area 4	14.40	2.35+d
Area 5	13.95	2.90+d
Area 6	15.10	1.68+d
RESIDENTIAL		
Area 1	11.80	1.35
ELECTRICIANS		
Area 1	18.49	.02+ 26%+e
Area 2	16.18	2.98+ 9.25%
Residential (Single family housing)	10.40	2.55+ 9.25%
Area 3	18.25	3.05+ 3.75%
Area 4	18.70	2.07+ 3.25%
Area 5	16.33	3.78+ 3%
Area 6	17.90	4.85+ 3.5%
ELEVATOR CONSTRUCTORS:		
Elevator Constructors	18.01	3.00+ f+g
Helpers	12.61	3.00+ f+g
Probationary Helpers	9.005	
GLAZIERS		
Area 1	18.55	6.10
Area 2	16.68	2.64+h
Area 3	13.16	3.84+h
Area 4	15.88	1.53+i
IRONWORKERS	18.00	4.93+j
LABORERS (BUILDING):		
Group 1	12.35	2.35
Group 2	12.60	2.35
Group 3	13.10	2.35
Group 4	12.85	2.35
Group 5	12.35	2.35
LABORERS (HIGHWAY - In the City of Hartford: Contracts for repairing or paving streets, roads, sidewalks, parking lots and/or curbing, except state and interstate highways)	12.65	2.80
LABORERS (HIGHWAY-except contracts for repairing or paving streets, roads sidewalks, parking lots and/or curbing in the City of Hartford other than state and interstate highways & HEAVY CONSTRUCTION):		

DECISION NO. CT84-3016	Basic Hourly Rates	Fringe Benefits
LABORERS (HEAVY CONSTRUCTION (Continued)		
Group 1	12.65	2.80
Group 2	12.90	2.80
Group 3	13.15	2.80
Group 4	13.40	2.80
LINE CONSTRUCTION:		
Area 1:		
Lineman	14.43	.02+e 19.5%
Compressor operator	12.00	.02+e 19.5%
Lamp Changer	11.21	.02+e 19.5%
Area 2:		
Lineman, cable splicer, dynamite man	17.59	2.30+ 4.75%
Heavy equipment operator	15.83	2.30+ 4.75%
Equipment operator, tractor trailer driver, field mechanic	14.95	2.30+ 4.75%
Driver groundman	13.19	2.30+ 4.75%
Groundman	9.67	2.30+ 4.75%
Area 3:		
Lineman, cable splicer, dynamite man	18.79	2.30+ 4.75%
Heavy equipment operator	16.91	2.30+ 4.75%
Equipment operator, tractor trailer driver, field mechanic	15.97	2.30+ 4.75%
Driver groundman	14.09	2.30+ 4.75%
Groundman	10.33	2.30+ 4.75%
Area 4:		
Lineman, cable splicer, dynamite man	18.31	2.30+ 4.75%
Heavy equipment operator	16.48	2.30+ 4.75%
Equipment operator, tractor trailer driver, field mechanic	15.56	2.30+ 4.75%
Driver groundman	13.73	2.30+ 4.75%
Groundman	10.07	2.30+ 4.75%
Area 5:		
Lineman, cable splicer dynamite man	17.50	2.30+ 4.75%
Heavy equipment operator	15.75	2.30+ 4.75%
Equipment operator, tractor trailer driver, field mechanic	14.88	2.30+ 4.75%
Driver groundman	13.13	2.30+ 4.75%
Groundman	9.63	2.30+ 4.75%
Area 6:		
Lineman, cable splicer dynamite man	20.15	2.30+ 4.75%
Heavy Equipment operator	18.14	2.30+ 4.75%
Equipment operator, tractor trailer driver, field mechanic	17.13	2.30+ 4.75%
Driver groundman	15.11	2.30+ 4.75%
Groundman	11.08	2.30+ 4.75%
Areas 2, 3, 4, 5, & 6:		
Traffic Control, Illumination & Maintenance:		
Linemen, technicians & cable splicers	16.56	2.30+ 4.75%
Equipment operator	14.08	2.30+ 4.75%
Driver groundman	12.42	2.30+ 4.75%
Groundman	11.59	2.30+ 4.75%
Railroad Construction (including electrical distribution, transmission lines, substations and signal construction:		
Lineman, cable splicer & dynamite man	17.34	2.30+ 4.75%
Heavy Equipment operator	15.61	2.30+ 4.74%

DECISION NO. CT84-3016	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (CONT'D)		
Equipment operator, tractor trailer driver, field mechanic	14.74	2.30+ 4.75%
Driver groundman	13.01	2.30+ 4.75%
Groundman	9.54	2.30+ 4.75%
PAINTERS:		
Bridge (Statewide):		
Structural steel	20.20	
Sandblasting or power tools	21.20	
Spray	23.70	
Area 1:		
Brush	14.45	1.74
Tapers	14.95	1.74
Sprayers	16.45	1.74
Area 2:		
Brush, tapers, sandblasters	15.25	1.96+k
Rollers, paperhangers, swing stage	15.75	1.96+k
Structural steel	16.25	1.96+k
Epoxy, polyester	17.25	1.96+k
Spray	19.00	1.96+k
Area 3:		
Brush, roller, tapers	16.60	1.95+l
Vinyl & wall coverings	18.00	1.95+l
Steel	18.40	1.95+l
Epoxy	19.50	1.95+l
Spray	24.90	1.95+l
Residential	14.85	1.95+l
Area 4:		
Brush	12.15	3.75
Paperhangers, tapers, catalized-epoxy	12.65	3.75
Spray	18.225	3.75
Area 5:		
Brush, tapers	16.10	2.73
Paperhangers, riggers, swing stage, boatswain chair	16.60	2.73
Riding steel, steam cleaning, sandblasting, tanks, towers, and similar hazardous work	16.68	2.73
Spray	19.10	2.73
Area 6:		
Brush, sandblasting	13.50	1.77
Tapers	13.85	1.77
Paperhangers	14.00	1.77
Spray	16.15	1.77
Structural steel	13.75	1.77
Area 7:		
Brush	14.65	2.41
Rollers	15.16	2.41
Paperhangers, tapers, sign, structural steel, swing stage, swing scaffold, window jacks, bosun chair, steam cleaning, sandblasting	15.65	2.41
Spray	17.81	2.41
Epoxy	16.01	2.41
Spray epoxy	19.64	2.41
Project of $75,000 or less:		
Brush	13.65	2.41
Rolling	14.15	2.41
Epoxy	14.15	2.41
Spray	14.90	2.41
PLUMBERS:		
Area 1	18.61	3.79
PLUMBERS & STEAMFITTERS:		
Area 1	17.64	2.82
Area 2	17.60	2.25+ 5%
Area 3	19.12	2.60
Area 4	18.00	3.67+m
Area 5	17.80	2.92
Area 6:		
Jobs where total mechanical work exceeds $200,000	17.00	3.83+n
Jobs where total mechancial work is $200,000 or less	12.75	3.83+n
Area 7	18.17	2.50+o
Area 8	19.65	3.07
Area 9	20.77	3.40+q
Total mechanical contract of $325,000 or less	15.58	3.40+q
POWER EQUIPMENT OPERATORS (BUILDING):		
Group I	17.01	2.95+r
Group II	16.85	2.95+r
Crane with boom excluding jib over 150: $0.25 extra		
Crane with boom excluding jib over 200: $0.50 extra		
Group III	16.69	2.95+r
Group IV	16.31	2.95+r
Group V	15.97	2.95+r
Group VI	15.87	2.95+r
Group VII	15.81	2.95+r
Group VIII	15.64	2.95+r

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	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS (BUILDING) (CONT'D)		
Group IX	15.49	2.95+r
Group X	15.23	2.95+r
Group XI	14.28	2.95+r
Group XII	13.96	2.95+r
Group XIII	13.24	2.95+r
(HEAVY & HIGHWAY)		
Class 1	18.36	3.10+r
Class 2	18.11	3.10+r
Crane with 150 foot boom (excluding jib) - $.25 extra		
Crane with 200 foot boom (excluding jib) - $.50 extra		
Class 3	17.63	3.10+r
Class 4	17.33	3.10+r
Class 5	17.08	3.10+r
Class 6	16.81	3.10+r
Class 7	16.47	3.10+r
Class 8	16.36	3.10+r
Class 9	16.82	3.10+r
Class 10	15.72	3.10+r
Class 11	15.28	3.10+r
Class 12	15.11	3.10+r
Class 13	14.57	3.10+r
Class 14	10.01	3.10+r

	Basic Hourly Rates	Fringe Benefits
ROOFERS:		
Area 1	14.90	1.80
Area 2		
Composition	15.15	3.875
Slate; Tile	15.65	3.875
SHEET METAL WORKERS:		
Area 1	17.69	1.64+ 19.25
Area 2	17.10	4.08+ 3%
SPRINKLER FITTERS	18.95	4.23
STEAMFITTERS:		
Area 1	18.68	4.51
TILE, MARBLE & TERRAZZO FINISHERS	13.65	2.10
TRUCK DRIVERS		
Class 1	11.78	3.37+s
Class 2	11.88	3.37+s
Class 3	11.93	3.37+s
Class 4	11.98	3.37+s
Class 5	12.03	3.37+s
Class 6	12.08	3.37+s

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Welders - Receive rate prescribed for craft performing operation to which welding is incidental

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

FOOTNOTES:

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

a. Paid Holidays: ½ day on Christmas Eve and ½ day on New Year's Eve.

b. Paid Holidays: B, C, D and Good Friday, provided the employee was employed during the 14 consecutive day period immediately prior to the holiday.

c. $100 per year.

d. Paid Holidays: B, C, and D.

e. Employer contributes $10.00 per worker per day to Security Benefit Fund.

f. Paid Holidays: A through F, plus Friday after Thanksgiving.

g. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

h. Paid Holidays: A through F, Washington's Birthday, Good Friday and Columbus Day.

i. Paid Holiday: Labor Day, provided employee works any part of week prior to and any part of week after Labor Day.

j. The last 4 hours on Christmas Eve is a paid half-day, if employee has worked 5 consecutive days prior to Christmas Eve.

k. Paid Holidays: A through F and Good Friday, provided employee works the day before and the day after the holiday.

l. Paid Holidays: A through F and Good Friday, provided employee works 15 working days within the 4 calendar weeks prior to the holiday.

m. Paid Holiday: Labor Day, provided employee was employed 10 working days prior to and works the day after the holiday.

FOOTNOTES: CONT'D

n. Paid Holidays: B and D, Good Friday and the Friday after Thanksgiving, plus a half-day the last working day before Christmas, provided the employee is employed during the work week ending the Friday immediately preceding the holiday.

o. Paid Holiday: D

p. Paid Holidays: B, D, E, and half-day paid holiday the Friday after Thanksgiving.

q. Paid Holidays: D and half-day paid holidays on Friday after Thanksgiving and Friday before Labor Day.

r. A through F and Good Friday, provided the employee works three days in the work week in which the holiday falls, the working day before and the working day after the holiday, if scheduled.

s. A Through F and Good Friday, provided the employee has at least 31 days service and works the last scheduled day before and the first scheduled day after the holiday.

AREA DESCRIPTIONS

ASBESTOS WORKERS:

Area 1: FAIRFIELD; LITCHFIELD (Barkhamsted, Bethlehem, Bridgewater, Cornwall, Goshen, Harwington, Kent, Litchfield, Morris, New Hartford, New Milford, Plymouth, Roxbury, Sharon, Torrington, Warren, Washington, Watertown, Winchester, Woodbury, Thomaston); HARTFORD (Avon, Berlin, Bloomfield, Bristol, Burlington, Canton, East Hartford, West Windsor, Farmington, Glastonbury, Hartford, Manchester, Marlborough, New Britain, Newington, Plainville, Rocky Hill, Simsbury, Southington, South Windsor, West Hartford, Wethersfield, Windsor); NEW HAVEN; MIDDLESEX; NEW LONDON (Bozrah, Colchester, East Lyne, Franklin, Groton, Lebanon, Lyme, Montville, New London, Norwich, Old Lyme, Salena, Sprague, Waterford; TOLLAND (Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Tolland, Vernon, Willington); WINDHAM (Ashford, Chaplin, Eastford, Hampton, Scotland, Windham).

Area 2: LITCHFIELD (Cannan, Colbrook, Norfolk, North Canaan, Salisbury); HARTFORD (East Granby, Enfield, Granby, Hartland, Suffield, Windsor Locks); TOLLAND (Somers, Stafford, Union); WINDHAM (Woodstock).

Area 3: NEW LONDON (Griswold, Ledyard, Lisbon, North Stonington, Preston, Stonington, Voluntown); WINDHAM (Brooklyn, Canterbury, Killingly, Plainfield, Pomfret, Putnam, Sterling, Thompson).

BRICKLAYERS; CEMENT MASONS; CEMENT FINISHERS; MARBLE MASONS; PLASTERERS; STONE MASONS; TERRAZZO WORKERS; TILE SETTERS:

Area 1: FAIRFIELD (Greenwich).

Area 2: FAIRFIELD (Darien, Stamford).

Area 3: FAIRFIELD (New Canaan, Norwalk, Ridgefield, Weston, Westport, Wilton).

Area 4: Remainder of State.

CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN; RESILIENT FLOOR LAYERS:

Area 1: FAIRFIELD (Bethel, Brookfield, Danbury, Darien, Greenwich, New Canaan, New Fairfield, Newtown, Norwalk, Redding, Ridgefield, Sherman, Stamford, Wilton).

Area 2: LITCHFIELD (Barkhamstead, Bethlehem, Bridgewater, Canaan, Colebrook, Cornwall, Goshen, Kent, Litchfield, Morris, New Hartford, New Milford, Norfolk, North Canaan, Roxbury, Salisbury, Sharon, Torrington, Warren, Washington, Winchester, Woodbury).

Area 3: FAIRFIELD (Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, Trumbull, Weston, Westport); NEW HAVEN (Milford, Oxford, Derby, Seymour, Ansonia, Orange-that part south of Route 1 and west of the Oyster River).

Area 4: LITCHFIELD (Harwington, Plymouth, Thomaston, Watertown); HARTFORD (New Britain, Newington, Berlin, Southington, Plainville, Burlington, Canton, Bristol, Marlborough); NEW HAVEN (Meriden, Wallingford, New Haven, East Haven, Branford, Guilford, Madison, North Branford, North Haven, Hamden, West Haven, Orange - east of Orange Center Road and north of Route 1 plus north of Route 1 and east of the Oyster River, Cheshire, Waterbury, Wolcott, Middlebury, Southbury, Naugatuck, Prospect, Bethany, Beacon Falls, Woodbridge); MIDDLESEX.

Area 5: HARTFORD (Hartford, West Hartford, Avon, Farmington, Simsbury, Bloomfield, Windsor, East Granby, Granby, Windsor, Locks, Suffield, Enfield, East Windsor, South Windsor, East Hartford, Manchester, Glastonbury, Rocky Hill, Wethersfield, Hartland); TOLLAND (Stafford, Somers, Tolland, Ellington, Bolton, Vernon).

Area 6: TOLLAND (Mansfield, Union, Willington, Coventry, Hebron, Columbia, Andover); WINDHAM; NEW LONDON.

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ELECTRICIANS:

Area 1: FAIRFIELD (Darien, Greenwich, New Canaan, Stamford).

Area 2: FAIRFIELD (Norwalk, Wilton, Weston, Westport).

Area 3: FAIRFIELD (Bethel, Bridgeport, Brookfield, Danbury, Easton, Fairfield, Monroe, New Fairfield, Newton, Redding, Ridgefield, Shelton, Sherman, Stratford, Trumbull); LITCHFIELD (except Plymouth); NEW HAVEN (Milford, Beacon Falls, Middlebury, Naugatuck, Oxford, Prospect, Seymour, Southbury, Waterbury, Wolcott); HARTFORD (Hartland).

Area 4: LITCHFIELD (Plymouth); HARTFORD (Berlin, Bristol, New Britain, Newington, Plainville, Southington); NEW HAVEN (Remainder of County); MIDDLESEX (Chester, Clinton, Deep River, Durham, East Haddam, East Hampton, Essex, Haddam, Old Saybrook, Killingworth, Westbrook); NEW LONDON (East Lyme, Groton, Ledyard-Ledyard Submarine Base Only, Lyme, New London, Old Lyme, Waterford, Fishers Island Sound).

Area 5: HARTFORD (Suffield, Enfield - portion of Thompsonville west of George Washington Road and north of Hazard Avenue).

Area 6: HARTFORD (Remainder of County); MIDDLESEX (Cromwell, Middlefield, Middletown, Portland); TOLLAND; WINDHAM; NEW LONDON (Bozrah, Colchester, Franklin, Lisbon, Montville, North Stonington, Norwich, Griswold, Lebanon, Ledyard - except Ledyard Submarine Base, Preston, Salem, Sprague, Stonington, Voluntown).

GLAZIERS:

Area 1: FAIRFIELD (Greenwich).

Area 2: FAIRFIELD (Remainder of County; NEW HAVEN (except Waterbury, Meridan, Wallingford); LITCHFIELD (Bethlehem, Bridgewater, Kent, New Milford, Roxbury, Washington, Watertown, Woodbury); MIDDLESEX (Clinton, Essex, Killingworth, Old Saybrook, Westbrook; NEW LONDON (Old Lyme).

Area 3: LITCHFIELD (Remainder of County); HARTFORD; MIDDLESEX (Remainder of County); NEW LONDON (Bozrah, Colchester, East Lyme, Franklin, Lebanon, Lyme, Montville, New London, Norwich, Salem, Sprague, Waterford); TOLLAND; WINDHAM (Ashford, Chaplin, Hampton, East Fort, Scotland, Windham).

Area 4: NEW LONDON (Remainder of County); WINDHAM (Remainder of County).

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LINE CONSTRUCTION:

Area 1: FAIRFIELD (Darien, Greenwich, New Canaan, Stamford, Norwalk portion west of Five Mile River).

Area 2: FAIRFIELD (Wilton, Weston, Westport, Norwalk-East of Five Mile River).

Areas 3, 4, 5 & 6: See areas 3, 4, 5, & 6, respectively, of ELECTRICIANS.

PAINTERS:

Area 1: FAIRFIELD (Greenwich, Darien, Stamford, New Canaan, Norwalk, Weston, Westport, Wilton, Bridgeport, Easton, Fairfield - including Southport, Stratford, Trumbull); NEW HAVEN (Milford up to Gulf Street).

Area 2: FAIRFIELD (Monroe, Shelton); NEW HAVEN (Ansonia, Beacon Falls, Derby, Oxford, Seymour).

Area 3: FAIRFIELD (Bethel, Brookfield, Danbury, Newton, New Fairfield, Redding, Ridgefield, Sherman); LITCHFIELD (New Milford).

Area 4: NEW HAVEN (Middlebury, Naugatuck, Prospect, Southbury, Waterbury, Wolcott); LITCHFIELD (Roxbury, Thomaston, Washington, Watertown, Woodbury).

Area 5: LITCHFIELD (Barkhamstead, Canaan, Colebrook, Cornwall, Goshen, Harwington, Kent, Litchfield, New Hartford, Norfolk, North Canaan, Salisbury, Sharon, Torrington, Warren, Winchester); HARTFORD; NEW HAVEN (Cheshire, Guilford, Madison, Meriden, Wallingford); MIDDLESEX; TOLLAND; WINDHAM (Ashford, Windham).

Area 6: NEW HAVEN (Bethany, Branford, East Haven, Hamden, Milford - south to Gulf Street, New Haven, Orange, West Haven, Woodbridge, Woodmont).

Area 7: NEW LONDON; WINDHAM (Remainder of County).

PLUMBERS:

Area 1: HARTFORD (Avon, Bloomfield, Burlington, Canton, East Granby, East Hartford, East Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Hartland, Manchester, Marlborough, Newington, Rocky Hill, Simsbury, South Windsor, Suffield, West Hartford, Wethersfield, Windsor, Windsor Locks; MIDDLESEX (Cromwell, East Haddam, East Hampton, Haddam, Middlefield, Middletown, Portland); TOLLAND (Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Stafford, Tolland, Union, Vernon, Willington); WINDHAM (Windham).

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PLUMBERS & STEAMFITTERS:

Area 1: FAIRFIELD (Greenwich).

Area 2: FAIRFIELD (Stamford, Darien, New Canaan).

Area 3: FAIRFIELD (Norwalk, Westport, Weston, Wilton).

Area 4: FAIRFIELD (Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, Trumbull); NEW HAVEN (Milford).

Area 5: FAIRFIELD (Bethel, Brookfield, Danbury, New Fairfield, Newton, Redding, Ridgefield, Sherman); LITCHFIELD (Bridgewater, New Milford).

Area 6: LITCHFIELD (Remainder of County); NEW HAVEN (Ansonia, Beacon Falls, Bethany, Middlebury, Naugatuck, Oxford, Prospect, Seymour, Southbury, Waterbury, Wolcott); HARTFORD (Hartland).

Area 7: HARTFORD (Berlin, Bristol, New Britain, Plainville, Southington and parts of Newington, Farmington and West Hartford--Newington south of Cedar Street, west of Berlin Turnpike, north along New Haven Railroad to South Main Street to Route 6, west on Route 6 to Bristol town line); NEW HAVEN (Cheshire, Meridan, Wallingford); MIDDLESEX (Durham).

Area 8: NEW HAVEN (Branford, Derby, East Haven, Guilford, Hamden, Madison, New Haven, North Branford, North Haven, Orange, West Haven, Woodbridge) MIDDLESEX (Chester, Clinton, Deep River, Killingworth, Westbrook).

Area 9: NEW LONDON; MIDDLESEX (Essex, Old Saybrook, Saybrook); WINDHAM (Except Windham Twsp.).

ROOFERS:

Area 1: FAIRFIELD; LITCHFIELD (Bethlehem, Bridgewater, Kent, New Milford, Roxbury, Washington, Woodbury); NEW HAVEN (Ansonia, Beacon Falls, Bethany, Branford, Derby, East Haven, Guilford, Hamden, Madison, Middlebury, Milford, Naugatuck, New Haven, North Branford, North Haven, Orange, Oxford, Seymour, West Haven, Woodbridge).

Area 2: NEW HAVEN (Cheshire, Meriden, Prospect, Wallingford, Wolcott); LITCHFIELD (Remainder of County); HARTFORD; MIDDLESEX; NEW LONDON; TOLLAND; WINDHAM

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SHEET METAL WORKERS:

Area 1: FAIRFIELD; LITCHFIELD.

Area 2: NEW HAVEN; HARTFORD; MIDDLESEX; NEW LONDON; TOLLAND; WINDHAM.

STEAMFITTERS:

Area 1: HARTFORD (Avon, Bloomfield, Burlington, Canton, East Granby, East Hartford, East Windsor, Enfield, Farmington, Glastonbury, Granby, Hartford, Manchester, Marlborough, Newington, Rocky Hill, Simsbury, South Windsor, Suffield, West Hartford, Wethersfield, Windsor, Windsor Locks) MIDDLESEX (Chester, Cromwell, Deep River, East Haddam, Hampton, Haddam, Maromas - Atomic River Project, Middlefield, Middletown, Portland; TOLLAND (Andover, Bolton, Columbia, Coventry, Ellington, Hebron, Mansfield, Somers, Stafford, Storrs, Tolland, Union, Vernon, Willington); WINDHAM (Windham).

CLASSIFICATION DESCRIPTIONS

LABORERS (BUILDING):

Group 1: Laborers, carpenter tenders, wrecking laborers, fire watchers.

Group 2: Jack hammer operator, mason tenders, mortar mixer, pipelayers, plasterers tenders, power buggy operators, powdermen.

Group 3: Air track operators, wagon drill operators, sand blasters, blasters.

Group 4: Bottom men on open air caisson, cylindrical work and boring crew.

Group 5: Top men on open air caisson, cylindrical work and boring crew.

LABORERS (HIGHWAY - except contracts for repairing or paving streets, roads, sidewalks, parking lots and/or curbing in the City of Hartford other than state and interstate highways):

Group 1: Laborers (unskilled).

Group 2: Asphalt rakers, chain saw operators, fence and guard rail erectors, pipelayers, mason tenders, pneumatic tool operators, powdermen, and wagon drill operators.

Group 3: Air track operators, block pavers, curb setters.

Group 4: Blasters.

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POWER EQUIPMENT OPERATORS (BUILDING CONSTRUCTION):

Group I: Derrick, hoisting engineer 2 drums and over, hoisting structural steel, pile driver & setting stone.

Group II: Dragline, forklift - over 4' lift, front end loader - 7 cy. or over, gradall, hoisting engineer (all types of equipment where a drum and cable are used to hoist, pull, or drag material regardless of motive power or operation), Koehring scooper loader and/or hoe, master mechanic, shovel, & tower crane.

Group III: Maintenance engineer.

Group IV: Central mix operator, Coleman loader and screening plant or similar equipment, combination hoe and loader over 1/4 yd. conveyor - regardless of motive power, front end loader 3 cy. up to 7 cy., joy drill limited to joy heavy weight champion or equivalent, mucking machine, post hole digger, pumpcrete machine, rock boring machine, vibratory hammer, welder & well digger.

Group V: Asphalt spreader.

Group VI: Bulldozer, carry-all operators, grader, & scraper pan.

Group VII: Combination hoe and loader machine, concrete mixer - 5 bags and over, front end loader under 3 cy., powerstone spreader.

Group VIII: Fork lift not over 4', Steam Jenny.

Group IX: Roller.

Group X: Dinky machine, power pavement breaker.

Group XI: Mechanical Heater.

Group XII: Fireman (High Pressure).

Group XIII: Oiler.

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POWER EQUIPMENT OPERATORS (HEAVY & HIGHWAY):

Class 1: Erecting and handling structural steel; front end loader (7 cy. or over).

Class 2: Piledriver; power shovel and crane; dragline; gradall; trenching machine; lighter derrick; master mechanic; paver (concrete); derrick (stiff leg and guy); steel pile sheeting; Koehring loader (scooper).

Class 3: Drill (joy heavy weight champion or equivalent); side boom; loader (euclid); mucking machine; pumpcrete; rock and earth boring machine; post hole digger; well digger; & hammer (vibratory); central mix; combination hoe & loader (over ¼ yd.).

Class 4: Asphalt spreader.

Class 5: Front end loader (3 yds. or over); grader; power stone spreader; combination hoe and loader.

Class 6: Asphalt roller; bulldozer; carryall; maintenance engineer concrete mixer (5 bags and over); welder.

Class 7: Front end loader (under 3 yds.); roller; power chipper; fork lift; finishing machine; asphalt plant; power pavement breaker; dinky machine.

Class 8: Compressor battery.

Class 9: Well point system.

Class 10: Batch plant.

Class 11: Fireman (high pressure).

Class 12: Compressor; pump.

Class 13: Oiler.

Class 14: Track backhoe oiler.

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TRUCK DRIVERS:

Class 1: Two axle trucks; helpers.

Class 2: Three axle trucks; two axle ready mix.

Class 3: Three axle ready mix.

Class 4: Four axle trucks; heavy duty trailer-up to 40 tons.

Class 5: Four axle ready-mix; specialized earth moving equipment other than conventional type on-th road trucks and semi-trailer (including Euclids).

Class 6: Heavy duty trailer-40 tons and over.

SUPERSEDEAS DECISION

STATE: Nevada

COUNTIES: Statewide (does not include the Nevada Test Site and Tonopah Test Range, and Highway Construction in Douglas County), Nevada

DECISION NUMBER: NV84-5014

DATE: Date of Publication

Supersedes Decision No. NV83-5103 dated March 18, 1983, in 48 FR 11629

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Area 1	$20.30	$4.48
Area 2	17.76	2.39
Area 3	24.86	2.81
BOILERMAKERS	21.39	3.96
BRICKLAYERS; STONEMASONS:		
Area 1	16.59	1.86
Area 2	14.30	2.06
BRICK HOD CARRIERS:		
Area 1	13.56	2.60
CARPENTERS:		
Area 1:		
Carpenters; Drywall; Floor Layer; Lather; Patent Scaffold Erector; Power Saw Operator	18.41	4.05
Millwrights	16.91	6.55
Piledrivermen	18.61	4.05
Area 2:		
Carpenters	15.30	5.47
Drywall Installer	15.55	5.47
Floor Layers; Patent Scaffold Erectors; Power Saw Operators; Shingler	15.45	5.47
Millwrights	15.90	5.47
Piledrivermen	15.55	5.47
CEMENT MASONS:		
Area 1:		
Cement Masons	17.58	3.70
Cement Floor Finishing Machine and Color Work	17.93	3.70
Area 2:		
Cement Masons	15.47	5.43
Mastic, Magnesite and all composition Masons	15.72	5.43
Troweling Machine; Grinder Operator and Kelly Float	15.97	5.43
CEMENT MASONS: (Cont'd)		
Area 3:		
Cement Masons	$17.22	$5.43
Mastic, Magnesite and all Composition Masons	17.47	5.43
Troweling Machine; Grinder Operator and Kelly Float	17.62	5.43
ELECTRICIANS:		
Area 1:		
Electricians; Technicians	22.88	5.29 +3%
Cable Splicers	23.21	5.29+3%
Area 2:		
Electricians;		
Technicians	21.28	3.74+3%
Cable Splicers	24.91	3.32+3%
ELEVATOR CONSTRUCTORS:		
Area 1:		
Mechanics	22.24	2.69+a
Helpers	15.57	2.69+a
Probationary Helpers	11.12	
Area 2:		
Mechanics	27.295	2.69+a
Helpers	19.11	2.69+a
Probationary Helpers	13.65	
GLAZIERS:		
Area 1	23.69	2.35
Area 2	15.88	6.46

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	Basic Hourly Rates	Fringe Benefits
IRONWORKERS:		
Area 1:		
Fence Erectors; Machinery Movers; Ornamental; Reinforcing; Rigger; Structural	$14.85	$3.15
Area 2:		
Fence Erector Ornamental; Reinforcing; Structural	18.99	5.95
LATHERS:	19.88	5.95
Area 1	18.07	.01
LINE CONSTRUCTION WORKERS:		
Area 1:		
Groundman	17.07	1.41+4%
Line Equipment Operator	20.48	1.41+4%
Linemen	22.76	1.41+4%
Cable Splicers	23.85	1.41+4%
Area 2:		
Groundman	15.96	3.18+3%
Line Equipment Operators	19.15	3.18+3%
Lineman; Technician	21.28	3.18+3%
Cable splicers	23.41	3.18+3%
Area 3:		
Groundman	17.46	3.18+3%
Linemen Equipment Operators	20.65	3.18+3%
Linemen; Technician	22.78	3.18+3%
Cable Splicers	24.91	3.18+3%
MARBLE SETTERS:		
Area 1	16.59	1.86
Area 2	15.04	2.28
MARBLE, TERRAZZO, and TILE FINISHERS:		
Area 1	12.90	1.80
Area 2	8.85	2.19
MASON TENDERS:		
Area 1	13.87	2.58
PAINTERS:		
Area 1:		
Brush; Roller Paperhangers; Spray; Steel, Swing Stage; Sandblasters; Sign; Tapers; Structural Steel - Brush	18.30	1.86
	18.65	1.86

	Basic Hourly Rates	Fringe Benefits
PAINTERS (Cont'd)		
Area 1: (Cont'd)		
Structural Steel - Spray; Sandblaster - Structural Steel; Buffing Steel	$19.00	$1.86
Steeplejack	20.05	1.86
Area 2:		
Brush and Roller	17.32	2.08
Spray; Taper; Paperhangers; and Sandblaster	17.82	2.08
Spray; Swing Stage up to 40 ft.; Spray, Steel Brush, Swing State up to 40 ft.; Brush Steel	18.07	2.08
	17.57	2.08
PLASTER HOD CARRIERS:		
Area 1:		
Plaster Hod Carrier serving Plasterers	15.20	2.50
Plaster Hod Carrier working on any type of gun except TM-30	15.80	2.50
Plaster Hod Carrier mixing on TM-30 machine	16.05	2.50
PLASTER TENDERS:		
Area 1	17.80	3.19
PLASTERERS:		
Area 1	18.20	3.70
Area 2	15.47	3.21
PLUMBERS; Steamfitters:		
Area 1	21.25	4.13
Area 2	17.04	5.98
PLUMBERS (Utility):		
Area 1	17.04	5.98
ROOFERS:		
Area 1	22.40	1.00
Area 2	18.75	2.32
SHEET METAL WORKERS:		
Area 1	20.02	5.82
Area 2	18.13	4.23
SOFT FLOOR LAYERS:		
Area 1	18.23	2.80
Area 2	16.74	1.58
SPRINKLER FITTERS	21.32	3.23
TERRAZZO WORKERS; TILE SETTERS:		
Area 1	16.59	1.86
Area 2	15.04	2.28

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	Basic Hourly Rates	Fringe Benefits
LABORERS:		
Clark, Esmeralda, and Lincoln Counties; Nye County (south half including Highway #6):		
Group 1	$15.00	$3.14
Group 2	15.21	3.14
Group 3	15.31	3.14
Group 4	15.40	3.14
Group 5	15.40	3.14
Remaining Counties:		
Group 1	13.92	2.80
Group 2	14.02	2.80
Group 3	14.17	2.80
Group 4	14.42	2.80
Group 5	14.72	2.80
Group 6-A	14.72	2.80
Group 6-B	14.42	2.80
Group 6-C	14.07	2.80
POWER EQUIPMENT OPERATORS:		
Clark, Esmeralda, Lincoln, and Nye Counties		
Group 1	16.24	7.25
Group 2	16.52	7.25
Group 3	16.81	7.25
Group 4	16.95	7.25
Group 5	17.17	7.25
Group 6	17.28	7.25
Group 7	17.40	7.25
Group 8	17.57	7.25
Group 9	17.70	7.25
(Except Piledriving and Steel Erection):		
Remaining Counties: (Area 1):		
Group 1-A	13.64	9.14
Group 2	14.17	9.14
Group 3	14.44	9.14
Group 4	15.18	9.14
Group 5	15.48	9.14
Group 6	15.65	9.14
Group 7	15.90	9.14
Group 8	16.49	9.14
Group 9	16.81	9.14
Group 10	17.16	9.14
Group 10-A	17.35	9.14
Group 11	17.59	9.14
Group 11-A	19.23	9.14

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Remaining Counties: (Cont'd)		
Area 2:		
Group 1-A	$15.14	$9.14
Group 2	15.67	9.14
Group 3	15.94	9.14
Group 4	16.68	9.14
Group 5	16.98	9.14
Group 6	17.15	9.14
Group 7	17.40	9.14
Group 8	17.99	9.14
Group 9	18.31	9.14
Group 10	18.66	9.14
Group 10-A	18.65	9.14
Group 11	19.09	9.14
Group 11-A	20.73	9.14
Area 3:		
Group 1-A	15.64	9.14
Group 2	16.17	9.14
Group 3	16.44	9.14
Group 4	17.18	9.14
Group 5	17.48	9.14
Group 6	17.65	9.14
Group 7	17.90	9.14
Group 8	18.49	9.14
Group 9	18.81	9.14
Group 10	19.16	9.14
Group 10-A	19.35	9.14
Group 11	19.59	9.14
Group 11-A	21.23	9.14
Area 4:		
Group 1-A	16.64	9.14
Group 2	17.17	9.14
Group 3	17.44	9.14
Group 4	18.18	9.14
Group 5	18.48	9.14
Group 6	18.65	9.14
Group 7	18.90	9.14
Group 8	19.49	9.14
Group 9	19.81	9.14
Group 10	20.16	9.14
Group 10-A	20.35	9.14
Group 11	20.59	9.14
Group 11-A	22.23	9.14

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Piledriving:		
Remaining Counties:		
Group 1	$13.62	$9.14
Group 1-A	14.11	9.14
Group 1-B	14.41	9.14
Group 2-A	14.41	9.14
Group 2-B	15.24	9.14
Group 2-C	15.49	9.14
Group 2-D	15.70	9.14
Group 3	15.92	9.14
Group 3-A	16.54	9.14
Group 4	17.34	9.14
Group 5	17.58	9.14
Group 6	19.23	9.14
Steel Erection:		
Remaining Counties:		
Group 1	14.31	9.14
Group 2	14.84	9.14
Group 3	16.31	9.14
Group 4	16.52	9.14
Group 4-A	16.96	9.14
Group 5	17.68	9.14
Group 6	18.30	9.14
Group 7	18.73	9.14
Group 8	19.15	9.14
Group 9	20.65	9.14

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS:		
Clark, Esmeralda, and Lincoln Counties; and Nye County (south of and excluding Highway #6):		
Group 1	15.54	2.78
Group 2	15.65	2.78
Group 3	15.70	2.78
Group 4	15.86	2.78
Group 5	16.04	2.78
Group 6	16.54	2.78
Remaining Counties; and Nye County (north of and including Highway #6):		
Group 1	12.97	5.28
Group 2	13.02	5.28
Group 3	13.13	5.28
Group 4	13.19	5.28
Group 5	13.24	5.28
Group 6	13.29	5.28
Group 7	13.40	5.28
Group 8	13.46	5.28
Group 9	13.51	5.28
Group 10	13.54	5.28
Group 11	13.57	5.28
Group 12	13.68	5.28
Group 13	13.73	5.28
Group 14	13.99	5.28
Group 15	14.01	5.28
Group 16	14.17	5.28
Group 17	14.34	5.28

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental

FOOTNOTE:
a. Employer contributes 8% basic hourly rate for over 5 years' service and 6% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays A thru G.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day E-Thanksgiving Day; F-Friday after Thanksgiving Day; G-Christmas Day

AREA DESCRIPTIONS

ASBESTOS WORKERS:
Area 1: Clark, Esmeralda, Lincoln, and Nye Counties
Area 2: Elko, Eureka, and White Pine Counties
Area 3: Remaining Counties

BRICKLAYERS; STONEMASONS:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)
Area 2: Remaining Counties and Nye County (north of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)

BRICK HOD CARRIERS:
Area 1: Statewide (excluding Clark, Esmeralda, and Lincoln Counties, Nye County (south of Highway #6))

CARPENTERS:
Area 1: Clark County; Esmeralda County (south of Highway #6); Lincoln County; Nye County (south of Highway #6)
Area 2: Remaining Counties; Esmeralda and Nye Counties (north of Highway #6)

CEMENT MASONS:
Area 1: Clark, Lincoln, and Nye Counties
Area 2: Remaining Counties (excluding Lake Tahoe Area)
Area 3: Lake Tahoe Area

ELECTRICIANS:
Area 1: Clark and Lincoln Counties; Nye County (south of Mt. Diablo Base Line)
Area 2: Remaining Counties; Nye County (north of Mt. Diablo Base Line, excluding Lake Tahoe Area)
Area 3: Lake Tahoe Area

AREA DESCRIPTIONS (Cont'd)

ELEVATOR CONSTRUCTORS:
Area 1: Nevada east of 118° longitude and south of 39° north latitude
Area 2: Nevada west of 118° longitude

GLAZIERS:
Area 1: Clark, Esmeralda, Lincoln, and Nye Counties
Area 2: Remaining Counties

IRONWORKERS:
Area 1: Elko, Eureka, White Pine Counties
Area 2: Remaining Counties

LINE CONSTRUCTION WORKERS:
Area 1: Clark and Lincoln Counties; Nye County (south of Mt. Diablo Base Line)
Area 2: Remaining Counties and Nye County (north of Mt. Diablo Base Line) (excluding Lake Tahoe Area)
Area 3: Lake Tahoe Area

MARBLE MASONS:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)
Area 2: Remaining Counties and Nye County (north of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)

MARBLE, TERRAZZO, and TILE FINISHERS:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)
Area 2: Remaining Counties and Nye County (north of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)

MASON TENDERS:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of Highway #6)

AREA DESCRIPTIONS (Cont'd)

PAINTERS:
Area 1: Clark, Esmeralda, Lincoln, and Nye Counties
Area 2: Remaining Counties including Lake Tahoe Area

PLASTER HOD CARRIERS:
Area 1: Statewide excluding Clark, Esmeralda, and Lincoln Counties; Nye County (south of Highway #6)

PLASTER TENDERS:
Area 1: Clark, Esmeralda, and Lincoln Counties, Nye County (south of Highway #6)

PLASTERERS:
Area 1: Clark, Lincoln, and Nye Counties
Area 2: Remaining Counties

PLUMBERS; Steamfitters:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of Highway #6, excluding City of Tonopah)
Area 2: Remaining Counties and Nye county (north of Highway #6, including City of Tonopah)

PLUMBERS (Utility):
Area 1: Statewide (except Clark, Esmeralda, and Lincoln Counties, Nye County (south of Highway #6, excluding the City of Tonopah))

ROOFERS:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of Highway #6)
Area 2: Remaining Counties and Nye County (north of Highway #6)

SHEET METAL WORKERS:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of the First Standard Parallel Line north of the 38th Parallel); White Pine County
Area 2: Remaining Counties and Nye County (north of the First Standard Parallel Line north of the 38th Parallel)

SOFT FLOOR LAYERS:
Area 1: Clark, Esmeralda, Lincoln, and Nye Counties
Area 2: Remaining Counties including Lake Tahoe Area

TERRAZZO WORKERS; TILE SETTERS:
Area 1: Clark, Esmeralda, and Lincoln Counties; Nye County (south of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)
Area 2: Remaining Counties and Nye County (north of a line commencing at the northwest lower corner of Lincoln County and running due west to a point 10 miles south of the Town of Tonopah, near the 38th Parallel)

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LABORERS
Clark, Esmeralda, and Lincoln Counties; Nye County (south half, including Highway #6)

Group 1: Cutting Torch Operator (demolition); Dry Packing of Concrete and Filling of Form-bolt Holes; Fine Grader, highway and street paving, airport runways and similar type heavy construction; Spotter, Debris Handler and Dumpman; Gas and Oil Pipeline Laborer; Guinea Chaser; Laborer, demolition (cleaning of bricks, lumber, etc.); Laborer, general or construction; Laborer, packing rod steel and pans; Laborers, temporary water lines (portable type); Landscape Gardener and Nurseryman; Tarman and Mortarman, Kettleman, Potman and man applying asphalt, lay-kold creosote, lime and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Underground Laborer, including Caisson Bellowers; Window Cleaner

Group 2: Asphalt Raker, Ironer, Spreader, Luteman, Buggymobile Man; Cement Dumper (on 1 yard or larger mixers and handling bulk cement); Cesspool Digger and Installer; Chucktender (except tunnel); Concrete Core Cutter; Concrete Curer, Impervious Membrane and Oiler of all materials; Concrete Saw Man, excluding tractor type, cutting, scoring old or new concrete; Gas and Oil Pipeline Wrapper, Pot Tender and Form Man; Making and caulking of all non-metallic pipe joints; Operators and Tenders of pneumatic and electric tools, Vibrating Machines, hand-propelled Trenching Machines, Impact Wrench, multiplate and similar mechanical tools not separately classified herein; Operator of Cement Grinding Machine; Riprap Stonepaver; Roto-scraper; Sandblaster (Pot Tender); Scaler; Septic Tank Digger and Installer (Leadman); Tank Scaler and Cleaner; Tree Climber, Faller, Chain Saw Operator, Pittsburgh Chipper and similar type Brush Shredders

Group 3: Gas and Oil Pipeline Wrapper, 6 inch pipe and over; Jackhammer and/or Pavement Breaker; Laying of all non-metallic pipe, including sewer pipe, drain pipe, and underground tile; Oversize Concrete Vibrator, 70 lbs. and over; Rock Slinger; Scaler (using Bos'n Chair or Safety Belt or power tools)

Group 4: Cribber or Shorer, Lagging, Sheeting, Trench Bracing, hand guided Lagging Hammer; Head Rock Slinger; Powderman - Blaster, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Sandblaster (Nozzleman); Steel Headerboard Man

Group 5: Driller (Core, Diamond or Wagon); Joy Driller Model TW-M-2A, Gardner-Denver Model DH 143 and similar type drills

LABORERS (Cont'd)
Remaining Counties

Group 1: All cleanup work of debris, grounds and building including windows and tile; Dumpman or Spotter (other than asphalt); General Laborer; Gardeners and Landscape Laborers; Limber, Brushloader and Piler

Group 2: Choker Setter or Rigger (clearing work only); Pittsburgh Chipper and similar type Brush Shredders; Concrete Worker (wet or dry) all concrete work not listed in Group 3; Crusher or Grizzle Tender; Guinea Chaser (Stakeman); Panel Forms (wood or metal) handling, cleaning and stripping of; Loading and unloading, carrying and handling of all rods and material for reinforcing concrete; Railroad Trackmen (builders); Sloper; Semi-skilled Wrecker (salvaging of building materials other than those listed in Group 3); Greasing Dowels

Group 3: Asphalt Workers (Ironers, Shoveler, Cutting Machine); Buggymobile; Chainsaw, Faller, Logloader and Bucker; Compactor (all types); Concrete Mixer, under 1/2 yd.; Concrete Pan Work (breadpan type) (handling, cleaning, stripping); Concrete Saw, Chipping, Grinding, Sanding, Vibrator; Cribbing, Shoring, Lagging, Trench Jacking, Hand-guided Lagging Hammer; Curbing or Divider Machine; Curb Setter (precast or cut); Ditching Machine (hand-guided); Driller's Tender, Chuck Tender; Form Raiser, Slip Forms; Grouting of concrete walls, windows and door jams; Headerboardman; Jackhammer, Pavement Breaker, Air Spade; Mastic Worker (wet or dry); Pipe Wrapper, Kettleman, Potman, and men applying asphalt, Creosote and similar type materials; All power tools (air, gas or electric) not listed in Group 5; Pipejacking; Posthole Digger (air, gas or electric); Post Driver; Riprap-stonepaver and Rock Slinger, including placing of sack concrete, wet or dry; Roto Tiller; Rigging and Signaling in connection with Laborers' work; Sandblaster, Potman, Gunman or Nozzleman; Vibra-screed; Skilled Wrecker (removing and salvaging of sash windows, doors, plumbing and electrical fixtures

Group 4: Burning and Welding in connection with Laborers' work; Joy Drill Model TWM-2A, Gardner Denver Model DN 143 and similar type Drills; Track Drillers, Diamond Core Drillers, Wagon Drillers, Mechanical Drillers on multiple units; High Scalers; Concrete Pump; Heavy Duty Vibrator with stinger 5" diameter or over; Pipelayer, Caulker and Bander; Pipelayer - waterline, sewerline, gasline, conduit; Asphalt Rakers

Group 5: Blaster and Powderman, all work of loading, placing and blasting of all powder and explosives of any type, regardless of method used for such loading and placing

Group 6-A: Nozzleman

Group 6-B: Gunman, Materialman

Group 6-C: Reboundman

POWER EQUIPMENT OPERATORS
Clark, Esmeralda, Lincoln, and Nye Counties

Group 1: Brakeman; Compressor Operator; Ditch Witch, with seat or similar type equipment; Elevator Operator - inside; Engineer Oiler; Forklift Operator (under 5 tons capacity); Generator Operator; Generator, Pump or Compressor Plant Operator; Heavy duty Repairman Tender; Pump Operator; Switchman

Group 2: Concrete Mixer Operator - skip type; Conveyor Operator; Fireman; Hydrostatic Pump Operator; Oiler Crusher (asphalt or concrete plant); Rotary Drill Tender (Oilfield); Skiploader (wheel type up to 3/4 yard without attachment); Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant Operator; Trenching Machine Oiler; Truck Crane Oiler

Group 3: A-Frame or Winch Truck Operator; Equipment Greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter Radioman (ground); Power Concrete Curing Machine Operator; Power Concrete Saw Operator; Power-driven Jumbo Form Setter Operator; Ross Carrier Operator (jobsite); Stationary pipe wrapping and cleaning Machine Operator

Group 4: Asphalt Plant Fireman; Boring Machine Operator; Boxman or Mixerman (asphalt or concrete); Bridge-type Unloader and Turnable Operator; Chip Spreading Machine Operator; Concrete Pump Operator (small portable); Dinkey Locomotive or Motorman (up to and including 10 ton); Equipment Greaser (grease truck); Helicopter Hoist Operator; Highline Cableway Signalman; Hydra-Hammer-Aero Stomper; Power Sweeper Operator; Roller Operator (compacting); Screed Operator (asphalt or concrete); Trenching Machine Operator (up to 6 feet)

Group 5: Asphalt Plant Engineer; Batch Plant Operator; Bit Sharpener; Concrete Joint Machine Operator (canal and similar type); Concrete Planer Operator; Deck Engine Operator; Derrickman (Oilfield type); Drilling Machine Operator (including water wells); Hydrographic Seeder Machine Operator (straw, pulp or seed); Jackson Track Maintainer, or similar type; Kalamazoo Switch Tamper, or similar type; Machine Tool Operator; Maginnis Internal Full Slab Vibrator; Mechanical Berm, curb or gutter (concrete or asphalt); Mechanical Finisher Operator (concrete, Clary - Johnson - Bidwell or similar); Pavement Breaker Operator; Road Oil Mixing Machine Operator; Roller Operator (asphalt or finish); Rubber-tired earth moving equipment (single engine, up to and including 25 yards struck); Self-propelled Tar Pipelining Machine Operator; Skiploader Operator (Crawler and wheel type, over 3/4 yard and up to and including 1½ yards); Slip Form Pump Operator (power-driven hydraulic lifting device for concrete forms); Stinger Crane (Austin-Western or similar type); Tractor Operator - Bulldozer, Tamper, Scraper (single engine, up to 100 H.P., flywheel and similar types, up to and including D-5 and similar types); Tugger Hoist (1 drum); Tunnel Locomotive Operator (over 10 and up to and including 30 tons)

POWER EQUIPMENT OPERATORS (Cont'd)
Clark, Esmeralda, Lincoln, and Nye Counties

Group 6: Asphalt or Concrete Spreading Operator (tamping or finishing); Asphalt Paving Machine Operator (Barber-Greene or similar type); Backhoe Operator (up to and including 3/4 yd.); Bridge Crane Operator; Cast-in-place Pipelaying Machine Operator; Combination Mixer and Compressor Operator (gunite work); Compactor Operator - self-propelled; Concrete Mixer Operator - paving; Concrete Pump Operator - truck mounted; Crane Operator (up to and including 25 tons capacity); Cretor Crane Operator; Crushing Plant Operator; Drill Doctor; Elevating Grader Operator; Forklift Operator (over 5 tons); Grade Checker; Gradall Operator; Grouting Machine Operator; Guard Rail Post Driver Operator; Heading Shield Operator; Heavy duty Repairman; Hoist Operator (Chicago Boom and similar type); Kalamazoo Balliste Regulator or similar type; Kolman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Mobile Operator; Lift Slab Machine Operator (Vagtborg and similar types); Loader Operator (Athey, Euclid, Sierra and similar types); Material Hoist Operator; Mucking Machine Operator (1/4 yard)(rubber-tired, rail or track type); Pneumatic Concrete Placing Machine Operator (Hackley-Presswell or similar type); Pneumatic Heading Shield (tunnel); Polar Gantry Crane Operator; Pumpcrete Gun Operator; Rotary Drill Operator (excluding Caisson type); Rubber-tired earth moving equipment Operator (single engine, Caterpillar, Euclid, Athey Wagon, and similar types with any and all attachments over 25 yards and up to and including 50 cu. yards struck); Rubber-tired earth moving equipment Operator (multiple engine - up to and including 25 yards struck); Rubber-tired Scraper Operator (self-loading - paddle wheel - John Deere, 1040 and similar single unit); Self-propelled Curb and Gutter Machine Operator; Skiploader Operator (Crawler and wheel type - over 1½ yards up to and including 6½ yards); Surface Heater and Planer Operator; Tower Crane Operator; Tractor Compressor Drill Combination Operator; Tractor Operator (any type larger than D-5 - 100 flywheel H.P. and over, or similar - Bulldozer, Tamper, Scraper, and Push Tractor, single engine); Tractor Operator (boom attachments); Traveling Pipe wrapping, cleaning and bending Machine Operator; Trenching Machine Operator (over 6 ft. depth capacity, manufacturer's rating); Tunnel Locomotive Operator (over 30 tons); Shovel, Backhoe, Dragline, Clamshell Operator (over 3/4 yard and up to 5 cu. yards M.R.C.)

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POWER EQUIPMENT OPERATORS: (Cont'd)
Clark, Esmeralda, Lincoln, and Nye Counties

Group 7: Crane Operator (over 25 tons up to and including 100 tons M.R.C.); Derrick Barge Operator; Dual Drum Mixer; Heavy-duty Repairman-Welder Combination; Hoist Operator, Stiff Legs, Guy Derrick, or similar type, up to and including 100 tons); Monorail Locomotive Operator (diesel, gas or electric); Motor Patrol - Blade Operator (single engine); Multiple Engine Tractor Operator (Euclid and similar type - except Quad 9 Cat); Pedestal Crane Operator; Rubber-tired earth moving equipment Operator (single engine, over 50 yards struck); Rubber-tired earth moving equipment Operator (multiple engine, Euclid, Caterpillar and similar - over 25 yards and up to 50 yards struck); Shovel, Backhoe, Dragline, Clamshell Operator (over 5 cu. yards M.R.C.); Tower Crane Repairman; Tractor Loader Operator (Crawler and wheel-type, over 6¼ yards); Woods Mixer Operator (and similar Pugmill equipment)

Group 8: Auto Grader Operator; Automatic Slip Form Operator; Crane Operator - over 100 tons; Crawler Transporter Operator; Hoe Ram or similar with Compressor; Hoist Operator (Stiff Legs, Guy Derrick, or similar type - capable of hoisting 100 tons or more); Mass Excavator Operator - less than 750 cu. yds.; Mechanical Finishing Machine Operator; Mobile Form Traveler Operator; Mobile Tower Crane Operator; Motor Patrol Operator (multi-engine); Pipe Mobile Machine Operator; Rubber-tired earth moving equipment Operator (multiple engine, Euclid, Caterpillar and similar type - over 50 cu. yds. struck); Rubber-tired Scraper Operator (pushing one another without Push Cat, Push-pull); Rubber-tired self-loading Scraper Operator (paddle wheel - Auger type self-loading - two or more units); Tandem equipment Operator (two units only); Tandem Tractor Operator (Quad 9 or similar type); Tunnel Mole Boring Machine Operator

Group 9: Canal Linear Operator; Canal Trimmer Operator; Helicopter Pilot; Highline Cableway Operator; Polar Crane Operator; Remote Controlled earth moving equipment Operator ($1.00 per hour additional to base rate); Wheel Excavator Operator (over 750 cu. yds. per hour)

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)
Remaining Counties

AREA DEFINITIONS

AREA 1: Area within 50 road miles of either the Carson City Courthouse or the Washoe County Courthouse
AREA 2: Area between 50 and 150 road miles of the Washoe County Courthouse
AREA 3: Area between 150 and 300 road miles of the Washoe County Courthouse
AREA 4: Area over 300 road miles of the Washoe County Courthouse

Group 1-A: Brakeman; Deckhand; Fireman; Oiler; Switchman; Tar Pot Fireman

Group 2: Compressor; Material Loader and/or Conveyor (handling building materials); Pumps; Tar Pot Fireman (power-agitated)

Group 3: Box Operator (bunker); Concrete Curing Machine (streets, highways, airports, canals); Conveyor Belt (tunnel); Engineer Generating Plant (500 K.W.); Fireman Hot Plant; Hydraulic Monitor; Mixer Box Operator (concrete plant); Motorman; Oiler (truck crane); Rotomist; Screedman (except asphaltic or concrete paving); Bobcat or similar loader, 1/4 cu. yd. or less

Group 4: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper, multi-purpose; Boxman (asphalt plant); Concrete Mixer, skip type; Dinky; Fork Lift (construction jobsite); Line Master; Ross Carrier; Skip Loader (under 1 cu. yd.); Tie Spacer

Group 5: Concrete Mixer (over 1 cu. yd.); Concrete Pumps or Pumpcrete Guns; Elevator and Material Hoist (1 drum); Shuttle Car; Signalman; Screedman (Barber-Greene and similar)(asphalt or concrete paving)

Group 6: Boom Truck or Dual Purpose "A" Frame Truck; B.L.H. Lima Road Pactor or similar; Chip Box Spreader (Flaherty type or similar); Concrete Batch Plant (wet or dry); Concrete Saws (highways, streets, airports, canals); Highline Cableway Signalman; Locomotive (over 30 tons); Lubrication and Service Engineer (mobile and grease rack); Maginnis International Full Slab Vibrator (airports, highways, canals, warehouses); Mechanical Burn, Curb and/or Curb and Gutter Machine (concrete or asphalt); Pavement Breaker, truck mounted, with compressor combination; Pavement Breaker or Tamper (with or without compressor combination); Power Jumbo (setting slip-forms, etc., in tunnels); Roller (except asphalt); Self-propelled Tape Machine; Self-propelled Compactor (single engine); Slip Form Pump (power-driven by hydraulic, electric, air, gas, etc., lifting device for concrete forms); Small Rubber-tired Tractors; Snooper Crane, Paxton-Mitchell or similar; Stationary Pipe Wrapping, Cleaning and Bending Machine; Auger-type drilling equipment up to and including 30 feet depth drilling capacity M.R.C.

POWER EQUIPMENT OPERATORS (Cont'd)
Except Piledriving and Steel Erection) (Cont'd)
Remaining Counties

Group 7: Bit Sharpener; Compressor (over 2); Concrete Conveyor or Concrete Pump, truck or equipment mounted (boom length to apply); Concrete Conveyor, building site; Deck Engineer; Drilling and Boring Machinery, vertical and horizontal (not to apply to Waterliners, Wagon Drills or Jackhammers); Crusher Plant Engineer; Generators; Kolman Loader; Material Hoist (2 or more drums); Mechanical Finishers or Spreader Machine (asphalt, Barber-Greene and similar); Mine or Shaft Hoist; Pipe Bending Machines (pipelines only); Pipe Cleaning Machines (tractor propelled and supported); Pipe Wrapping Machines (tractor propelled and supported); Portable Crushing and Screening Plants; Pumps (over 2); Refrigeration Plants; Roller Operator (asphalt); Self-propelled Boom-type lifting device (center mount) (10 ton capacity or less); Slusher; Soil Tester (certified); Surface Heater and Planer; Trenching Machine (maximum digging capacity 3 feet depth); Post Driller and/or Driver; Auger-type drilling equipment over 30 ft. depth digging capacity M.R.C.

Group 8: Asphalt Milling Machine; Asphalt Plant Engineer; Car Passer; Cast-in-place Pipe Laying Machine; Combination Slusher and Motor; Concrete Batch Plant (multiple units); Dozer; Drill Doctor; Elevating Grader; Gradesetter, Grade Checker; Grooving and Grinding Machine (highway); Heavy-duty Repairman and/or Welder; Ken-seal; Loader (up to and including 2½ cu. yds.); Mechanical Trench Shield; Mixermobile; Push Cats; Road Oil Mixing Machine (Wood-mixer and other similar Pugmill equipment); Rubber-tired earth-moving equipment (up to and including 35 cu. yds. "struck" M.R.C., Euclid, T-Pulls, DW's 10, 20, 21, and similar); Self-propelled Compactor with Dozer; Hyster 450 or Cat 825 or similar; Sheepfoot; Small Tractor (with boom); Soil Stabilizer (P & H or equal); Timber Skidder (rubber-tired or similar equipment); Tractor-drawn Scraper; Tractor; Tractor-mounted Compressor Drill combination; Trenching Machine (over 3 feet depth); Tri-batch Paver; Tunnel Badger or Tunnel Boring Machine; Tunnel Mole Boring Machine; Vermeer T-600B Rock Cutter

Group 9: Chicago Boom; Combination Backhoe and Loader (up to and including 3/8 yards); Combination Mixer and Compressor (gunite); Lull Hi-lift (20 feet or over); Mucking Machine; Sub-grader (Gurries or other types); Tractor (with boom) (D6 or larger); Track-laying-type earthmoving Machine (single engine with Tandem Scrapers)

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection) (Cont'd)
Remaining Counties (Cont'd)

Group 10: Boom-type Backfilling Machine; Bridge Crane; Cary-lift or similar; Chemical Grouting Machine; Derricks; Derrick Barges (except excavation work); Euclid Loader and similar types; Heavy-duty Rotary Drill Rigs; Lift-slab (Vagtborg and similar types); Loader (over 2½ cu. yds. up to and including 4 cu. yds.); Locomotive (over 100 tons)(single or multiple units); Multiple-engine Earth-moving Machines (Euclid, Dozers, etc.); Pre-stress Wire-wrapping Machine; Rubber-tired Scraper, self-loading; Single-engine Scraper (over 35 cu. yds.); Self-propelled Reservoir-debris equipment Floating (200 HP and over); Shuttle Car (reclaim station); Train Loading Station; Trenching Machine multi-engine with sloping attachment (Jefco or similar); Vacuum Cooling Plant; Whirley Crane (up to and including 25 tons)

Group 10-A: Backhoe (up to and including 1 cu. yd. hydraulic); Backhoe (up to and including 1 cu. yd. cable); Cranes (not over 25 tons)(Hammerhead and Gantry); Grade-alls (up to and including 1 cu. yd.); Motor Patrol; Power Shovels, Clamshells, Draglines, Cranes (up to and including 1 cu. yd.); Rubber-tired Scraper, self-loading (twin-engine); Self-propelled Boom-type lifting device (center mount)(over 10 tons up to and including 25 tons); CMI Dual-lane Auto-grader SP30 or similar

Group 11: Automatic Asphalt or Concrete Slip-form Paver; Automatic Railroad Car Dumper; Canal Trimmer; Cary Lift, Campbell or similar; Cranes (over 25 tons); Highline Cableway Operator; Loader (over 4 cu. yds. up to and including 12 cu. yds.); Multiple-engine Scraper (when used to Push Pull); Multi-engine Earthmoving equipment (up to and including 75 cu. yds. "struck" M.R.C.); Power Shovels, Clamshells, Draglines, Backhoes, Grade-alls (over 1 cu. yd. and up to and including 7 cu. yds. M.R.C.); Self-propelled Compactor (with multiple-propulsion power units); Self-propelled Boom-type lifting device (over 25 tons M.R.C.); Single-engine Rubber-tired Earthmoving Machine (with Tandem Scraper); Slip-form Paver (concrete or asphalt); Tandem Cats and Scrapers; Tower Crane Mobile (including rail-mounted); Truck-mounted Hydraulic Crane when remote-control equipped (over 10 tons up to and including 25 tons); Universal Liebher and Tower Cranes (and similar types); Wheel Excavator (up to and including 750 cu. yds. per hour); Whirley Cranes (over 25 tons); Euclid Loader when controlled from the Pullcat

Group 11-A: Band Wagons (in conjunction with wheel excavators); Loaders (over 12 cu. yds.); Multi-engine earthmoving equipment (over 75 cu. yds. "struck" M.R.C.); Operator of Helicopter (when used in construction work); Power Shovels, Clamshells, Draglines, Backhoes and Gradalls (over 7 cu. yds. M.R.C.); Remote-controlled earthmoving equipment; Wheel Excavator (over 750 cu. yds. per hour)

POWER EQUIPMENT OPERATORS (Cont'd)
Piledriving
Remaining Counties

Group 1: Fireman; Oilman; Deckhand

Group 1-A: Compressor Operator

Group 1-B: Truck Crane Oiler

Group 2-A: Operator of Tugger Hoist (hoisting material only)

Group 2-B: Forklift Operator

Group 2-C: A-Frames

Group 2-D: Compressor Operator (over 2); Generator Operator; Pump Operator (over 2); Welding Machine Operator (powered other than by electricity)

Group 3: Deck Engineer; Self-propelled Boom-type lifting device (center mount) (10 ton capacity or less M.R.C.)

Group 3-A: Heavy-duty Repairman/Welder

Group 4: Operating Engineer in lieu of Assistant to Engineer tending Boiler or Compressor attached to Crane Piledriver; Operator of Piledriving Rigs, Skid or Floating and Derrick Barges; Operator of diesel or gasoline powered Crane Piledriver (without boiler) (up to and including 1 cu. yd. rating); Self-propelled Boom-type lifting device (center mount) (over 10 tons up to and including 25 tons); Truck Crane Operator (up to and including 25 tons - hoisting material only)

Group 5: Operator of diesel or gasoline powered Crane Piledriver (without boiler) (over 1 cu. yd. rating); Operator of Crane (with steam, flash boiler, pump or compressor attached); Operator of steam-powered Crawler, or Universal-type Driver (Raymond or similar type); Truck Crane Operator (over 25 tons) (hoisting material or performing piledriving work); Self-propelled boom-type lifting device (center mount) (over 25 tons); Truck-mounted Hydraulic Crane when remote-control equipped (over 10 tons up to and including 25 tons)

Group 6: Cranes (over 125 tons)

STEEL ERECTION

Group 1: Oiler

Group 2: Compressor Operator; Generator, gasoline or diesel driven (100 K.W. or over) (structural steel or tank erection only); Truck Crane Oiler

POWER EQUIPMENT OPERATORS (Cont'd)
Steel Erection - Remaining Counties (Cont'd)

Group 3: Compressors, Generators and/or Welding Machines or Combination (2 to 6) (structural steel or tank erection only); Deck Engineer; Signalman (using mechanical equipment); Forklift

Group 4: Heavy-duty Repairman; Tractor Operator

Group 4-A: Combination Heavy-duty Repairman/Welder

Group 5: Boom Truck or Dual Purpose A-Frame Truck; Boom Cat; Chicago Boom; Crawler Cranes and Truck Cranes (15 ton M.R.C. or less); Self-propelled boom-type lifting device (center mount) (10 ton capacity or less M.R.C.); Single drum Hoist; Tugger Hoist

Group 6: Cary Lift, Campbell or similar; Crawler Cranes and Truck Cranes (over 15 tons M.R.C.); Derricks; Gantry Rider (or similar equipment); Highline Cableway; Self-propelled boom-type lifting device (center mount) (over 10 tons up to and including 25 tons); Tower Cranes Mobile; Universal Liebher and Tower Cranes (and similar types); Two or more drum Hoist

Group 7: Self-propelled boom-type lifting device (center mount) (over 25 tons); Truck-mounted Hydraulic Crane when remote-control equipped (over 10 tons up to and including 25 tons)

Group 8: Cranes (over 125 tons)

Group 9: Operator of Helicopter

TRUCK DRIVERS
Clark, Esmeralda, and Lincoln Counties; and Nye County (south of and excluding Highway #6)

Group 1: Dump Trucks (less than 12 yards); Trucks (legal payload capacity less than 15 tons); Water and Fuel Trucks (under 2500 gallons); Pickups; Service; Repairman Tender; Drivers of busses (on jobsite used for transportation of up to 25 passengers); Teamster equipment (highest rate for dual craft operation)

Group 2: Dump Trucks (12 yards but less than 16 yards); Trucks (legal payload capacity between 15 and 20 tons); Water and Fuel Trucks (2500 to 4000 gallons); Truck Driver working on gas and oil pipeline (including Winch Truck and all sizes of trucks); Truck Greaser and Tireman; Drivers of busses (on jobsite used for transportation of more than 25 passengers); Bootman

Group 3: Dumpcrete (less than 6½ yards); Transit-Mix (less than 3 yards)

TRUCK DRIVERS (Cont'd)
Clark, Esmeralda, and Lincoln Counties; and Nye County (south of and excluding Highway #6) (Con'td)

Group 4: Dump Trucks (16 yards up to and including 22 yards); Trucks (legal payload capacity 20 ton but less than 30 tons); Water and Fuel Trucks (4000 gallons but less than 6000 gallons); Dumpcrete (6½ yards and over); Transit-mix (3 yards but less than 6 yards); Euclid-type Spreader Trucks; Dumpster; Fork Lift; Ross Carrier - highway; Road Oil Spreading Truck, time spent spreading oil

Group 5: Dump Trucks (over 22 yards); Trucks (legal payload capacity 20 tons and over); Water and Fuel Trucks (6000 gallons and over); Transit-mix (6 yards and over); Truck Repairman

Group 6: D.W. and similar type equipment, D.W. 10 and D.W. 20; Euclid-type equipment, LeTourneau Pulls, Terra Cobras and similar types of equipment; also PB and similar-type Trucks when performing work within Teamsters' jurisdiction, regardless of types of attachment including power unit pulling off highway Belly Dumps in Tandem

Remaining Counties; and Nye County (north of and including Highway #6)

Group 1: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, under 4 yards

Group 2: Bus and Manhaul Drivers, single units, up to 18,000 lbs.

Group 3: Bus and Manhaul Drivers, single unit, 18,000 lbs. and over; Winch Trucks, A-Frame, under 18,000 lbs.; Road Oil Trucks or Bootman; Fuel Truck Driver; Fuel Man and Fuel Island Man

Group 4: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 4 yards and under 8 yards; Water Trucks and Jetting Trucks, up to 2,500 gallons; Flatrack, Industrial Lift with Mechanical Tailgate, single unit 2-axle

Group 5: Lift Jitneys and Fork Lift

Group 6: Flatrack, Industrial Lift with Mechanical Tailgate, single unit 3-axle

TRUCK DRIVERS: (Cont'd)
Remaining Counties; and Nye County (north of and including Highway #6)

Group 7: Dump (single or multiple units including semis; double and transfer units), Dumpcrete and Bulk Cement Spreaders, 8 yds. and under 18 yards; Transit Mix under 8 yards; Water Trucks and Jetting Trucks, 2,500 gallons and over; Tire Repairman

Group 8: Bootman, combination; Bootman and Road Oiler

Group 9: Transit Mix, 8 yards and including 12 yards

Group 10: Winch Trucks, A-Frame, 18,000 lbs. and over

Group 11: Dump (single or multiple unit including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 18 yards and under 25 yards; Heavy Duty Transport (Highbed); Heavy Duty Transport (Gooseneck Lowbed); Tiltbed or Flatbed Pull Trailers

Group 12: DW 20's and 21's and other similar Cat type, Terra Cobra, LeTourneau Pulls, Tournerocker, Euclid and similar type equipment when pulling Aqua/Pak, Water Tank Trailers, and Fuel and/or Grease Tank Trailers, or other miscellaneous trailers (except as defined under Dump Trucks)

Group 13: Transit Mix, over 12 yards; Truck Repairman

Group 14: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 25 yards and under 60 yards

Group 15: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 60 yards and under 75 yards; Helicopter Pilot (when transporting men or materials)

Group 16: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Cement Spreaders, 75 yards and under 100 yards

Group 17: Dump (single or multiple units including semis, double and transfer units), Dumpcrete and Bulk Dement Spreaders, 100 yards and over

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

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Friday
June 8, 1984

Part III

Department of Energy

Bonneville Power Administration

Legal Interpretation of Section 7(b)(2) of the Pacific Northwest Electric Power Planning and Conservation Act; Notice

DEPARTMENT OF ENERGY

Bonneville Power Administration

Legal Interpretation of Section 7(b)(2) of the Pacific Northwest Electric Power Planning and Conservation Act

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Statutory Interpretation. *BPA File No:* 7(b)(2)–84.

SUMMARY: On January 23, 1984, Bonneville Power Administration (BPA) published a notice of proposed legal interpretation of section 7(b)(2) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), 16 U.S.C. 839 (1980). *See* 49 FR 2811 (Jan. 23, 1984). Under section 7(b)(2), after July 1, 1985, the rates charged for firm power sold to public body, cooperative, and Federal agency customers, may not exceed in total, as determined by the BPA Administrator, such customers' power costs for their general requirements, under five specified assumptions. BPA invited comments and reply comments to its proposed legal interpretation. BPA considered these comments and reply comments in drafting the section 7(b)(2) implementation methodologies released on February 29, 1984, and published as an initial proposal in the **Federal Register**. 49 FR 11,235 (Mar. 26, 1984).

In this legal interpretation, BPA will explain its resolution of the basic legal questions involved in the implementation of section 7(b)(2). BPA currently is conducting separate hearings on the section 7(b)(2) implementation methodology under section 7(i) of the Northwest Power Act, 16 U.S.C. 839e(i). Actual implementation of section 7(b)(2), however, will not occur until BPA's 1985 wholesale power rate proceeding conducted pursuant to section 7(i) of the Northwest Power Act in the fall and winter of 1984 and spring of 1985.

Responsible Official: John A. Cameron, Jr., Assistant General Counsel, is the official responsible for this legal interpretation. Ms Shirley R. Melton, Director, Division of Rates, is the official responsible for section 7(b)(2) implementation methodologies and their application in the 1985 BPA rate adjustment proceeding.

ADDRESSES: For further information contact Ms. Donna L. Geiger, Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212; (503) 230–3478. Oregon callers outside the Portland area may use the toll-free number (800) 452–8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use (800) 547–6048. Information may also be obtained from:

Mr. George E. Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 N.E. Irving Street, Portland, Oregon 97208, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503–687–6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3860

Mr. Richard D. Casad, Puget Sound Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206–442–4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–525–5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza, Suite 245, 1109 Main St., Boise, Idaho 83707, 208–334–9138.

SUPPLEMENTARY INFORMATION:

I. Background

A. Relevant Statutory Provisions

BPA is charged with the responsibility of implementing section 7(b)(2) of the Northwest Power Act. An agency's interpretation of the statute it is charged to administer is entitled to great deference; in this regard, the Ninth Circuit Court of Appeals recently held that "[b]ecause BPA helped draft and must administer the Act, we give substantial deference to BPA's statutory interpretation." *Cent.Lincoln Peoples' Util. Dist.* v. *Johnson*, No. 81–7622, *et al.*, slip op. (9th Cir. Feb. 9, 1984); *Central Lincoln Peoples' Utility District* v. *Johnson*, 686 F.2d 708 (9th Cir., 1982).

Basic principles of statutory construction must be followed in interpreting the Northwest Power Act. These principles require that particular provisions of a statute be interpreted to give effect to its overall purposes. *United States* v. *Am Trucking Ass'n*, 310 U.S. 534, 543 (1950). Wherever possibles statutory provisions should be construed so as to be consistent with each other. *Adams* v. *Howerton*, 673 F.2d 1036, 1040 (9th Cir. 1982), *cert. denied*, 458 U.S. 1111 (1982). Thus, BPA interprets the Northwest Power Act in a manner which seeks consistency among the requirements of each section of the Northwest Power Act.[1]

Section 7(b)(2) is interpreted, therefore, in a manner which avoids conflict with the criteria of section 7(a)(1), under which the Administrator must establish rates to recover total system costs, and those of section 7(a)(2), under which the Federal Energy Regulatory Commission shall approve BPA rates only after finding that BPA rates: (1) Are sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System, (2) are based on BPA's total system cost, and (3) equitably allocate the costs of Federal transmission system between Federal and non-Federal users.

In addition to the Northwest Power Act, BPA is governed by the Bonneville Project Act, 16 U.S.C. 832, *et seq.*, the Federal Columbia River Transmission System Act, 16 U.S.C. 838, *et seq.*, and the Flood Control Act of 1944, 16 U.S.C. 825, *et seq.* These statutes require BPA to set rates, in accordance with sound business principles, at levels sufficient to recover BPA's total system costs, including repayment of the Federal treasury investment in the Federal Columbia River Power and Transmission System. All statutory provisions concerning the timely recovery of BPA's revenue requirement are relevant to the interpretation of the Northwest Power Act. For "[w]hen there are two acts upon the same subject, the rule is to give effect to both if possible." *Morton* v. *Mancari*, 417 U.S. 535, 551 (1974), quoting *United States* v. *Borden Co.*, 308 U.S. 188, 198 (1939).

Section 7 of the Northwest Power Act, 16 U.S.C. 839e, contains a number of directives that the BPA Administrator must consider in establishing rates for the sale of electic energy and capacity and for the transmission of non-Federal power. Section 7(b)(2), commonly

[1] The Association of Public Agency Customers (APAC) argues that BPA will disregard section 7(b)(2) if it is not feasible to recover costs through section 7(b)(3), and suggests that BPA will subordinate section 7(b)(2) to section 7(a). APAC Comments at 29. The Public Power Council also suggests that by this interpretation BPA has established a "hierarchy of statutory obligations." PPC Comments at 3. The Public Generating Pool declares that "[s]ection 7(b)(2) is the cornerstone of the Regional Act for Preference Customers." PGP Comments at 1. These arguments suggest that BPA properly could ignore other sections of the Northwest Power Act should a conflict with section 7(b)(2) arise. BPA rejects any approach which reads section 7(b)(2) in isolation from other provisions with which section 7(b)(2) must be consistent.

referred to as the "rate test", is one of these directives. Under section 7(b)(2) of the Northwest Power Act, 16 U.S.C. 839e(b)(2), after July 1, 1985, rates charged for firm power sold to public body, cooperative, and Federal agency customers (exclusive of amounts charged those customers for costs specified in section 7(g) of the Northwest Power Act) may not exceed in total, as determined by the Administrator, such customers' power costs for general requirements, if specified assumptions are made. Section 7(b)(2) specifies that in determining public body and cooperative customers' power costs during any year after July 1, 1985, and the ensuing four years, the Administrator should assume:

(A) The public body and cooperative customers' general requirements had included during such five-year period the direct service industrial customer loads which are—

(i) Served by the Administrator, and

(ii) Located within or adjacent to the geographic service boundaries of such public bodies and cooperatives;

(B) Public body, cooperative, and Federal agency customers were served, during such five-year period, with Federal base system resources not obligated to other entities under contracts existing as of the effective date of this Act (during the remaining term of such contracts) excluding obligations to direct service industrial customer loads included in subparagraph (A) of this paragraph;

(C) No purchases or sales by the Administrator as provided in section 5(c) were made during such five-year period;

(D) All resources that would have been required, during such five-year period, to meet remaining general requirements of the public body, cooperative and Federal agency customers (other than requirements met by the available Federal base system resources determined under subparagraph (B) of this paragraph) were—

(i) Purchased from such customers by the Administrator pursuant to section 6, or

(ii) Not committed to load pursuant to section 5(b), and were the least expensive resources owned or purchased by public bodies or cooperatives; and any additional needed resources were obtained at the average cost of all other new resources acquired by the Administrator; and

(E) The quantifiable monetary savings, during such five-year period, to public body, cooperative and Federal agency customers resulting from—

(i) Reduced public body and cooperative financing costs as applied to the total amount of resources, other than Federal base system resources, identified under subparagraph (D) of this paragraph, and

(ii) Reserve benefits as a result of the Administrator's actions under this Act were not achieved. 16 U.S.C. 839e(b)(2).

B. Scope of Interpretation

BPA has completed three tasks to create a methodology for implementation of section 7(b)(2). The first task was the development of this legal interpretation, which resolves only the basic legal issues necessary to implement section 7(b)(2). Application of section 7(b)(2) methodologies and any resuling cost reallocation under section 7(b)(3) will be addressed through BPA wholesale rate proceedings for periods beginning on July 1, 1985. The second task was the development of a computer model to perform the rate test. The third task was the preparation and release of a proposed rate test methodology. By letter of March 6, 1984, the BPA Administrator indicated his intent to phase the 1985 hearings process so that a section 7(i) hearing on BPA's proposed 7(b)(2) implementation methodology could begin on April 10, 1984. This phasing of the hearings process will BPA and the parties to address specific section 7(b)(2) issues apart from other issues in the 1985 rate case. The purpose of the first phase, however, is solely to provide input for BPA's general rate proceeding.

C. Public Comment Procedures

On January 23, 1984, BPA published a "Notice of Proposed Legal Interpretation of Section 7(b)(2) of the Pacific Northwest Electric Power Planning and Conservation Act; Request for Comments." 49 FR 2811 (January 23, 1984). In the notice, BPA requested comments from the public on the legal issues and definitions contained in the notice, and other legal issues which the public believed to be relevant to the statutory interpretation. BPA received comments from fourteen parties, including representatives of the publicly-owned utilities, investor-owned utilities (IOUs), and direct service industrial customers (DSIs).[2] BPA's Public Involvement Manager made these comments available to interested parties. BPA also requested reply comments in the proposed notice. BPA received written replies from four parties and copies of the reply comments were reproduced and sent to interested parties by February 29, 1984.[3] This legal interpretation has taken full consideration of both the first round comments and the reply comments of interested parties.

II. Interpretation

A. Definitions

This section contains definitions applicable to section 7(b)(2). Terms identified in the Northwest Power Act have the same meaning in this interpretation, unless further defined.

1. *7(b)(2) customers:* Those firm power customers of BPA that are listed in section 7(b)(2) of the Northwest Power Act as subject to the rate test, *viz*, public bodies, cooperatives, and Federal agencies.

2. *Within or adjacent:* Relating to direct service industrial (DSI) customer loads determined in accordance with section 7(b)(2)(A) to be geograhically within or adjacent to the service territories of 7(b)(2) customers.

3. *Forecast DSI loads:* Those loads of direct service industries that are forecast to be served by BPA, during any future period, pursuant to section 5(d)(1) of the Northwest Power Act.

4. *Relevant rate case:* The wholesale power rate adjustment proceeding being conducted at the time the projections for section 7(b)(2) are made, and in which any adjustment to rates in accordance with section 7(b)(2) may be reflected.

5. *7(b)(2) case:* The entire process of projecting rates for the relevant five-year period under the provisions of section 7(b)(2) of the Northwest Power Act, including specific data, assumptions, and results.

6. *Program case:* The entire process of projecting rates to be charged in the future under the provisions of the Northwest Power Act other than section (7)(b)(2), including specific data, assumptions, and results.

7. *Relevant five-year period:* The test year of the relevant rate case, plus the ensuing four years.

8. *7(b)(2) general requirements:* For the purpose of this methodology, the public body, cooperative and Federal agency customers' electric power assumed to be purchased from BPA in the 7(b)(2) case. General requirements include power purchased from BPA only

[2] The following parties responded to the first round request for comments: Direct Service Industrial Customers of BPA (DSIs), Portland General Electric (PGE) as representative for the Intercompany Pool (ICP), Association of Public Agency Customers (APAC), the Public Power Council (PPC), the Public Generating Pool (PGP), Snohomish County Public Utility District No. 1 (Snohomish), Public Utility District of Grant County (Grant), Lewis County Public Utility District (Lewis), Public Utility District 3 of Mason County (Mason), Pacific Northwest Generating Company (PNGC), Lincoln Electric Cooperative, Inc. (Lincoln), Benton Rural Electric Association (Benton), Rural Electric Company of Rupert, Idaho (Rupert), City of Tacoma Department of Public Utilities (Tacoma), Eugene Municipal Utilities (Eugene), Canby Utility Board (Canby), and Northern Lights, Inc. (Nothern Lights). Grant, Lewis, Mason, PNGC, Lincoln, Benton, Rupert, Tacoma, Eugene, Canby, and the PGP adopted the comments submitted by the PPC. Grant and Eugene also adopted the comments of the PGP.

[3] BPA received reply comments from the PPC, DSIs, APAC and the PNGC.

under section 5(b) of the Northwest Power Act; section 5(c) purchases from BPA are not included.

9. *Applicable 7(g) costs:* The costs identified in section 7(g) of the Northwest Power Act that are also listed in section 7(b)(2), *viz*, costs chargeable to 7(b)(2) customers [4] for conservation, resource and conservation credits, experimental resources and uncontrollable events.

B. General Approach To Interpreting Section 7(b)(2)

Section 7(b)(2), read in isolation from the rest of the Northwest Power Act, assures that 7(b)(2) customers are charged no more for their general requirements after July 1, 1985, than they would have been charged if five assumptions were to be realized. These assumptions direct BPA to hypothesize power supply arangements between itself and its customers that are quite different from reality.[5] Implementation of the five assumptions listed in section 7(b)(2) is by nature an exercise in speculation.[6] This interpretation was undertaken to reduce this inherent speculation insofar as possible.

1. *Section 7(b)(2) grants the Administrator broad discretion to limit consideration in the 7(b)(2) case to the five assumptions listed in section 7(b)(2) and the secondary effects of those assumptions.* (a) *Proposed Interpretation:* In the Notice of Proposed Interpretation, BPA proposed to interpret section 7(b)(2) as a broad grant of discretion. BPA also proposed to interpret section 7(b)(2) as limiting consideration in the 7(b)(2) case to the five assumptions listed in section 7(b)(2) and the secondary effects of those assumptions.

(b) *Summary of Comments:* The DSIs and the ICP agree that section 7(b)(2) includes a broad grant of discretion. The ICP, however, maintains that the Northwest Power Act does not limit the assumptions of the "rate test" to those five specified in section 7(b)(2).

APAC, PGP, PNGC, Snohomish and the PPC agree with BPA that the Northwest Power Act limits the assumptions of the 7(b)(2) case to those specified in the Northwest Power Act. These parties, however, dispute the inclusion of secondary effects of the five assumptions in the 7(b)(2) case. The PPC contends that "the use of 'unavoidable secondary effects' in the calculation of the 7(b)(2) case is contrary to the Act." PPC Comments at 3. Moreover, the PPC feels that "[a]dding whatever additional considerations that may someday strike the Administrator's fancy as 'unavoidable secondary effects' hardly seems consistent with the House Commerce Committee's belief that all assumptions are specifically set forth in Section 7(b)(2)." *Id.* APAC also questions the meaning of "secondary effect", noting that the statute and legislative history never mention the term. APAC asserts, "* * * it is clear BPA is attempting to include factors not specified in section 7(b)(2) in the preference rate methodology thus bootstrapping administrative discretion without congressional authority." APAC Comments at 13. Snohomish contends that the modeling of secondary impacts "would amount to the addition of new assumptions in the statute." Snohomish comments at 3. APAC further argues that Congress consciously refused to grant the Administrator discretion in section 7(b)(2). APAC Comments at 24–25.

(c) *Discussion:* The statute provides that after July 1, 1985, the 7(b)(2) customers' power costs "may not exceed * * * as determined by the Administrator" the power costs for general requirements based on the enumerated assumptions. 16 U.S.C. 839e(b)(2). This language is a clear grant of discretion to the Administrator to determine the manner in which the five assumptions of section 7(b)(2) are applied and the rate test is implemented. However, BPA recognizes that the reasonableness and methodologies used to implement section 7(b)(2) will be tested in the relevant rate casts.

The Administrator will exercise his discretionary authority in the following manner. Except for the assumptions specified in section 7(b)(2), all underlying premises will remain constant between the program case and the 7(b)(2) case. Assumptions not specified by the statute will not be considered. The natural consequences,[7] however, of the 7(b)(2) assumptions will be given full recognition in the modeling of the 7(b)(2) customers' power costs in the 7(b)(2) case. This general approach will allow the 7(b)(2) case to be modeled under the same accepted ratemaking techniques used in the program case. This approach will also avoid the modeling of a hypothetical world that attempts to reflect in extreme detail what would have occurred had the Northwest Power Act not been enacted.

The legislative history of the Northwest Power Act supports limiting the assumptions of the 7(b)(2) case to those specified in the statute. The House Committee on Interstate and Foreign Commerce Report accompanying S. 885 (the bill that became the Northwest Power Act) notes that "[t]he assumptions to be made by the Administrator in establishing this ceiling are specifically set forth." H. Rept. No. 976–I, 96th Cong., 2d Sess., at 68 (1980). Similarly, the Report of the House Committee on Interior and Insular Affairs declares that "[s]ubsection 7(b)(2) establishes a 'rate ceiling' for BPA's preference customers, and specifies the method of calculating this ceiling * * *." H. Rep. No. 976–II, 96th Cong., 2d Sess., at 52 (1980).

Legislative history also supports including the natural consequences or unavoidable secondary effects of the assumptions listed in the Northwest Power Act. In particular, in addressing reserve benefits, Appendix B to the Report of the Senate Committee on Energy and Natural Resources provides that in addition to costs specifically described in sections 7(b)(2) (B) and (D), the Administrator is to consider "[a]ny other general system operating costs, including reserves * * *." Appendix B at 58.

As an illustration of the natural consequences referred to above, BPA has identified three secondary effects of the five assumptions found in section 7(b)(2). These effects involve demand elasticities, surplus levels and nonfirm energy markets.[8] The secondary effects must be included in section 7(b)(2) methodologies as natural consequences of the five assumptions in section 7(b)(2) on the results of underlying premises that are held constant between the program case and the 7(b)(2) case. For example, implicit in the function of section 7(b)(2) is the possibility that

[4] APAC, the PPC and Snohomish noted that "applicable 7(g) costs" should only be those 7(g) costs listed in 7(b)(2) that are chargeable to 7(b)(2) customers. BPA has clarified the definition to reflect this interpretation.

[5] For example, section 7(b)(2)(C) states, "no purchases or sales by the Administrator as provided in section 5(c) were made during such five-year period." In fact, there are currently 60 average system cost filings for establishing rates for power sold to BPA by IOUs and Publics participating in the residential exchange established in section 5(c).

[6] Northern Lights agreed with BPA's observation in this regard. Northern Lights Comments at 3. APAC argued that Congress, in section 7(b)(2), intended to provide the Administrator with objective rate factors. Consistent with Congressional intent, BPA will implement section 7(b)(2) in an objective manner. This interpretation, however, was necessary in order for BPA to proceed with this implementation.

[7] These natural consequences have also been referred to as "secondary effects".

[8] This notice should not be taken as an exhaustive discussion of secondary effects. Other secondary effects may become clear during the implementation of section 7(b)(2) and the program case in the relevant rate case as a result of the section 7(i) process. The situations cited are simply examples.

electricity prices may be different under the assumptions contained in section 7(b)(2). Therefore, it could be appropriate to reflect the effects of different price projections in loan forecasts used for the two cases. Ignoring these price effects would require adopting a new assumption, not specified in the statute, that the price elasticity or electricity demand for the 7(b)(2) customers is zero (in effect, adding something like this to the statute: "costs calculated pursuant to subsection (A)–(E) of this paragraph shall give only partial effect to the assumptions in those subsections"). An assumption of this nature is theoretically and empirally unjustified and would be inconsistent with the structure of the models used to develop load forecasts for the relevant rate case. Similarly, surplus levels and the nonfirm energy market must change as a natural consequence of section 7(b)(2) assumptions. As the DSIs are assumed to shift to the private utilities and 7(b)(2) customers under section 7(b)(2), BPA's load/resource balance changes. This change will affect the level of BPA's surplus. The nonfirm energy market will also change; the top quartile of DSI loads will no longer be served by BPA's nonfirm energy.

Section 7(b)(2) requires BPA to assume that the section 7(b)(2) case is identical to the program case except for those differences required by the five assumptions set out in section 7(b)(2)(A)–(E).[9] Present modeling techniques used in the program case, which will be used in the modeling of the 7(b)(2) case, incorporate secondary effects. 49 FR 11235 (1984).

(d) *Decision:* BPA interprets section 7(b)(2) as a broad grant of discretion. BPA will, however, limit consideration in the 7(b)(2) case to the five assumptions listed in section 7(b)(2). BPA will also consider the natural consequences of those assumptions in a manner consistent with the outcome of the section 7(i) hearing process for the relevant rate case.

2. *Section 7(b)(2) will be implemented in a manner that avoids conflict with section 7(a).* (a) *Proposed Interpretation:* In the Notice of Proposed Interpretation, BPA proposed to interpret section 7(b)(2) so that implementation of section 7(b)(2), and any subsequent reallocation pursuant to section 7(b)(3), will not conflict with the requirements of section 7(a).

(b) *Summary of Comments:* Both the DSIs and the ICP support application of section 7(b)(2) in a manner which will avoid conflict with BPA's statutory obligations to repay the United States Treasury and meet its operating costs. The PGP suggests that Bonneville has predetermined the results of the rate test. PGP Comments at 2. In a similar manner, the PPC and Snohomish argue that 7(b)(2) is coequal to 7(a), and that section 7(b)(2) is not subject to "waiver merely because of 'concerns' about revenue collection." Snohomish Comments at 4–5; *see* PPC Comments at 3. APAC adds that "BPA further suggests that it will disregard the section 7(b)(2) rate ceiling if BPA finds it not 'feasible' to recover costs through the section 7(b)(3) mechanism." APAC Comments at 29–30.

(c) *Discussion:* BPA will conscientiously follow the requirements of section 7(b)(2) to perform the "rate test" for its public body, cooperative and Federal agency customers. If the results of the rate test indicate that BPA must recover costs in excess of those allowed under section 7(b)(2), BPA will implement the section 7(b)(3) supplemental rate charge provision for that purpose. BPA's concern is that failure to recover some, or all, of the reallocated costs "through supplemental rate charges for all other power sold by the Administrator to all customers" may result in BPA's inability to meet the requirements of section 7(a). Such a determination, if it occurs, would be rigorously documented and exposed to careful review during the section 7(i) process for the relevant rate case. Should this occur, BPA would be forced to resolve a possible conflict among sections 7(b)(2), 7(b)(3), and 7(a).

Section 7(a) of the Northwest Power Act requires that BPA rates recover the costs of the electric power and transmission systems, including the repayment of Federal Treasury investments in those systems. Section 7(a) reaffirms this long-standing obligation which was articulated earlier in the Bonneville Project Act and the Federal Columbia River Transmission System Act. Section 7(b) must be applied in a manner which enables BPA to set rates at levels sufficient to recover costs, or the rates will not receive confirmation and approval. *See* section 7(a)(2) of the Northwest Power Act, 16 U.S.C. 839e(a)(2).

The legislative history of the Northwest Power Act supports application of section 7(b) in a manner consistent with BPA's primary statutory obligation that its rates recover costs. The House Interior Committee report declares that:

> Section 7 of the legislation sets out the requirements BPA must follow when fixing rates for the power sold its customers under this legislation. Subject to the general requirement (contained in section 7(a)) that BPA must continue to set its rates so that its total revenues continue to recover its total costs, BPA is required by the legislation to establish the following rates: [report continues by setting out rate structure of the Act]. H. Rep. No. 976–II, 96th Cong., 2d Sess., at 36.

Section 7(a)(2) illustrates the importance of BPA's statutory obligation to set rates at levels sufficient to collect its costs. Section 7(a)(2) states that FERC cannot approve BPA's rates unless the rates "are sufficient to assure repayment of the federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs," 16 U.S.C. 839e(a)(2)(A), and "are based upon the Administrator's total system costs * * *." 16 U.S.C. 839e(a)(2)(B). Indeed,

> BPA is a self-financed agency under the terms of the Federal Columbia River Transmission System Act of 1974. This means that BPA receives no appropriations. It is required by law to cover its full costs through its own revenues derived from the sale of power and other services.
>
> * * * * *
>
> The United States of America does not stand behind BPA's obligations. * * * BPA alone must meet these obligations, and BPA's rates cannot be approved by FERC unless they are sufficient to meet these obligations. These requirements, and the lack of any Federal guarantees, are made explicit in sections 6(j) and 7(a) of S. 885, even though they are also explicit in the Federal Columbia River Transmission System Act.

126 Cong. Rec. H9843 (daily ed. Sep. 29, 1980) (statement of Rep. Ullman).

BPA is neither predetermining the results of the rate test nor suggesting a disregard for section 7(b)(2) with this discussion. BPA is not suggesting a solution to any problem arising from a potential conflict among sections 7(a), 7(b)(2), and 7(b)(3). BPA is merely attempting through this notice to alert its customers and the public to one possible problem which may present itself in the future. By raising the matter at this early date, BPA hopes that full discussion and consideration of such issues will enhance resolution of the problem when, and if, it arises in the context of the relevant rate case.

(d) *Decision:* BPA will interpret section 7(b)(2) so that implementation of section 7(b)(2), and any subsequent reallocation pursuant to section 7(b)(3), will not conflict with the requirements of section 7(a).

[9] The DSIs, PPC, and APAC support this position. DSI Comments at 5; PPC Comments at 4; APAC Reply Comments at 3.

C. Specific Statutory Interpretations

1. *Applicable 7(g) costs should be excluded from the program case, but not from the 7(b)(2) case.* (a) *Proposed Interpretation.* In the Notice of Proposed Interpretation, BPA proposed that applicable 7(g) costs should be excluded from the program case, but not from the 7(b)(2) case.

(b) *Summary of the Comments:* The DSIs and the ICP support BPA's interpretation that applicable 7(g) costs should be excluded from the program case before comparison with the 7(b)(2) case.

The PNGC, PPC, PGP and Northern Lights argue that applicable 7(g) costs should be excluded from both the 7(b)(2) case and the program case. PNGC Comments at 2; PGP Comments at 3; PPC Comments at 5; Northern Lights Comments at 3. APAC apparently argues that 7(g) costs would be double-counted if they were included only in the 7(b)(2) rate before comparison with the program case, and then added back into the 7(b)(2) rate in the event the 7(b)(2) rate was triggered. APAC Comments at 48–49. APAC also argues that "[b]ecause the section 7(g) exclusion occurs before the enumeration of the differences between the program and section 7(b)(2) cases, both cases must exclude that section 7(g) costs." APAC Comments at 49. APAC further argues that inclusion of 7(g) costs in the 7(b)(2) cases would violate the intent and meaning of section 7(b)(2). APAC Comments at 49–50.

(c) *Discussion:* Section 7(b)(2) is clear: "* * * the projected amounts to be charged for firm power for the combined general requirements of public body, cooperative and Federal agency customers, exclusive of amounts charged such customers under subsection (g) for the costs of conservation, resource and conservation credits, experimental resources and uncontrollable events, may not exceed in total, * * * an amount equal to the power costs for general requirements of such customers if the Administrator assumes * * *."

Section 7(b)(2) is explicit in excluding the applicable 7(g) costs from the program case before comparison is made with the 7(b)(2) case.

Since section 7(g) costs are specifically excluded from the program case, but not excluded from the 7(b)(2) case, it would be inappropriate to subtract section 7(g) costs from the 7(b)(2) case for the purpose of comparison with the program case. If Congress intended the power costs in the 7(b)(2) case to be exclusive of conservation costs and other section 7(g) costs, language to that effect would have been included in the provisions.

(d) *Decision:* The projected amounts to be charged 7(b)(2) customers for their firm power general requirements will include the applicable 7(g) costs of conservation, resource and conservation credits, experimental resources and uncontrollable events, regardless of the implementation of section 7(b)(2). Section 7(b)(2), however, is explicit in excluding the applicable 7(g) costs from the program case before comparison is made with the 7(b)(2) case.

2. *Pertinent DSI loads are to be included in 7(b)(2) customer loads for the entire five-year test period.* (a) *Proposed Interpretation:* In the Notice of Proposed Interpretation, BPA proposed to interpret section 7(b)(2)(A) as requiring the Administrator to assume that 7(b)(2) customers' loads include the loads of DSIs within or adjacent to the 7(b)(2) customers' service territories for the entire five-year test period.

(b) *Summary of the Comments*: The DSIs and the ICP support BPA's interpretation.

Northern Lights, APAC and PPC adopted similar positions on the timing of DSI load transfer to 7(b)(2). The PPC indicated that it "* * * was willing to accept this approach [DSI loads transfer to 7(b)(2) customers for the entire test period] if BPA confined itself to the five specific assumptions set out in the statute." PPC Comments at 5; *see* Northern Lights Comments at 3–4; APAC Comments at 53. The PPC continued as follows:

> [h]owever, since BPA has demonstrated its unwillingness to do so by proposing to examine 'unavoidable secondary effects,' the PPC contends that BPA's proposal here is arbitrary and capricious in that it is inconsistent with their [*sic*] own approach. An obviously unavoidable effect of assuming that DSI loads transfer to public and cooperative systems is the assumption that they do so only when necessary, that is, only when their BPA contracts expire. The PPC also disagrees with BPA's assertion that to include the DSI loads only from the expiration dates of their individual contracts would require speculation; the expiration dates and contract demands are listed in Appendix B, as well as BPA's own files, and it hardly seems speculative to look up the dates and amounts in a list.

PPC Comments at 5–6. The PGP echoed this comment and suggests that BPA harmonize the timing of DSI load transfers to 7(b)(2) customers and to IOUs by linking both to contract expirations. PGP Comments at 3–4. Snohomish commented in a manner similar to the PGP and PPC. Snohomish Comments at 11.

(c) *Discussion*: Section 7(b)(2)(A) provides that BPA is to assume that "the public body and cooperative customers' general requirements had included during such five-year period the direct service industrial customer loads which are: (i) Served by the Administrator, and (ii) located within or adjacent to the geographic service boundaries of such public bodies and cooperatives * * *." The plain language of section 7(b)(2)(A) requires the Administrator to assume that 7(b)(2) customers' loads include the DSI loads within or adjacent to the 7(b)(2) customers' service territories for the entire five-year test period.

An alternate interpretation would require the assumption that relevant DSI loads were transferred to 7(b)(2) customers at the expiration dates of DSI power sales contracts in effect on December 5, 1980. However, there is nothing in this statutory assumption that permits BPA to phase DSI loads into 7(b)(2) customers' general requirements over time.

Section 7(b)(2)(A) has no language linking DSI load transfer to contract expiration. Section 7(b)(2)(B), on the other hand, states that:

> Public body, cooperative, and Federal agency customers were served during such five-year period, with Federal base system resources not obligated to other entities under contracts existing as of the effective date of this Act (*during the remaining term of such contracts*) * * *. (Emphasis added)

It is generally understood that expression of one thing excludes another. 24 Sutherland, *Statutes and Statutory Construction* § 47.23 (C.D. Sands ed. 4th ed. 1973); *see also City of Walla Walla* v. *Walla Walla Water Co.*, 172 U.S. 1 (1898). Thus the express language in section 7(b)(2)(B) linking DSI load transfer to the IOUs with contract expiration, and the absence of such language in section 7(b)(2)(A), excludes the consideration of contract expiration from section 7(b)(2)(A).

The legislative history of the Northwest Power Act also supports Bonneville's interpretation of the statute. In the analysis of the section 7(b)(2) directives contained in Appendix B to the Senate Report, S. Rep. No. 272, 96th Cong. 1st Sess., at 65.79 (1979), forecasted DSI loads were transferred from BPA to 7(b)(2) customers for the entire test period regardless of contracts in effect as of the effective date of the Northwest Power Act. In the projections contained in Appendix B, calculations of public agency loads for the 7(b)(2) case included a full 85 percent of projected DSI loads beginning in 1980 (85 percent was the amount determined to be "within or adjacent" to preference agency service areas). Although Appendix B is not conclusive evidence

of legislative intent, S. Rep. 272, *supra*, at 58, it was "an important part of the common understanding about how the costs of resources would be distributed as a result of [the Northwest Power Act]." S. Rep. 272, at 31. Appendix B is a useful tool for statutory construction where it does not conflict with the language of the statute.

Contrary to the suggestions of several interested parties, section 7(b)(2)(A) regarding the timing of DSI load transfer to 7(b)(2) customers should not allow speculation on contract negotiations. Nothing in section 7(b)(2)(A) allows for an assumption of renegotiation of service contracts between 7(b)(2) customers and "within or adjacent" DSIs. Section 7(b)(2) deals with quantifiable concepts which direct the changes in assumptions that must be made between the program case and the 7(b)(2) case.

(d) *Decision*: BPA will interpret section 7(b)(2)(A) as requiring the Administrator to assume that 7(b)(2) customers' loads include the DSI loads "within the adjacent" to the 7(b)(2) customers' service territorities for the entire five-year test period.

3. *All DSI loads assumed to be placed on 7(b)(2) customers will be treated as firm.* (a) *Proposed Interpretation*: In the Notice of Proposed Interpretation, BPA interpreted section 7(b)(2) as requiring the Administrator to treat as firm the DSI loads assumed to be placed on 7(b)(2) customers pursuant to section 7(b)(2)(A).

(b) *Summary of the Comments*: Both the DSIs and the ICP support BPA's interpretation regarding quality of service. The PPC, Northern Lights and APAC adopted a position contrary to that of the DSIs and ICP. The PPC's comments are illustrative of the approach taken by these parties.

Again, the PPC once agreed to accept this assumption as part of a strict statutory interpretation of subsection (A), in accordance with the Appendix B, if BPA confined its assumptions to the five spelled out in subsections (A) through (E). However, since BPA complicates the situation with additional assumptions or 'unavoidable secondary effects,' the PPC believes that only 3 quartiles should be treated as firm. To assume that all four quartiles transfer as firm ignores the obviously unavoidable effect of public agencies and cooperatives negotiating with the industries to secure restriction rights for reserves. PPC comments at 6.

(c) *Discussion*: Section 7(b)(2)(A) provides that BPA is to assume "that the public body and cooperative customers' general requirements had included during such five-year period the direct service industrial customers loads * * *." Section 7(b)(2)(A) does not expressly state the nature or quality of service assumed to be provided by the public bodies and cooperatives to the relevant DSI loads.

The DSI loads now served by BPA includes three quartiles that are firm loads and one quartile (the first quartile) that BPA does not plan or acquire resources to serve. However, the language of the Act is compelling that Congress intended all relevant DSI loads, assumed to be served by public bodies and cooperatives, to be treated as firm.

Section 7(b)(2)(A) requires BPA to assume that the loads of relevant DSIs are included in the 7(b)(2) customers' "general requirements", a term defined by section 7(b)(4) of the Northwest Power Act as limited to electric power purchased from the Administrator under section 5(b) of the Act. Section 5(b) deals exclusively with firm power. In addition, sections 7(b)(2)(B) and 7(b)(2)(D) require that Federal base system and additional resources be assumed to serve the total general requirements of the 7(b)(2) customers.

The legislative history of the Northwest Power Act supports interpreting the statute to require 7(b)(2) customers' firm power general requirements in the 7(b)(2) case to include all DSI loads served by the Administrator, including DSI loads that under the program case BPA does not plan or acquire resources to serve. In Appendix B to the Senate Report, all four quartiles of DSI loads were treated as firm when assigned to public agency customers in the 7(b)(2) case.

Moreover, BPA will not infer the renegotiation of DSI service contracts to allow non-firm service. To do so would result in BPA's engaging in speculation outside the assumptions governing the rate test.

(d) *Decision*: BPA will treat all DSI loads assumed to be transferred to the 7(b)92) customers as firm.

4. *BPA will use Appendix B to determine DSI loads within or adjacent to the geographic service boundaries of public bodies and cooperatives.* (a) *Proposed Interpretation*: In the Notice of Proposed Interpretation, BPA proposed the use of Appendix B to determine DSI loads within or adjacent to the geographic service boundaries of 7(b)(2) customers.

(b) *Summary of the Comments*: The DSIs and the ICP both support BPA's use of the Appendix B list of DSIs to determine which DSIs are "within or adjacent" pursuant to section 7(b)(2)(A)(i). The DSIs belive that "[c]hanges to the list included in Appendix 'B' should be made only for changes in status which occur after enactment of the legislation * * *. The original list included in Appendix 'B' was developed as a political assumption which was used to determine the overall economic basis in support of the legislation." DSIs Comments at 4. The IOUs disagree: "[t]here appears to be no need to attempt to revies the list for the 7(b)(2) case to reflect changes in BPA service to DSI customers in the program case." ICP Comments at 3.

Northern Lights and APAC support a position similar to that of the DSIs. Northern Lights Comments at 4. APAC Comments at 54. The PPC stated that as a result of BPA's "abandonment of the strict statutory interpretation", it was no longer willing to support the use of the Appendix B list, and instead supported an approach which would require a "new examination of which DSIs are 'within or adjacent.' " The PPC did suggest that use of the Appendix B list would be acceptable if BPA updated the list to reflect changes in DSI status. PPC Comments at 6.

(c) *Discussion:* Section 7(b)(2)(A) requires the Administrator to assume that during the relevant five-year period, "the public body and cooperative customers' general requirements had included * * * the direct service industrial customer loads which are * * * located within or adjacent to the geographic service boundaries of such public bodies and cooperatives * * *." 16 U.S.C. 839e(b)(2)(A). It is not apparent from the statute how BPA is to resolve the question of which DSIs are "within or adjacent to" public body and cooperative customers' boundaries. Therefore, BPA must look to legislative history to resolve the ambiguity.

The legislative history of the Northwest Power Act indicates that the determination of which DSIs are "within or adjacent" to public body and cooperative customers' boundaries was made in Appendix B. S. Rep. No. 272, 96th Cong., 1st Sess., Appendix B, at 66. Appendix B includes a table listing the DSIs "within BPA preference customers' service areas," DSIs "adjacent to BPA preference customers' service areas" and those DSIs that "could not readily be served by BPA preference customers". *Id.*

The "within or adjacent" table in the numerical analysis in Appendix B is accompanied by a narrative explanation which states that the loads for establishing resource requirements under section 7(b)(2) will include "DSI total loads within or adjacent to the service territory of the public bodies and cooperatives. [85 percent of existing DSIs as shown in the attached table]." Appendix B at 58. The detailed nature of

the "within or adjacent" table and the narrative explanation in Appendix B convince BPA that Congress intended the Appendix B table to be used in resolving which DSIs are "within or adjacent" to the service territory of public body and cooperative customers. The Appendix B table will be disregarded only if service to those DSI customers changes, such as in the case of termination of BPA service to a DSI industrial plant.

There is nothing in the statute requiring BPA to undertake a new determination of which DSI loads were within or adjacent to 7(b)(2) customer service territories. A determination of a DSI's being "within" a relevant service territory poses little problem; however, adjacency may not be capable of resolution without protracted hearings. Should "adjacent" be defined as within one mile of a relevant service territory, two miles, or fifteen miles? Are air miles determinative, or should terrain be considered? What effect should size of the DSI load have on the question? It may be economic to extend service to a large DSI load, but not to a small one. BPA rate cases should not become forums for competing testimony by construction engineers, surveyors and architects. Congress could not have intended such a result and hence provided the BPA Administrator discretionary authority to implement section 7(b)(2) in a reasonable manner.

Making a new determination of "within or adjacent" DSI loads would also force BPA to decide matters of state utility law in which the agency has no expertise. Since the DSIs are already interconnected with the Pacific Northwest transmission grid, determination of the public or private utility to provide new service to a given DSI would likely be a matter of resolving questions of state law and regulations. Where two or more utilities are in a position to serve a customer, most states have utility laws to govern the outcome. BPA does not propose to interpret the state laws of Oregon, Washington, Idaho and Montana as part of the section 7(b)(2) implementation.

(d) *Decision:* BPA will use Appendix B to determine DSI loads within or adjacent to the geographic boundaries of 7(b)(2) customers. BPA will adjust this list to reflect changes in the status of BPA service to the list of DSI customers as assumed in the relevant rate case.

5. *Determination of "Federal base system resources not obligated to other entities" necessitates reference to the contracts of pertinent DSIs.* (a) *Proposed Interpretation:* In the Notice of Proposed Interpretation, BPA interpreted section 7(b)(2)(B) to require reference to the contracts of pertinent DSIs for the determination of "Federal base system resources not obligated to other entities".

(b) *Summary of the Comments:* The DSIs and Northern Lights support the interpretation adopted by Bonneville. DSI Comments at 5; Northern Lights Comments at 4. The PPC also supports this interpretation, "but believes BPA overstates the difficulty of the factual determinations involved." PPC Comments at 7. Snohomish suggests that this interpretation is "inconsistent with Bonneville's approach to an analagous issue, and is designed to preclude the rate test from operating as Congress intended". Snohomish Comments at 10. The PGP adopted a similar position. PGP Comments at 4.

(c) *Discussion:* Section 7(b)(2)(B) provides that the Administrator is to assume that 7(b)(2) customers were served by FBS resources "not obligated to other entities under contracts existing as of the effective date of this Act (during the remaining term of such contracts) excluding obligations to direct service industrial customer loads included in [Section 7(b)(2)(A)]." Unlike the assumption relating to DSI loads served by public body and cooperative customers, section 7(b)(2)(B) requires BPA to make two factual determinations: (1) What the level of FBS resources is, and (2) what level of FBS resources is obligated for service to other entities, over all, or a portion, of the relevant five-year period. The first determination is necessary because the FBS includes resources purchased by BPA under long-term contracts. Expiration of these contracts will likely cause a change in the size of the FBS during the relevant five-year period.

The second determination concerns BPA power sales contracts existing as of the effective date of the Northwest Power Act. When these contractual obligations on FBS resources are removed through expiration of the relevant contracts, the size of FBS resources available to 7(b)(2) customers would increase. In the 7(b)(2) case, particular attention must be given to DSI loads not "within or adjacent to the geographic service boundaries" of 7(b)(2) customers, which will be assumed to transfer to private utilities as of the expiration dates of the DSI contracts in effect on December 5, 1980.

Legislative history supports the interpretation that DSI loads should shift to 7(b)(2) customers without regard to existing DSI contracts, while the size of FBS resources available for allocation to the 7(b)(2) customers should depend on DSI contract expiration dates. Section 7(b)(2)(B) initially stated that the Administrator was to assume that 7(b)(2) customers were served by FBS resources, "less [the] firm power contractual commitments as of the date of this Act" to DSIs "not located within or adjacent * * *." S. 885, Amendment No. 134, 96th Cong., 1st Sess. (April 15, 1979); H.R. 4150. 96th Cong., 1st Sess. (May 21, 1979). The Senate Committee on Energy and Natural Resources amended S. 885 to incorporate language substantively identical to section 7(b)(2)(B) as enacted. Thus, a directed legislative effort was made to incorporate language shifting DSI loads to the IOUs only after expiration of the DSI contracts. This same effort is absent from the development of section 7(b)(2)(A).

(d) *Decision*: BPA interprets section 7(b)(2) as necessitating reference to the contracts of pertinent DSIs in the determination of "Federal base system resources not obligated to other entities."

6. *Section 7(b)(2)(D) is clear in identifying assumptions regarding additional resources to be acquired by BPA.* (a) *Proposed Interpretation*: In the Notice of Proposed Interpretation, BPA proposed that section 7(b)(2)(D) identified three additional resources assumed to be acquired to meet the 7(b)(2) customers' general requirements when FBS resources are exhausted. The first type was identified as those resources actually required by BPA from the 7(b)(2) customers in the program case. The second type are those resources owned or purchased by the 7(b)(2) customers, and not dedicated to their own loads. These two resources were proposed to be stacked in order of the cost and then pulled from the stack to meet (7)(b)(2) cutomers' loads, least expensive first. The third resource type was proposed to consist of generic resources of whatever size required to meet the remaining load, and to be priced at the average cost of all new resources acquired by BPA from non-7(b)(2) customers during the five year 7(b)(2) test period.

(b) *Summary of the Comments*: Most of the commenters, including the DSIs, Northern Lights, APAC, the PPC and Snohomish, support Bonneville's interpretation of section 7(b)(2)(B). DSI Comments at 5; Northern Lights at 4; APAC Comments at 54–55; PPC Comments at 7; Snohomish Comments at 11. The ICP disagrees: "[t]he third resources type described by BPA is unrealistic. This is not reason to assume that 'generic' resources will be available in the exact size needed to serve remaining loads." ICP Comments at 3.

(c) *Discussion*: Section 7(b)(2)(D) describes the manner in which additional resources are assumed to be acquired to meet the 7(b)(2) customers' loads when FBS resources are exhausted. The statue is clear in identifying assumptions regarding additional resources.

Three types of additional resources are available in the 7(b)(2) case. The first type of resource is described in section 7(b)(2)(D)(i) as being resources that were "purchased from such customers by the Administrator pursuant to section 6." These are the resources actually acquiried by BPA from the 7(b)(2) customers in the program case. Section 7(b)(2)(D)(ii) describes the second type of resources as those "not committed to load pursuant to section 5(b)." These are resources owned or purchased by the 7(b)(2) customers that are not dedicated to their own loads. Together, these two provisions result in a list of resources which were developed by 7(b)(2) customers and which are assumed to be available to meet original 7(b)(2) customer needs.

The remainder of section 7(b)(2)(D) outlines how this list of resources is to be used to serve the 7(b)(2) customers' loads and describes the third type of resources available to meet these loads. BPA is first to assume for the 7(b)(2) case that any required additional resources "were the least expensive resources owned or purchased by public bodies or cooperatives." This means that 7(b)(2)(D)(i) and (ii) resources would be stacked in order of cost and pulled from that stack to meet 7(b)(2) customers' loads in order of least to greatest cost. Should these resources be insufficient to satisfy the general requirements of 7(b)(2) customers, section 7(b)(2)(D) provides the assumption that "* * * any additional needed resources were obtained at the average cost of all other new resources acquired by the Administrator." The third resource type would consist of generic resources of the size required to serve the 7(b)(2) customers' remaining loads, the cost of which would be determined by the average cost of all new resources acquired by BPA from non-7(b)(2) customers during the relevant five-year period.

(d) *Decision:* Section 7(b)(2)(D) is clear in identifying assumptions regarding the size and type of additional resources to be acquired by BPA.

C. *Additional Issues:* Several parties raised additional issues which are not addressed in this legal interpretation but are being addressed in the methodology itself, in the initial proposal or in the 1985 rate case. BPA briefly summarizes those issues below.

1. *Section 7(b)(2)(E) issues:* APAC noted that the Notice of Proposed Interpretation ignored "issues raised by section 7(b)(2)(E)." APAC Comments at 40. Issues concerning financing benefits and other benefits identified in section 7(b)(2)(E) are discussed in the initial proposal and the methodology. *See* 49 FR 11,235 (1984).

2. *GCP 8(e):* Fourteen of the parties suggested that the notice of statutory interpretation violated General Contract Provision 8(e) (GCP 8(e)) of the power sales contracts. *See, e.g.*, PPC Comments at 1; Snohomish at 1–2. The requirements of GCP 8(e) are the subject of litigation. They are not addressed in this methodology, nor need they be. This legal interpretation is concerned only with the statutory requirements of the Northwest Power Act.

3. *Reallocation of 7(b)(2) amount:* Tacoma stated that BPA should address "BPA's plan for possible implementation of cost reallocation under section 7(b)(3) * * *." Tacoma Comments at 1. BPA will address the reallocation of any amounts by which the program case exceeds the 7(b)(2) case in the relevant rate case. It is unnecessary in the development of the rate test to determine the reallocation to follow the rate test.

4. *Adequacy of BPA's Notice of Proposed Legal Interpretation:* Several of the parties felt that BPA's statutory interpretation did not provide adequate notice of the issues involved in the section 7(b)(2) interpretation. *See, e.g.*, APAC Comments at 38. BPA's notice did adequately inform the public of those issues BPA felt were required to be addressed in a "legal interpretation". All commenters addressed precisely the issues BPA proposed. All commenters replied in such a manner as to make apparent the fact that BPA's proposed positions were clearly understood. Naturally, there was disagreement on the issues, but there has been full discussion and argument on various positions.

BPA maintains that the issues resolved by this legal interpretation provide the legal determinations necessary in order to develop the 7(b)(2) implementation methodology. BPA does not deny that other issues of fact and policy remain for resolution. These issues, however, are appropriately developed through other forums which will eventually result in testimony presented in a section 7(i) proceeding under the Northwest Power Act.

Issued in Portland, Oregon, on May 30, 1984.

Robert E. Ratcliffe,

Acting Administrator, Bonneville Power Administration.

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