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Federal Register

Thursday
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Federal Deposit Insurance Corporation
Immigration and Naturalization Service

Air Carriers
Civil Aeronautics Board

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Indian Affairs Bureau

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Postal Service

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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 Part 1004

[Docket No. AO-160-A62-RO1]

Milk in the Middle Atlantic Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action adopts several amendments to the Middle Atlantic milk order that will make it easier to qualify milk for pool status. The amended order increases the percentage of a cooperative association's member milk supply that may be diverted from pool plants to nonpool plants, and allows a federation of cooperatives to act as a handler in diverting the member milk of its individual cooperative associations to nonpool plants. It also provides that a distributing plant that was fully regulated under the order in one month would remain fully regulated during the immediately succeeding two months regardless of whether or not its total Class I disposition during those months meets the order's minimum pooling requirement.

The order changes were considered at a public hearing held May 23, 1984, at Philadelphia, Pennsylvania, and are needed to reflect current marketing conditions and to promote marketing efficiencies. Cooperative associations representing more than two-thirds of the dairy farmers supplying the market have approved issuance of the order, as amended.

EFFECTIVE DATE: September 1, 1984.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued May 2, 1984; published May 8, 1984 (49 FR 19502).

Recommended Decision: Issued July 12, 1984; published July 18, 1984 (49 FR 29100).

Final Decision: Issued August 6, 1984; published August 13, 1984 (49 FR 32209).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the Middle Atlantic order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Middle Atlantic marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area; and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than September 1, 1984. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The recommended decision of the Deputy Administrator, Marketing Program Operations, was issued July 12, 1984 (49 FR 29100), and the decision of the Assistant Secretary containing all amendment provisions of this order was issued August 6, 1984 (49 FR 32209). The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective September 1, 1984, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the **Federal Register**. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Part 1004

Milk marketing order, Milk, Dairy products.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Middle Atlantic

marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

1. In § 1004.7, add new paragraphs (a)(3) and (4) to read as follows:

§ 1004.7 Pool plant.

* * * * *

(a) * * *

(3) A plant which meets the "pool plant" requirements of this paragraph during any month shall retain its pool status during the immediately succeeding two months as long as the plant continues to meet the 15-percent in-area Class I disposition requirement, unless written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting that the plant be designated a nonpool plant for such month and each subsequent month during which it does not otherwise qualify pursuant to this paragraph.

(4) A plant's status as an other order plant pursuant to paragraph (f) of this section shall not be affected by the provisions of paragraph (a)(3) of this section.

* * * * *

2. In § 1004.9, paragraph (b) is revised to read as follows:

§ 1004.9 Handler.

* * * * *

(b) Any cooperative association or federation of cooperative associations with respect to the milk of any producer which it causes to be diverted in accordance with the provisions of § 1004.12 for the account of such cooperative association or federation.

* * * * *

3. In § 1004.12, paragraph (d)(2)(i) is revised to read as follows:

§ 1004.12 Producer.

* * * * *

(d) * * *

(2) * * *

(i) All of the diversions of milk of members of a cooperative association or a federation of cooperative associations to nonpool plants are for the account of such cooperative association or federation, and the amount of member milk so diverted does not exceed 50 percent of the volume of milk of all members of such cooperative association or federation delivered to or diverted from pool plants during the month.

* * * * *

4. In § 1004.30, the introductory text of paragraph (d) (immediately preceding subparagraph (1)) is revised to read as follows:

§ 1004.30 Reports of receipts and utilization.

* * * * *

(d) On or before the eighth day after the end of each month, each cooperative association and/or a federation of cooperative associations shall report with respect to milk for which it is a handler pursuant to § 1004.9 (b) or (c) as follows:

* * * * *

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

Effective date: September 1, 1984.

Signed at Washington, D.C., August 17, 1984.

C.W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 84-22410 Filed 8-22-84; 8:45 am]

BILLING CODE 3410-01-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

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends existing provisions relating to relative and orphan petitions to formalize a new procedure expanding the use of advance processing of orphan petitions; includes references to two overseas offices of the Immigration and Naturalization Service; and makes technical changes.

EFFECTIVE DATE: August 23, 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: Alice N. Strickler, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3946.

SUPPLEMENTARY INFORMATION: 8 CFR 204.1(b)(1)(iii)(C) is revised to permit an American consular officer to approve a clearly approvable orphan petition when the district director at a stateside Service office has made a favorable determination concerning advance processing of an orphan petition in the case of a known child in a country with no Service office and the petitioner wants to file an orphan petition at the closest American consulate or embassy. This final rule formalizes a procedure adopted December 2, 1983 expanding the use of advance processing. It gives adoptive and prospective adoptive parents more flexibility in processing their orphan petitions and improves service to the public. Advance processing is a procedure for completing in advance that part of an orphan petition relating to the prospective adoptive parent or parents so that there will be no unnecessary delays once a petition is filed in behalf of a child.

Advance processing of an orphan petition is permitted in any case where a child has not been located and identified. This was inadvertently deleted from a final rule published on February 1, 1983 at 48 FR 4451. That wording is added to 8 CFR 204.1(b)(3)(i), as is wording to permit advance processing in the case of a known child in a country with no Service office when the petitioner wants to file an orphan petition at an American consulate or embassy.

In addition, 8 CFR 204.1(a) is revised to include references to the offices of the Immigration and Naturalization Service located in Singapore and Montevideo, Uruguay, and petitions for Pub. L. 97–359 Amerasians. Editorial and format changes are also made in 8 CFR 204.1(a). 8 CFR 204.1(b)(1)(iii) (B) and (D) are revised to include references to the Service office in Uruguay.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the rule relates to existing Service procedures.

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

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

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

In § 204.1, paragraphs (a), (b)(1)(iii)(B), (C), and (D), and (b)(3)(i) are revised to read as follows:

§ 204.1 Petition.

(a) *Relative*—(1) *Filing petition.* A petition to accord preference classification under section 203(a) (1), (2), (4), or (5) of the Act or classification as an immediate relative under section 201(b) of the Act, other than for a child as defined in section 101(b)(1)(F) of the Act or a Pub. L. 97–359 Amerasian, must be filed on a separate Form I–130 for each beneficiary and must be accompanied by the fee required under § 103.7(b) of this chapter.

(2) *Jurisdiction*—(i) *Petitioner residing in the United States.* The petition must be filed in the office of the Service having jurisdiction over the place where the petitioner is residing in the United States, except that when accompanied by an application for adjustment of status, a petition may be filed and a decision made in the Service office having jurisdiction over the place where the beneficiary is residing.

(ii) *Petitioner residing abroad.* Except as provided in paragraph (a)(2)(iii) of this section, when the petitioner resides outside of the United States, the petition must be filed with the overseas office of the Service designated to act on the petition. This may be ascertained by consulting an American consul.

(iii) *Jurisdiction assumed by American consular officers.* American consular officers assigned to visa-issuing posts abroad, except those in Austria, Germany, Greece, Hong Kong, Italy, Korea, Mexico, the Philippines, Singapore, Uruguay, and Thailand are authorized to approve any petition on Form I–130 when the petitioner and beneficiary are physically present in the area over which the consular officers have jurisdiction. While these consular officers are authorized to approve petitions, they must refer any petition which is not clearly approvable to the appropriate Service office outside the United States for a decision.

(3) *Decision.* The petitioner will be notified of the decision, and, if the petition is denied, of the reasons for the denial, and of the petitioner's right to appeal to the Board within 15 days after mailing the notification of the decision in accordance with the provisions of Part 3 of this chapter.

(4) *Derivative beneficiaries.* Under section 203(a)(8) of the Act, a child or spouse accompanying or following to join an alien may be accorded the same preference as the alien without the approval of a separate petition if the immediate issuance of a visa is not otherwise available under section 203(a)(1) through (7) of the Act. However, no alien may be classified as an immediate relative as defined in section 201(b) of the Act unless he or she is the direct beneficiary of that classification. Therefore, a child or spouse of an alien who is classified as an immediate relative is not eligible for benefits under section 203(a)(8) and must file a separate petition.

(b) *Orphan.*

(1) * * *

(iii) * * *

(B) *Jurisdiction assumed by American consulate or embassy.* In an advance processing case where the petitioner does not wish to have the jurisdiction retained by the stateside Service office as provided in paragraph 204.1(b)(1)(iii)(A) of this section, the orphan petition may be filed at the American consulate or embassy having jurisdiction over the place where the child is residing unless the child is residing in Austria, Germany, Greece, Italy, Korea, the Philippines, Hong Kong, Mexico, Singapore, Uruguay, or Thailand.

(C) *Authority of consular officers.* An American consular officer is authorized to approve an orphan petition when the district director at a stateside Service office has made a favorable determination concerning an advance processing application and the unmarried petitioner or either the married petitioner or spouse or both have traveled abroad to locate or adopt a child or facilitate the adoption in the United States of a known child who resides in a country with no Service office. Consular officers, however, shall refer any petition which is not clearly approvable for a decision by the Service office having jurisdiction over the place where the child is residing. The consular officer's adjudication includes all aspects of eligibility for classification as an orphan under section 101(b)(1)(F) of the Act other than the ability of the prospective adoptive parent or parents to furnish proper care to the beneficiary orphan.

(D) *Jurisdiction assumed by overseas Service office.* If the child is residing in Austria, Germany, Greece, Italy, Korea, the Philippines, Hong Kong, Mexico, Singapore, Uruguay, or Thailand, the orphan petition may be filed at the overseas Service office having jurisdiction over the child's place of residence.

* * * * *

(3) *Advance processing application*—(i) *Circumstances when advance processing application may be filed.* A prospective petitioner may file an Application for Advance Processing of Orphan Petition, Form I–600A, when—

(A) A child has not been located and identified;

(B) The prospective petitioner, and/or spouse if married, is traveling abroad to locate a child for adoption in the United States or to adopt while abroad; or

(C) The prospective petitioner, and/or spouse if married, is traveling abroad to a country with no Service office to adopt a known child while abroad or facilitate the adoption of a known child in the United States and wants to file a petition, Form I–600, at the American consulate or embassy having jurisdiction over the child's place of residence.

* * * * *

(Secs. 101(b)(1), 203, and 204 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1101(b)(1), 1153, and 1154))

Dated: August 6, 1984.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 84–22411 Filed 8–22–84; 8:45 am]

BILLING CODE 4410–10–M

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8 CFR Part 235

Inspection of Persons Applying for Admission

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: A final rule published in the **Federal Register** of October 25, 1982 (47 FR 47230) amended 8 CFR 212.1(c–1) to provide visa waivers for bearers of Mexican diplomatic or official passports. However, the regulation requiring that beneficiaries of this waiver would still be required to be issued the Arrival/Departure Record (Form I–94) was not changed. This amendment appropriately adds bearers of Mexican diplomatic or official passports to the list of those exempt from issuance of a Form I–94.

EFFECTIVE DATE: August 23, 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: Ellis B. Linder, Immigration Inspector, Immigration and Naturalization Service.

425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–2745.

SUPPLEMENTARY INFORMATION: Current Service regulations at 8 CFR 235.1(f) exempt certain classes of aliens from the requirement that the Arrival/Departure Record (Form I–94) be presented upon entering the United States. The regulations at 8 CFR 212.1(c–1) do not require bearers of Mexican diplomatic or official passports who are military or civilian officials of the Federal Government of Mexico entering the United States for six months or less for a purpose other than assignment as a permanent employee to an office of the Mexican Federal Government in the United States to present visas. This amendment appropriately adds this group to the list of those persons who are not required to be issued a Form I–94.

Compliance with 5 U.S.C. 533 as to notice of proposed rulemaking and delayed effective date is unnecessary as this rule relates to agency practice and procedure. This is not a major rule within the meaning of section 1(b) of E.O. 12291.

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

List of Subjects in 8 CFR Part 235

Administrative practice and procedure, Aliens, Foreign officials, Forms, Passports and visas.

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

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

In § 235.1, a new paragraph (f)(1)(vi) is added to read as follows:

§ 235.1 Scope of examination.

* * * * *

(f) * * *

(1) * * *

(vi) Bearers of Mexican diplomatic or official passports described in § 212.1(c–1) of this chapter.

* * * * *

(Secs. 103 and 235 of the Immigration and Nationality Act, as amended; (8 U.S.C. 1103 and 1225))

Dated: August 9, 1984.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 84–22409 Filed 8–22–84; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 84–007]

Llamas and Alpacas from Chile

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule; correction.

SUMMARY: A document captioned "Llamas and Alpacas from Chile" was published in the **Federal Register** on August 17, 1984 (49 FR 32840–32842). The eighth sentence in the sixth paragraph of the **SUPPLEMENTARY INFORMATION** portion of the document stated: "In addition, the Department questions whether FMD virus can be transmitted by air." The words "long distances" were inadvertently omitted from this sentence. The sentence is corrected to read "In addition, the Department questions whether FMD virus can be transmitted long distances by air."

FOR FURTHER INFORMATION CONTACT: Dr. Mark P. Dulin, VS, APHIS, USDA, Room 844–AAA, Federal Building, Hyattsville, MD 20782, 301–436–8170.

Dated: August 21, 1984.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 84–22566 Filed 8–21–84; 3:50 pm]

BILLING CODE 3410–34–M

Food Safety and Inspection Service

9 CFR Parts 318 and 319

[Docket No. 79–714C]

Control of Added Substances and Labeling Requirements for Cured Pork Products; Policy Statement and Correction

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Policy statement and final rule; correction.

SUMMARY: This document announces the Department's policy about the voluntary use of the final regulations concerning the standards and labeling requirements for cured pork products which were published April 13, 1984; and it adds a footnote to the final regulations. The footnote was inadvertently omitted from the final rule.

FOR FURTHER INFORMATION CONTACT: Mr. Bill F. Dennis, Director, Processed Products Inspection Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–3840.

SUPPLEMENTARY INFORMATION: On April 13, 1984, the Department published a final rule in the **Federal Register** (49 FR 14856) establishing standards and labeling requirements for cured pork products, based on the protein fat free (PFF) content of the product, and setting forth the procedures to be used by the Agency in evaluating compliance with these requirements. Since the final rule was published questions have arisen about voluntary use of the rule before the April 15, 1985, effective date. After considering the issues and interests, including a decision not to grant extensions for temporary use of non-complying labeling beyond the effective date, and in the interest in uniform policies, the Administrator has decided the following.

Labeling changes for cured pork products that are currently being prepared in accordance with the existing regulation (9 CFR 319.104 and 319.105) may, at the processor's option, be changed to comply with the PFF regulation before April 15, 1985, but not before January 1, 1985, provided such products comply with all other provisons of the PFF regulation published April 13, 1984. Cured pork products for which there are no current standards in 9 CFR 319.104 and 319.105 and, therefore, are not currently being prepared, e.g., a water added ham canned in metal containers, cannot be prepared under the PFF regulation until April 15, 1985.

Furthermore, in the preamble of the final rule, on page 14877 of the **Federal Register**, the Department explained that the rule had been modified to allow processors to propose alternate sampling plans to determine the average PFF of retained lots. The Department, however, inadvertently omitted the footnote at the end of § 318.19(c) that clearly provides the basis for that option. Accordingly, the Department is correcting § 318.19(c), appearing in the **Federal Register** of April 13, 1984 on page 14878, by adding at the end thereof immediately before § 318.19(c)(1) the symbol for footnote 3, and footnote 3 to read as follows:

§ 318.19 Compliance procedure for cured pork products.

* * * * *

(c)* * *[3]

* * * * *

[3] If the processor does not wish to have the product evaluated in this manner, alternate

Continued

Done at Washington, DC, on: August 20, 1984.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 84-22425 Filed 8-22-84; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 20

[Docket No. 84-27]

International Operations

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (Office) is revising its regulation (12 CFR 20.5) to reflect the recent revisions in the monthly foreign currency reporting of banks in the U.S. This final rule eliminates the requirement for national banks to submit copies of the former monthly foreign currency forms (FC–1a and FC–2a) to the Office and reflects the new requirement for national banks to file the Monthly Consolidated Foreign Currency Report of Banks in the U.S. (FFIEC 035) directly with the Office.

EFFECTIVE DATE: August 23, 1984.

FOR FURTHER INFORMATION CONTACT: Joseph M. Fitzgerald, National Bank Examiner, International Banking Activity (202) 447–1747, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION:

Background

Since 1974, all banks and banking institutions (including bank holding companies), in the United States, and the U.S. agencies and branches of foreign banks and banking institutions have been required to report foreign currency balance sheet items and commitments in specified currencies to the U.S. Department of the Treasury. These reports have been filed on a weekly basis (FC–1 and FC–2 reports) with an expanded version filed on a monthly basis (FC–1a and FC–2a reports).

In September 1983, the three Federal bank regulatory agencies (Federal Deposit Insurance Corporation, Federal Reserve Board, and the Office) obtained approval under the Paperwork Reduction Act from the Office of Management and Budget for the collection of the monthly foreign currency data. The authority to collect this data previously resided with the Department of the Treasury. Upon authorization, the Federal bank regulatory agencies revised the monthly reporting process and format to provide more meaningful data for supervisory purposes and lessen the burden on reporting banks. The revised monthly foreign currency report became effective January 31, 1984.

Purpose of This Final Rule

This final rule makes a technical change to § 20.5 to reflect the revisions in monthly foreign currency reporting. Further, this final rule eliminates an unnecessary and possibly confusing requirement that copies of the former FC–1a and FC–2a reports be submitted to the Office.

Adoption Without Notice and Comment

The Office has found that notice and public procedure concerning this rulemaking is unnecessary. This rule merely makes a technical change intended to eliminate confusion. There is no substantive effect.

Reason for Immediate Effective Date

Because this rule merely removes obsolete provisions from Part 20 and imposes no obligation or duty on any person, and is a purely technical and procedural rule, the Department of Treasury finds that good cause exists for dispensing with the delayed effective date pursuant to the Administrative Procedure Act 5 U.S.C. 553(d).

Regulatory Flexibility Act

Because the Office has found that notice and public procedure concerning this rulemaking is unnecessary, the provisions of the Regulatory Flexibility Act are not applicable. The Act does not apply when an agency is not required to issue a notice of proposed rulemaking under 5 U.S.C. 553 or any other statute. The final rule is beneficial rather than adverse and only the largest banking institutions will be affected.

Executive Order 12291

The Office has determined that this final rule is a rule related to agency procedure, management, and organization and therefore is not subject to the Regulatory Impact Analysis and Review requirements of Executive Order 12291.

List of Subjects in 12 CFR Part 20

Foreign banking, National banks, Reporting and recordkeeping requirements.

Authority and Issuance

Accordingly, 12 CFR Part 20 is amended as follows:

PART 20—INTERNATIONAL OPERATIONS

1. The authority citation for Part 20 reads as follows:

Authority: 12 U.S.C. 1 *et seq.*

2. Section 20.5 is revised to read as follows:

§ 20.5 Reporting of foreign exchange activities.

(a) *Reporting requirement.* Each national bank and Federal branch or agency of a foreign bank, which for its own account has assets, liabilities, or positions in any of the specified foreign currencies in excess of the exemption level, must file the Monthly Consolidated Foreign Currency Report of Banks in the United States (FFIEC 035) with the Comptroller of the Currency.

(b) *Specified foreign currencies.* The six currencies specified on the report form are: Canadian dollar, French franc, German mark, Japanese yen, Swiss franc, and United Kingdom pounds.

(c) *Exemption level.* A report as of any month-end need not be filed, if in each of the specified foreign currencies, the dollar equivalent value of the total foreign currency assets, liabilities, and foreign exchange contracts bought and sold is less than $100 million.

(d) *Filing date.* The report shall be filed not later than the twentieth day following the last business day of the month.

(e) *Report forms.* The report form can be obtained from the Comptroller of the Currency.

Dated: August 8, 1984.

C.T. Conover,

Comptroller of the Currency.

[FR Doc. 84-22407 Filed 8-22-84; 8:45 am]

BILLING CODE 4810-33-M

sampling plans may be used provided such plans have been formulated by the processor and approved by the Administrator prior to evaluation by the three-sample criteria, and provided the analyses specified in such plans are performed at the expense of the processor.

CIVIL AERONAUTICS BOARD

14 CFR Parts 207, 208, 212, 214, and 380

[ER-1387, SPR-194]

Interpretation of Regulation Concerning Payment to Direct Air Carrier(s)

AGENCY: Civil Aeronautics Board.

ACTION: Interpretation of charter regulations.

SUMMARY: This interpretation concerns the Board's rules regarding payment to direct air carriers for charter transportation, and the carriers' corresponding obligation to provide return transportation where it has been paid for. Those rules state that the direct air carrier must be paid in full for the charter transportation (for both legs, if a round-trip charter) prior to commencement of transportation. The rules are intended to insure that individual passengers receive the transportation paid for, and therefore require the direct air carrier to provide such return transportation to round-trip charter passengers.

DATES: *Adopted:* August 17, 1984. *Effective:* August 17, 1984.

FOR FURTHER INFORMATION CONTACT: Dayton Lehman, Office of Congressional, Community and Consumer Affairs, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202–673–5191.

SUPPLEMENTARY INFORMATION: Over the years, the Board has adopted a series of rules designed to protect passengers purchasing tickets on charter flights. 14 CFR Parts 207, 208, 212, 214, 380. Those rules require full payment for the charter to be made by the charter operator to the direct air carrier prior to commencement of travel. Thus, § 380.11 states:

> Except for air taxis, which are governed by § 298.38 of this chapter, the direct air carrier(s) shall be paid in full for the cost of the charter transportation (for both legs, if a round-trip charter) prior to the scheduled date of flight departure, as provided for in the basic charter regulations applicable to the direct air carrier(s) under Parts 207, 208, 212, and 214 of this chapter, as the case may be.

Similar rules require the direct air carrier performing the charter to insure that it receives full payment prior to outbound departure. For example, § 207.13(b) states:

> The carrier shall require full payment of the total charter price, including payment for the return portion of a round trip, or the posting of a satisfactory bond for full payment, prior to the commencement of any portion of the air transportation. . . .[1]

Other provisions of the Board rules (*e.g.*, 14 CFR 207.17) require this money paid to direct air carriers to be held in escrow accounts until the transportation is performed, or else to be protected by an unlimited bond, in order to ensure that passengers' return trips will be secured.

Thus, these rules require the direct air carrier to be paid for both legs of a round-trip charter, for each passenger it carries, prior to the outbound departure. And the direct air carrier is then responsible for the return flight of every charter passenger for whom it has been paid, even if the charter operator selling the transportation has become insolvent. Indeed, insolvency of the charter operator is the main contingency against which these rules provide protection.

This responsibility of the direct air carrier to return the passengers it has carried abroad has occasionally been questioned. It has now been raised directly, once again, by a direct air carrier that claims it has no responsibility for returning passengers it has carried abroad, where the charter operator has for some reason discontinued its charter program.

Charter operators' contracts with direct carriers evidently do not always coincide with their contracts with participants. Direct air carriers may contract by aircraft "rotation," *i.e.*, one out-and-back round trip on successive days. Charter passengers, of course, arrange for round trips spanning longer periods of time. If the charter operator defaults on its payments to a direct air carrier, the direct carrier may attempt to cease all operations on that program at a time when passengers are still in the midst of their charter trips at distant points. This is, as noted, directly contrary to the intent of the rules cited above.

The question was raised in a rulemaking proceeding, EDR–456, April 12, 1983, 48 FR 15639, in which the Board proposed a major rewrite of the charter rules, while retaining in substance these rules about prepayment. In that notice, the Board reiterated that a direct air carrier now has the responsibility to provide return transportation to charter passengers who are already on their charter trips. There would be little point to the elaborate scheme of financial protection in the present charter rules, were it otherwise. The most common danger, the Board stated, that the depository account in particular is designed to protect against is the use of one participant's funds to pay for the transportation of another—especially of one flying earlier. Such a "forward float" of participants' money poses a great danger that passengers at the end of a program, or of a high travel season, will find themselves with no transportation and no available refunds if sales do not meet the charterer's expectations and the charterer defaults. The Board pointed out that it did not prohibit direct carriers and other charter operators from contracting for "rotations" as opposed to passenger round trips. However, when passenger strandings are at issue, there is no question that passengers must receive the transportation for which they have paid. Several comments were received on that point in response to EDR–456, and have been carefully considered in connection with the issue as it is currently raised. The comments were of course directed primarily toward what the rule *should* be, and their position on the current rule must to some extent be inferred.

The American Society of Travel Agents, the Aviation Consumer Action Project, the travel firm of Hamilton, Miller, Hudson & Fayne, and the National Indirect Air Carrier Association generally supported requiring the direct air carrier to return all passengers who contracted for a round trip, in terms that implied that they agreed with the Board that the obligation exists at present.

Opposing views were received from (direct air carriers) Arrow, Global, Pan American, Tower, Transamerica, and United, and (indirect carriers or agents) Carefree Vacations, Charter Travel, Spantax, Travel Charter, and Travel Impressions.

The main arguments raised against the Board's position were that the direct air carriers contract for aircraft rotations, not for passenger round trips, that they have no efficient way of knowing each passenger's itinerary, and that for them to be responsible for returning all passengers abroad would impose difficult bookkeeping burdens. Pan Am argued also that if the current escrow rules are followed, the passengers' money will be safe even if the charter operator defaults.

The last-mentioned argument by Pan Am seems in conflict with the other arguments. If direct air carriers contract by aircraft rotation, and are so paid, they are likely to take the position that they have no further obligations to provide lift once their rotations are completed, even if there are passengers

[1] Part 207 applies to scheduled U.S. air carriers. Similar provisions apply to U.S. supplemental air carriers (§ 208.32(e)), and foreign air carriers (§§ 212.25 and 214.2).

still abroad, in a case where the charter operator defaults. In any case, mere protection of passengers' money is not the only question. Passengers may be unable to purchase return transportation on short notice with the amount of their charter price allocated to the return trip. The point of the rules is that once the money for a round trip has passed to the direct air carrier, that carrier is deemed to have accepted the burden of transporting passengers both ways (not simply returning part of the money), regardless of the state of the relationship between the direct air carrier and the charter operator.

The Board likewise cannot accept the excessive-bookkeeping argument. A passenger who contracts for a round trip charter program has a right to expect that both the charter operator and the performing direct air carrier have made the necessary arrangements to bring him or her home. The direct air carrier may not need to know the "itinerary of each passenger," but it should at least know enough about the number of passengers who have contracted for each return flight date to be able to provide transportation for them on those dates.

If the carriers choose to contract by flight rotations that have no direct relation to passengers' itineraries, they may do so, as the Board has stated—but at their own risk. They may not throw the risk of stranding onto the passenger whose money has already been paid to the direct air carrier, merely because that passenger's return trip does not fit the rotations, or because the charter operator has in some way discontinued its program.

The direct carrier can fulfill its obligation either by providing the flights itself or arranging for transportation on other carriers at no additional cost to the passengers. The transportation we expect the direct carrier to provide is from a passenger's original point of origin on the return flight to the original destination for that leg of the trip.

This interpretation is merely an explanation of a continuing Board position. To the extent that any person feels that the issue was not settled in the past, this interpretation should put the matter to rest permanently. It makes no change in either the letter or the intent of any Board rules. As such, it does not require notice and opportunity for comment, and is effective immediately.

(Secs. 204, 401, 402, 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 759, 92 Stat. 1731; 49 U.S.C. 1324, 1371, 1372, 1386)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-22446 Filed 8-22-84; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 211

[Reg. ER-1386; Economic Regulations Amdt. No. 16 to Part 211; Dockets 41666, 39638]

Applications for Permits to Foreign Air Carriers

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB revises its requirements and procedures for foreign air carrier permit applications. Information required in the application is reduced. These changes will reduce burdens on applicants and simplify processing by the Board.

DATES: *Adopted:* August 2, 1984. *Effective:* August 22, 1984. In accordance with the Paperwork Reduction Act (44 U.S.C. 3507), the reporting provisions that are included in this final rule have been or will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until an OMB control number has been obtained.

FOR FURTHER INFORMATION CONTACT: Nancy Pitzer Trowbridge, Regulatory Affairs Division, Bureau of International Aviation, 202-673-5134, or John Craig Weller, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: The Board's rules concerning the information required in applications for foreign air carrier permits and the procedures for submitting such applications are contained in 14 CFR Part 211 and Part 302, Subpart Q. Part 211 specifies what information is required in an application and how that application should be sent to the Board. Subpart Q of Part 302 lists those persons who must be served when a certificate or permit application is filed.

In EDR-467/PDR-85, 48 FR 41430, September 15, 1983, the Board proposed changes in both Part 211 and Subpart Q to reduce the information required to be included in permit applications and the number of persons required to be served with notice of an application. The changes in Part 211 would eliminate information not needed by the Board or duplicated in filings under other Board rules. In addition, detailed statements concerning some aspects of an applicant's operation would be simplified or eliminated. Statements accepting certain standard permit conditions would be eliminated since they are a part of all permits and are filed elsewhere. Finally, carriers would be permitted generally to incorporate by reference material filed with the Board in other dockets, but only that filed within the past two years. The Board proposed these changes to ease the burdens on persons filing applications and to promote better quality applications. These will lessen the processing burden on the Board's staff and speed approval of applications.

Subpart Q of Part 302 of the Board's Procedural Rules provides for the processing of applications for air carrier certificates and foreign air carrier permits. Subpart Q lists those persons who must be served with applications or notices of applications. That list is now quite lengthy, including all U.S. carriers serving a point covered by an application and State and local authorities for that point.

The proposed changes would reduce the service requirements. First, all applicants would be required to serve only a notice of the application instead of the application itself. This procedure is now used in foreign air carrier permit proceedings. As proposed, U.S. applicants for scheduled service authority would serve notices on airport authorities at the cities involved and on those U.S. carriers which publish schedules for the city-pair markets in the Official Airline Guide (OAG) (or in the Air Cargo Guide.) U.S. applicants for charter-only authority would merely file an application with the Board's Docket Section.

Foreign applicants for scheduled authority would serve notices on the Departments of State and Transportation, and on U.S. carriers which publish schedules for the country-pair market in the OAG. Foreign applicants for charter-only authority would serve just the Departments of State and Transportation.

The several commenters generally approved the Board's proposal to reduce the application and service requirements. The Board has decided to adopt the proposals with several suggested changes.

Proposed Part 211 contains two parallel sections that set forth the information required in foreign air carrier permit applications. Section 211.20 lists the information required in applications for new permits or for the transfer of a permit. Section 211.21

contains a much shorter list of information required for renewal of a permit or for amendment of a permit. Basically, the shorter list in § 211.21 reflects the fact that an applicant for permit renewal or amendment has been previously found fit by the Board, that basic information about a carrier (i.e., operating history, list of aircraft owned or leased) need not be submitted again, and that other general information about an airline (i.e., ownership and control, maintenance program) which is unchanged since a previous filing need not be filed again, provided the applicant attests to its continuing validity. The proposed Part 211 does not change the Board's authority to require additional information deemed necessary.

Wardair Canada questioned whether the simplified procedures of § 211.21 could be used by a foreign carrier holding one type of authority (e.g., charter-only) when it applied for authority for a different type of service (e.g., scheduled). Wardair pointed out that, as an administrative matter, the Board usually issues separate permits to reflect different types of authority. Nevertheless, Wardair believes that such applications are really in the nature of an amendment to an existing permit rather than an application for new permit authority. The Board agrees that, despite its practice of issuing separate permits to Canadian carriers, the simplified procedures of § 211.21 should apply to such applications.

British Airways' comments sought clarification or changes on a number of points. BA noted that Part 211 specifically authorizes the Board's staff to require applicants to supplement an application when necessary; it suggested that the rules also make explicit the staff's authority to waive submission of required information when it is unnecessary to process an application. BA claimed the staff has been reluctant to grant such waivers in the past perhaps because of doubts about its authority to do so. The information required in the simplified Part 211 has been carefully chosen to give the Board the information it needs to act on permit applications without imposing unnecessary burdens on applicants. The staff is well aware of its authority, and has recently, on a case-by-case basis, waived submission of certain information currently required which may not be required later in view of this rulemaking proceeding.

Moverover, since proposed Part 211 reduces the amount of information to be filed, and because new Part 211 is much simplified, waivers should rarely be warranted. Therefore, the Board will not adopt this suggestion.

BA also objected to the requirement that financial data about the applicant be expressed in U.S. dollar terms. BA says it is costly and time-consuming for it to convert items in its annual financial reports from British to U.S. monetary terms. This item does not represent a change from the current requirement. Further, the Board considers it essential that financial items in an application be expressed in U.S. dollar terms to allow the Board's staff to use this information. Given exchange rate variations over time, the applicants can much more easily determine and apply the correct factors than can the staff. Conversion of these items from foreign currencies by the Board's staff, in contrast, would be a burden that would delay the processing of applications. Because only selected items from a carrier's financial report need be submitted, the Board does not believe the requirement is unreasonable.

BA also asserts that § 211.21 requires submission of new items that were not previously required. BA is incorrect. The items required clearly were included in more extensive information requirements. The Board has selected the items it finds necessary, but there are no new requirements.

BA also questioned the requirement of new § 211.21(c) for certified copies of financial summaries if the data already on file at the Board are more than 2 years old. BA pointed out that new § 211.11 (as well as the existing section) already requires that an application be verified. This point has merit, and the Board has decided that certified copies of financial summaries are not necessary. Instead, the applicant will be required to include with the summaries a statement from the responsible corporate official that the summaries are complete and accurate. This change will apply to § 211.20(n) as well.

Similarly, BA questioned the requirement in new § 211.21(d) for an affidavit stating that ownership and control of the applicant remain unchanged, and the requirement in § 211.21(e) for an affidavit stating that an applicant's maintenance program still complies with ICAO standards. The Board has decided that affidavits concerning these two items are not necessary. The rules will require, instead, that applicants submit a statement that ownership and control have not changed and another statement that its maintenance program meets ICAO standards. Here again, verification of the application as a whole will suffice to establish the authenticity of the statements.

BA also disputed the need for submission of a forecast of traffic and revenue for the first year of proposed operations. This information would be required for all applications except for those seeking only renewal of an existing permit. BA asserts that most applications are for authority under terms of bilateral agreements that do not contain traffic or revenue thresholds. Thus, BA maintains, submission of these data serves no purpose. It is true that traffic and revenue forecasts may not be required to establish the public interest where the authority is sought pursuant to a bilateral agreement. Nevertheless, they help the Board assess the value of particular traffic rights, and be aware of the extent of the applicant's possible effect on capacity in the markets at issue. This is particularly helpful to the Board in ensuring that the U.S. receives rights that are equally valuable when negotiating with other governments. The requirement will therefore be retained.

BA also commented on the proposed reductions in the service requirements of Subpart Q. It pointed out that present service requirements for exemption requests in § 302.403(b) are as lengthy as those the Board is shortening here, and it suggested that the same reasons support reduction of those requirements as well. The Board agrees, and intends to simplify its exemption procedures shortly.

USAir's comments focused on the reductions in service requirements for applications for scheduled service authority by U.S. carriers. The Board proposed to limit such service to local airport authorities and air carriers which publish schedules for the city-pair markets in the OAG. USAir argued that this proposal is too restrictive and will not allow airlines to be timely informed of applications that may affect them without undue expense and effort. Instead, USAir suggested that a summary notice of an application be served on all carriers serving any city in the markets applied for.

Under the proposal, service requirements would have been the same for U.S. applicants for either scheduled domestic or scheduled foreign air transportation authority. However, there is a significant difference in the scope of authority to applicants for domestic scheduled authority compared to applicants for scheduled foreign authority. A successful applicant for domestic authority may operate any route in interstate or overseas air transportation, although it is required to include an illustrative service proposal

with its application. An applicant for foreign air transportation authority, on the other hand, must receive specific authorization for each route to be served. In other words, entry to a domestic route is unrestricted while entry to a foreign route is not. Thus, an airline flying a domestic route faces potential competition from all other airlines having domestic authority, not merely from a new entrant, while an airline flying a foreign route faces potential competition only after a new carrier on the route is authorized by the Board.

This difference has convinced the Board that service requirements for applicants for domestic authority should be different than for applicants for foreign authority. Upon consideration, the proposed service requirements appear too limited for applicants for foreign air transportation authority. However, USAir's alternative would do little to reduce unnecessary service requirements, an objective of this proceeding. Therefore, U.S. applicants for foreign authority (like their foreign counterparts) will be required to serve U.S. airlines which publish schedules in the OAG for the country-pair market(s) specified in the application. This alternative will accommodate USAir's concerns and still reduce the amount of paperwork required to complete an application.

The Board has also decided that applicants for domestic authority should no longer have to serve other carriers with notice of the filing of an application. The effect of a new application for authority on incumbent carriers serving particular domestic routes seems quite small considering the complete freedom of entry and exit available. Therefore, applicants for domestic authority will only have to serve local airport authorities at cities named in the application. The Board will continue to publish weekly a list of applications filed, and there will continue to be notice through the **Federal Register.**

Because this change in service requirements for applicants for domestic authority involves only a rule of Board procedure and relieves burdens on persons filing applications, the Board finds that notice and public procedure are unnecessary. In addition, pursuant to 5 U.S.C. 553(d), the Board finds that this rule may become effective less than 30 days after publication in the **Federal Register** because it relieves restrictions on persons filing applications for certificates and foreign air carrier permits.

Final Regulatory Flexibility Analysis

Pursuant to 5 U.S.C. 604, the Board finds that none of these rules have a significant economic impact on a substantial number of small entities. Small U.S. air carriers are exempt as air taxi operators from certification and thus have no document service requirements. Most small foreign air carriers are Canadian charter air taxi operators that follow simplified registration procedures instead of these rules. The impact on the remaining small foreign air carriers will not be significant because the filing and service requirements which apply to them will be reduced. Copies of this document can be obtained from the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428; 202–673–5432, by referring to the "ER" or "PR" number at the top of this document.

List of Subjects in 14 CFR Part 211

Air carriers, Air transportation—foreign.

Accordingly, the Civil Aeronautics Board revises 14 CFR Part 211, *Applications for Permits to Foreign Air Carriers* as follows:

PART 211—APPLICATIONS FOR PERMITS TO FOREIGN AIR CARRIERS

Subpart A—General

Sec.

211.1 Purpose.
211.2 Applicability.

Subpart B—General Requirements

211.10 Filing specifications.
211.11 Verification.
211.12 Filing and service.
211.13 Amendments to applications.
211.14 Incorporation by reference.
211.15 Statements of fact.
211.16 Oral hearing.

Subpart C—Information Requirements

211.20 Initial foreign air carrier permit or transfer of a permit.
211.21 Amendments or renewal of foreign air carrier permits.

Authority: Secs. 204, 402, 416, 1001, 1002, Pub. L. 85–726, as amended, 72 Stat. 743, 757, 771, 788; 49 U.S.C. 1324, 1372, 1386, 1481, 1482, unless otherwise noted.

Subpart A—General

§ 211.1 Purpose.

This part sets forth the filing and evidence requirements for foreign air carriers applying for authority to engage in foreign air transportation under section 402 of the Federal Aviation Act.

§ 211.2 Applicability.

(a) Except as provided in paragraph (b) of this section, this part applies to all foreign air carriers seeking initial foreign air carrier permits or the transfer, renewal, or amendment of an existing foreign air carrier permit.

(b) Canadian charter air taxi operators, foreign indirect air carriers of property, and foreign charter operators are not required to submit applications under this part. Instead, Canadian charter air taxi operators shall register under Part 294 of this chapter, foreign indirect air carriers of property shall register under Part 297 of this chapter, and foreign charter operators shall register under Subpart F of Part 380 of this chapter.

Subpart B—General Requirements

§ 211.10 Filing specifications.

(a) Except as provided in paragraph (b) of this section, applicants shall follow the requirements in § 302.3 of this chapter as to execution, number of copies, and formal specifications of papers.

(b) Mexican air taxi operators filing applications for foreign air carrier permits authorizing charter flights across the Mexico-United States border with small aircraft (a maximum passenger capacity of 60 seats or less, or a maximum payload capacity of 18,000 pounds or less) shall file an original and two copies of the application. The application shall conform to the instruction document available from the Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board, Washington, DC 20428.

(c) An application shall have consecutively numbered pages, and shall clearly describe and identify each exhibit by a separate number or symbol. All exhibits are part of the application to which they are attached.

(d) Applications shall state all weights, measures and monetary units in U.S. terms, and all text in English.

§ 211.11 Verification.

Applications shall be verified and subscribed and sworn to before a Notary Public or other officer authorized to administer oaths in the jurisdiction in which the application is executed. An application verified before a United States consular officer meets the requirements of this section.

§ 211.12 Filing and service.

All types of applications for foreign air carrier permits (initial, renewal, amendment, or transfer) are filed as of the date the applications are received at the Board's Docket Section. Each applicant shall serve those persons as required in Part 302, Subpart Q, of this chapter.

§ 211.13 Amendments to applications.

An applicant shall submit any information required by this part that is omitted from the original application, or any additional information, as an amendment to the original application. Applicants shall consecutively number amendments to applications and shall comply with the requirements of this subpart.

§ 211.14 Incorporation by reference.

Where two or more applications are filed by a single carrier, the applicant may incorporate lengthy exhibits, or other documents, attached to one application into others by reference. The applicant may not incorporate by reference and update any information from a previous docket unless submitted within the past 2 years. The applicant must identify the docket, and the page number or exhibit number being incorporated, and state that there has been no change in that information since submitting the original information.

§ 211.15 Statements of fact.

The applicant shall include only significant and relevant facts in an application. Each application shall contain adequate information with respect to the evidence required in Subpart C of this part. The application may contain other information and data the applicant considers necessary to explain particular circumstances.

§ 211.16 Oral hearing.

If an oral evidentiary hearing is convened, the applicant must make available witnesses who are competent and able to testify to the accuracy of the statements and documents submitted.

Subpart C—Information Requirements

§ 211.20 Initial foreign air carrier permit or transfer of a permit.

A person applying for an initial foreign air carrier permit or the transfer of a permit shall submit the information listed below. The applicant must fully comply with this requirement. If the applicant is unable to respond to an item, the application shall contain an explanation, and include substitute information most closely approximating the information requested. The Board may require an applicant to provide additional information as necessary.

(a) State the name and address of the applicant, the nature of its organization (individual, partnership, corporation, etc.), and, if other than an individual, the name of the country under the laws of which it is organized and the statutory citation of such laws, if any.

(b) State the name and official address of the government air transport authority of applicant's country of citizenship having regulatory jurisdiction over applicant.

(c) Supply the following information regarding the services proposed:

(1) A complete statement of the authority sought; and

(2) A description of the services proposed, specifying:

(i) The point or points in the United States proposed to be served:

(ii) The frequency of service planned at the start of operations, indicating any seasonal variations; whether the service proposed is to be scheduled, nonscheduled or charter; whether the service would be passenger, or property and mail, or a combination; and the type of equipment (and configuration) to be used; and

(iii) A service schedule stating the manner in which the service will be operated (e.g., nonstop or multi-stop, and the identity of proposed intermediate traffic and nontraffic points).

(d) Provide the names, addresses (both residence and business), and citizenship of all Directors, Officers and key management personnel, including the President, Vice Presidents, the Directors or Supervisors of Operations, Maintenance, and Finance, and the chief pilot and chief inspector. Indicate whether any of these persons are related by blood or marriage.

(e) Provide the names and citizenship of all persons holding five percent (5%) or more of the capital stock or capital of the applicant. Also indicate the number and percentage of shares of stock or percentage of capital held by each. If five percent or more of the applicant's stock is held by a corporation or partnership, set forth the name and citizenship of each person holding five percent or more of the entire capital stock or capital of that corporation or partnership and the respective interest of each. If any shares are held for the benefit of another person, give the name and citizenship of that person.

(f) If the applicant is not wholly owned by its homeland government, state whether the applicant (each officer, director, manager, or holder of five percent or more of the capital stock) holds any interest directly or indirectly (through brokers or holding companies) in any of the entities listed below. If no interest is held, so state.

(1) Any U.S. carrier;

(2) Any other foreign air carrier;

(3) Any persons engaged in the business of aeronautics; and

(4) Any common carrier, or any person whose principal business is the holding of stock in, or control of, any air carrier.

(g) Indicate the relationship between the applicant and its homeland government. If the applicant is wholly owned or substantially owned by the government, indicate which governmental department has responsibility for managerial decisions.

(h) State whether the applicant's insurance coverage meets or exceeds the liability limits of 14 CFR Part 205. State the name(s) of its insurance carrier(s).

(i) Supply certified evidence, in English, of the applicant's operating authority issued by its government that relates to the operations proposed. This evidence must include a description of the applicant's present authority, the expiration date of this authority, and the manner in which it is expected to be renewed.

(j) Summarize the operating history of the applicant. Include the types of transportation services rendered, points served, etc., from the beginning of operations to the present. Also, if the applicant is a new airline (i.e., an airline that began direct air services within the past 12 months), briefly summarize the business experience of each officer, director and key management personnel, emphasizing any air transportation experience.

(k) Provide a list of the aircraft owned, leased and operated by the applicant. State each aircraft registration number and the country of registration. If leased, state the address and citizenship of each lessor. Describe any plans for the acquisition or lease of additional aircraft if the present permit application is granted as proposed. If any of the listed aircraft will not be used exclusively by the applicant, explain its proposed use. State whether any aircraft are or wiill be wet-leased.

(l) State where and by whom the maintenance of the aircraft is or will be performed. State whether the applicant's maintenance program complies with the provisions of ICAO Pilots and Airmen Annexes 1, 6 (Part 1) and 7. Also state whether the applicant's home country is a contracting State to the Convention on International Civil Aviation.

(m) Briefly describe any agreements or cooperative working arrangements (e.g., block-space, wet-lease), both oral and written, entered with and between the applicant, or on behalf of the applicant, and any U.S. or foreign air carrier, affecting the proposed services to the United States that are not on file with the Board. If there are no such agreements, so state.

(n) Supply financial data summaries, setting forth in U.S. dollars the applicant's profit and loss statements

and balance sheets for the 2 most recent available years (calendar or fiscal). These summaries must be accompanied by a statement from the applicant's official responsible for preparation of the summaries that the submissions are complete and accurate. These summaries must include the following data, but need not be more detailed than the financial data summaries published by ICAO:

(1) The profit and loss summary shall identify:
(i) Total air transport operating revenues (separated into three categories: passenger, cargo, and other transport revenues);
(ii) Total air transport operating expenses;
(iii) Operating result (difference between (i) and (ii));
(iv) Non-operating items; and
(v) Profit or loss after income taxes.
(2) The balance sheet summary shall state and identify:
(i) Current assets;
(ii) Flight equipment (after depreciation);
(iii) Other assets;
(iv) Total assets (sum of (i) through (iii));
(v) Current liabilities;
(vi) Other liabilities;
(vii) Long-term debt;
(viii) Capital stock;
(ix) Retained earnings (balance including capital surplus); and
(x) Total liabilities and equity (sum of (v) through (ix)).

(o) Describe the amount, type and reason for financial assistance received or expected from the applicant's home government, if any.

(p) Submit an estimate showing the total traffic and the financial results of the proposed services for the first full year of normal operations and the supporting data employed to calculate the financial forecast.

(q) If the air transportation proposed is not covered by an air transport agreement, state in narrative form each of the elements of reciprocity or comity relied upon for the requested authority. If the authority requested is governed by an agreement, state whether the applicant has been formally designated by its homeland government, and, if so, cite the diplomatic note.

(r) To the extent not described in paragraph (q), state the policy of the applicant's homeland government with respect to U.S. carriers' applications for scheduled and charter authority. Specifically state whether the homeland government grants Fifth Freedom traffic rights to U.S. carriers.

(s) For the preceeding 5 years, state whether the applicant has been involved in any safety or tariff violations or any fatal accidents. If so, furnish details.

(t) Submit 3 completed copies of CAB Form 263 (Waiver of liability limits under the Warsaw Convention).

§ 211.21 Amendments or renewal of foreign air carrier permits.

A person applying for an amendment or renewal of a foreign air carrier permit shall submit the information listed below. The applicant must comply fully with this requirement. If the applicant is unable to respond to an item, the application shall contain an explanation and include substitute information most closely approximating the information requested. The Board may require an applicant to provide any additional information necessary.

(a) The information required in paragraphs (a), (b), (i), (o), (q), (r), and (s), of § 211.20.

(b) Except if seeking renewal of existing authority, the information specified in paragraphs (c) and (p) of § 211.20 regarding the new or altered services proposed to be operated.

(c) If the financial material for the applicant on file with the Board is more than 2 years old, financial summaries setting forth, in U.S. dollars, the applicant's profit and loss statements and balance sheets for the 2 most recent available years (calendar or fiscal) as required in paragraph (n) of § 211.20, together with the statement of completeness and accuracy required by that paragraph. If the financial material on file with the board is 2 years old or less, the applicant may incorporate that information by reference as described in § 211.14 of this part.

(d) If the ownership and control of the applicant are substantially unchanged, so state. If a change has occurred, the applicant shall respond to the paragraph in § 211.20 that most closely relates to the change that has taken place.

(e) A statement that applicant's maintenance program continues to comply with the provisions of ICAO Pilots and Airmen Annexes 1, 6 (Part 1) and 7.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 84-22326 Filed 8-22-84; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 302

[Reg. PR-264; Procedural Regulations Amdt. No. 71 to Part 302; Dockets 41666, 39638]

Rules of Practice in Board Proceedings

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB revises its service requirements for air carrier certificate and foreign air carrier permit applications. The number of persons required to be served is reduced and applicants may now file a notice instead of the application itself. These changes will reduce the burdens on applicants for certificate and permit authority.

DATES: *Adopted:* August 2, 1984. *Effective:* August 22, 1984.

FOR FURTHER INFORMATION CONTACT: Nancy Pitzer Trowbridge, Regulatory Affairs Division, Bureau of International Aviation, 202 673-5134, or John Craig Weller, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202 673-5442.

SUPPLEMENTARY INFORMATION: For the reasons explained in ER-1386, also adopted today, the Board revises Subpart Q of Part 302 of its Procedural Rules.

List of Subjects in 14 CFR Part 302

Administrative practices and procedures, Air rates and fares, Authority delegations, Postal Service.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 302, *Rules of Practice in Board Proceedings*, as follows:

PART 302—[AMENDED]

1. The authority for Part 302 is:

Authority: Secs. 101, 203, 204, 401, 402, 403, 404, 406, 412, 901, 1001, 1002, 1005, Pub. L. 85-726, as amended, 72 Stat. 737, 742, 743, 754, 757, 758, 760, 763, 770, 783, 788, 794; 49 U.S.C. 1301, 1323, 1324, 1371, 1372, 1373, 1374, 1376, 1382, 1471, 1481, 1482, 1485; Reorganization Plan No. 3, 75 Stat. 837, 26 FR 5989; EO 11514, Pub. L. 91-90 (42 U.S.C. 4321); 84 Stat. 772, 39 U.S.C. 5402, unless otherwise noted.

2. Paragraphs (a) and (b) of 302.1705 are revised to read:

§ 302.1705 Service of Documents.

(a) *General Requirements.* (1) Applicants shall serve on the persons listed in paragraph (b) of this section a notice that an application has been filed, and upon request shall promptly provide those persons with copies of the application and supporting documents.

The notice must clearly state the authority sought and the due date for other pleadings. Persons shall file responsive pleadings in accordance with paragraph (b).

(2) After the order establishing further procedures under § 302.1750 has been issued, persons need only serve documents on those listed in the service list accompanying the order.

(3) In the case of an application sought to be consolidated, the applicant shall serve the notice required in paragraph (a) of this section on all persons served by the original applicant.

(b) *Persons to be served.* (1) *U.S. air carriers.* (i) In certificate proceedings described in §§ 302.1701(a) and 302.1701(b) (except for those proceedings under section 401(d)(3) of the Act):

(A) Applicants for certificates to engage in interstate or overseas air transportation, and other persons, shall serve: (*1*) The airport authority of each airport that the applicant proposes to serve, and (*2*) any other person who has filed a pleading in the docket.

(B) applicants for certificates to engage in foreign air transportation or other persons shall serve: (*1*) All U.S. air carriers (including commuter air carriers) that publish schedules for the country-pair market(s) specified in the application in the "Official Airline Guide" or in the "Air Cargo Guide," (*2*) the airport authority of each U.S. airport that the applicant proposes to serve, and (*3*) any other person who has filed a pleading in the docket.

(ii) In certificate proceedings under section 401(d)(3) of the Act, applicants and other persons are not required to serve any person, except as the Board may direct.

(2) *Foreign air carriers.* (i) In foreign air carrier permit proceedings described in § 302.1701(c) (except for those proceedings involving charter-only authority), applicants and other persons shall serve: (A) All U.S. air carriers (including commuter air carriers) that publish schedules for the country-pair market(s) specified in the application in the "Official Airline Guide" or the "Air Cargo Guide," (B) the U.S. Departments of State and Transportation, and (C) any other person who has filed a pleading in the docket.

(ii) In foreign air carrier permit proceedings for charter-only authority, applicants shall serve the U.S. Departments of State and Transportation and any other person who has filed a pleading in the docket.

* * * * *

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-22327 Filed 8-22-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 556 and 558

Tolerances for Residues of New Animal Drugs in Food; New Animal Drugs in Animal Feeds; Sulfadimethoxine With Ormetoprim

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Hoffmann-La Roche, Inc., providing for safe and effective use of sulfadimethoxine with ormetoprim as an antibacterial in ducks. FDA also is amending the regulations to establish tolerances for sulfadimethoxine and ormetoprim residues in edible duck tissues.

EFFECTIVE DATE: August 23, 1984.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Hoffmann-La Roche, Inc., Nutley, NJ 07110, submitted a supplement to NADA 40-209 to provide for use of a premix containing 25 percent sulfadimethoxine and 15 percent ormetoprim in duck feed to aid in the control of *P. multocida* (fowl cholera), *E. coli*, and *P. anatipestifer*. The supplemental NADA is approved and the regulations are amended to reflect the approval and to establish tolerances for sulfadimethoxine and ormetoprim residues in edible duck tissues. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Center for Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Center's finding of no significant impact and the evidence supporting this finding, contained in an environmental impact analysis report (pursuant to 21 CFR 25.1(j)) may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 556

Animal drugs, Food, Residues.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) 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 5.83), Parts 556 and 558 are amended as follows:

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

1. Part 556 is amended:

a. By revising § 556.490 to read as follows:

§ 556.490 Ormetoprim.

A tolerance of 0.1 part per million is established for negligible residues of ormetoprim in the edible tissues of chickens, turkeys, and ducks.

b. By revising § 556.640(a) to read as follows:

§ 556.640 Sulfadimethoxine.

* * * * *

(a) In the uncooked edible tissues of chickens, turkeys, ducks, and cattle at 0.1 part per million (negligible residue).

* * * * *

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

2. Part 558 is amended in § 558.575 by revising paragraph (c)(2) and adding new paragraph (e)(4) to read as follows:

§ 558.575 Sulfadimethoxine, ormetoprim.

* * * * *

(c) * * *

(2) Finished feed containing 0.02 percent or more of combined drug must

contain not less than 85 percent nor more than 115 percent of the labeled amount of either ormetoprim or sulfadimethoxine.

* * * * *

(e) * * *

(4) *Ducks*—(i) *Amount per ton.* Sulfadimethoxine, 227 grams (0.025 percent) plus ormetoprim, 136.2 grams (0.015 percent).

(*a*) *Indications for use.* As an aid in the control of bacterial infections due to *P. multocida* (fowl cholera) in ducks, including breeding ducks.

(*b*) *Limitations.* Feed as sole ration for 7 days; withdraw 5 days before slaughter; medication should be started at the first signs of infection; do not feed to ducks producing eggs for food.

(ii) *Amount per ton.* Sulfadimethoxine, 454 grams (0.05 percent) plus ormetoprim, 272.4 grams (0.03 percent).

(*a*) *Indications for use.* As an aid in the control of bacterial infections due to *E. coli, P. anatipestifer,* and severe challenge of *P. multocida* (fowl cholera) in ducks.

(*b*) *Limitations.* Feed as a sole ration for 7 days; withdraw 5 days before slaughter; medication should be started at the first signs of infection; not for breeding ducks; do not feed to ducks producing eggs for food.

Effective date. August 23, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: August 16, 1984.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 84-22347 Filed 8-22-84; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Hygromycin B

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the new animal drug regulations to codify an approved new animal drug application (NADA) held by Mountaire Vitamins, Inc., providing for making 0.8- and 1.6-gram-per-pound hygromycin B intermediate premixes from 8-gram-per-pound hygromycin premixes. The intermediate premixes are used for making complete chicken feeds for control of large roundworms, cecal worms, and capillary worms.

EFFECTIVE DATE: August 23, 1984.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV-130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: Mountaire Vitamins, Inc., P.O. Box 9210, 400 North Poplar St., North Little Rock, AR 72114, is the sponsor of NADA 38-247 providing for use of 8-gram-per-pound hygromycin B premix to make 0.8- and 1.6-gram-per-pound hygromycin B intermediate premixes. The intermediate premixes are used to make complete chicken feed for the control of infestations of large roundworms, cecal worms, and capillary worms. The NADA was filed by Elanco Products Co. for the sponsor Formica Laboratories, Inc., now Mountaire Vitamins, Inc. Use of the 1.6-gram-per-pound intermediate premix was approved by letter dated December 6, 1967. The supplement for use of the 0.8 gram-per-pound intermediate premix was approved by letter dated June 17, 1969. This document provides for codification of the previously approved NADA and supplement. Elanco has authorized use of data in NADA 11-948 to support approval of this NADA. Because the NADA and supplement were approved before July 1, 1975, the sponsor is not required to submit a summary of safety and effectiveness data and information under the freedom of information provisions of 21 CFR 514.11(e)(2)(ii). However, a summary of the basis of approval is available upon request in accordance with 21 CFR 514.11(e)(2)(i).

The Center for Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) 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 5.83), Part 558 is amended in § 558.274 by adding new paragraph (a) (6) and by adding numerically in the table in paragraph (e)(1)(i) new sponsor number "043734" to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.274 Hygromycin B.

(a) * * *

(6) Premix levels of 0.8 and 1.6 grams per pound granted to sponsor 043734 in § 510.600(c) of this chapter for use in chickens as in paragraph (e)(1)(i) of this section.

* * * * *

Effective date. August 23, 1984.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i)))

Dated: August 17, 1984.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 84-22346 Filed 8-22-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 511

[Docket No. R-84-1156; FR-1901]

Rental Rehabilitation Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Technical amendment.

SUMMARY: This document amends 24 CFR Part 511, Rental Rehabilitation Program, 49 FR 16936 (April 20, 1984), to add OMB control numbers at the places where current information collection requirements are described.

EFFECTIVE DATE: August 23, 1984.

FOR FURTHER INFORMATION CONTACT: Craig S. Nickerson, Director, Rental Rehabilitation Division, Office of Urban Rehabilitation, Room 7164, Department of Housing and Urban Development, telephone (202) 755-5970. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The information collection requirements contained in the regulatory sections listed below have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned control number 2506-0078.

List of Subjects in 24 CFR Part 511

Reporting and recordkeeping requirements.

Accordingly, 24 CFR is amended as follows:

PART 511—RENTAL REHABILITATION PROGRAM

Sections 511.20, 511.71, 511.74, 511.81, 511.10 (m)(1)(v) and (m)(2)(i)(D) are

amended by adding the following sentence immediately following the text of each section:

(Information collection requirements have been approved by Office of Management and Budget under OMB Control No. 2506-0078)

Authority: Sec. 17, United States Housing Act of 1937 (42 U.S.C. 14370); Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: August 17, 1984.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 84-22385 Filed 8-22-84; 8:45 am]

BILLING CODE 4210-29-M

Office of the Secretary

24 CFR Part 850

[Docket No. R-84-1166; FR-1902]

Housing Development Grant Program

AGENCY: Office of the Secretary, HUD.

ACTION: Technical amendment.

SUMMARY: This document amends 24 CFR Part 850, Housing Development Grant Program, 49 FR 24641 (June 14, 1984), to add OMB control numbers relating to collection of information requirements in subparts A, B and C.

EFFECTIVE DATE: August 23, 1984.

FOR FURTHER INFORMATION CONTACT: Frank D. Brown, Acting Director, Housing Development Grants Division, Room 6128, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 755-5720. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The information collection requirements contained in the regulatory sections listed below have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 CFR Chapter 35) and have been assigned control number 2507-0323.

Accordingly, 24 CFR is amended as follows:

List of Subjects in 24 CFR Part 850

Reporting and recordkeeping requirements.

PART 850—HOUSING DEVELOPMENT GRANTS

Sections 850.31, 850.33, 850.35 and 850.37, are amended by adding the following sentence immediately following the text of each section:

(Information collection requirements have been approved by Office of Management and Budget under OMB Control No. 2502-0323)

Authority: Sec. 17, United States Housing Act of 1937 (42 U.S.C. 1437o); Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: August 17, 1984.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 84-22386 Filed 8-22-84; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7968]

Treatment of Certain Losses on Straddles Entered Into Before the Effective Date of the Economic Recovery Tax Act of 1981

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary income tax regulations relating to straddles entered into before the effective date of the Economic Recovery Tax Act of 1981. Changes to the applicable law were made by the Tax Reform Act of 1984. These regulations provide Internal Revenue Service personnel who administer the Code and members of the public the guidance necessary to comply with the law.

DATES: The regulations are effective for any disposition of 1 or more positions which were entered into before January 1, 1982, and form part of a straddle and to which the amendments made by Title V of the Economic Recovery Tax Act of 1981 (ERTA) do not apply.

FOR FURTHER INFORMATION CONTACT: William P. O'Shea of the Interpretative Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3484).

Background

This document contains temporary income tax regulations relating to treatment of certain pre-ERTA losses from straddles under section 108 of the Tax Reform Act of 1984 (Division A of the Deficit Reduction Act of 1984) (Pub. L. 98-369, 98 Stat. 494). The temporary regulations contained in this document will remain in effect until superseded by final regulations on this subject.

These temporary regulations are presented in the form of questions and answers. The questions and answers are not intended to address comprehensively the issues raised by section 108 of the Tax Reform Act of 1984. Taxpayers may rely for guidance on these questions and answers, which the Internal Revenue Service will follow in resolving issues arising under section 108 of the Tax Reform Act of 1984. No inference, however, should be drawn regarding questions not expressly raised and answered.

Explanation of Provision

Section 108 of the Tax Reform Act of 1984 (Act) provides that for pre-ERTA straddles any loss resulting from the disposition of a position shall be allowed for the taxable year of the disposition if such position is part of a transaction entered into for profit. Section 165(c)(2) of the Code provides that individuals can deduct losses incurred in any transaction entered into for profit, though not connected with a trade or business.

The regulations state that section 108 of the Act does not change the standard for allowance of losses under section 165(c)(2) of existing law. In the case of straddles see *Fox* v. *Commissioner*, 82 T.C. No. 75 (1984) and *Smith* v. *Commissioner*, 78 T.C. 350 (1982). Under *Fox* v. *Commissioner*, a transaction is considered entered into for profit in the case of a straddle only if the taxpayer entered into, and maintained, the transaction for the primary purpose of realizing an economic profit. In addition, for section 108 of the Act to apply, the transaction must have sufficient substance to be recognized for federal income tax purposes.

The construction by the regulations that section 108 of the Act does not change the for-profit standard derives from the use in both that section 165(c)(2) of the Code of the identical phrase "transaction entered into for profit." The continued utilization of the for-profit standard of section 165(c)(2) in section 108 of the Act reflects the Congressional purpose to provide certainty in the treatment of tax straddles entered into prior to ERTA.

As a result of section 108 of the Act, the litigation of pre-ERTA straddle cases will focus on the bona fides of the transactions and the entered-into-for-profit argument. The Service will not pursue the closed or completed transaction argument set forth in Rev. Rul. 77-185, 1977-1 C.B. 48, in cases subject to section 108 of the Act.

In cases subject to section 108 of the Act, in which a loss is disallowed in a taxable year (year 1) because the transaction did not satisfy the "entered into for profit" test, section 108(c) of the Act allows the taxpayer to offset gain

occurring in a later year by the amount of loss disallowed in year 1. Section 108 of the Act also creates a rebuttable presumption of "entered into for profit" for any position held by a commodities dealer or any person regularly engaged in investing in regulated futures contracts.

Nonapplicability of Executive Order 12291

The Treasury Department has determined that these temporary regulations are not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 29, 1983.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 533(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal authors of these regulations are William P. O'Shea of the Interpretative Division and Neil W. Zyskind of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.61–1—1.281–4

Income, taxes, Taxable income, Deductions, Exemptions.

PART 1—[AMENDED]

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

Paragraph 1. A new § 1.165–13T is added immediately following § 1.165–12T to read as set forth below.

§ 1.165–13T Questions and answers relating to the treatment of losses on certain straddle transactions entered into before the effective date of the Economic Recovery Tax Act of 1981, under section 108 of the Tax Reform Act of 1984 (temporary).

The following questions and answers concern the treatment of losses on certain straddle transactions entered into before the effective date of the Economic Recovery Tax Act of 1981, under the Tax Reform Act of 1984 (98 Stat. 494).

Q–1 What is the scope of section 108 of the Tax Reform Act of 1984 (Act)?

A–1 Section 108 of the Act provides that in the case of any disposition of one or more positions, which were entered into before 1982 and form part of a straddle, and to which the provisions of Title V of The Economic Recovery Act of 1981 (ERTA) do not apply, any loss from such disposition shall be allowed for the taxable year of the disposition if such position is part of a transaction entered into for profit. For purposes of section 108 of the Act, the term "straddle" has the meaning given to such term by section 1092(c) of the Internal Revenue Code of 1954 as in effect on the day after the date of enactment of ERTA; including a straddle all the positions of which are regulated futures contracts (as defined in Q&A–6 of this section). Straddles in certain listed stock options were not covered by ERTA and are not affected by this provision.

Q–2 What transactions are considered entered into for profit?

A–2 A transaction is considered entered into for profit if the transaction is entered into for profit within the meaning of section 165(c)(2) of the Code. In this respect, section 108 of the Act restates existing law applicable to stradddle transactions. All the circumstances surrounding the transaction, including the magnitude and timing for entry into, and disposition of, the positions comprising the transaction are relevant in making the determination whether a transaction is considered entered into for profit. Moreover, in order for section 108 of the Act to apply, the transaction must have sufficient substance to be recognized for Federal income tax purposes. Thus, for example, since a "sham" transaction would not be recognized for tax purposes, section 108 of the Act would not apply to such a transaction.

Q–3 If a loss is disallowed in a taxable year (year 1) because the transaction was not entered into for profit, is the entire gain from the straddle occurring in a later taxable year taxed?

A–3 No. Under section 108(c) of the Act the taxpayer is allowed to offset the gain in the subsequent taxable year by the amount of loss (including expenses) disallowed in year 1.

Q–4 In what manner does the for-profit test of Q&A–2 apply to losses from straddle transactions sustained by commodities dealers and persons regularly engaged in investing in regulated futures contracts?

A–4 In general, for a loss to be allowable with respect to positions that form part of a straddle, the for-profit test of Q&A–2 must be satisfied. However, certain positions (see Q&A–6) held by a commodities dealer or person regularly engaged in investing in regulated futures contracts are rebuttably presumed to be part of a transaction entered into for profit. Thus, the for profit test is applied to commodities dealers and persons regularly engaged in investing in regulated futures contracts in light of the factors relating to the applicability and rebuttal of the profit presumption, including, for example, the nature and extent of the taxpayer's trading activities.

Q–5 Under what circumstances is the presumption considered rebutted?

A–5 All the facts and circumstances of each case are to be considered in determining if the presumption is rebutted. The following factors are significant in making this determination: (1) The level of transaction costs; (2) the extent to which the transaction results from trading patterns different from the taxpayer's regular patterns; and (3) the extent of straddle transactions having tax results disproportionate to economic consequences. Factors other than the ones described above may be taken into account in making the determination. Moreover, a determination is not to be made solely on the basis of the number of factors indicating that the presumption is rebutted.

Q–6 Does a commodities dealer or person regularly engaged in investing in regulated futures contracts qualify for the profit presumption for all transactions?

A–6 No. The presumption is only applicable to regulated futures contract transactions in property that is the subject of the person's regular trading activity. For example, a commodities dealer who regularly trades only in agricultural futures will not qualify for the presumption for a silver futures straddle transaction. For purposes of this section, the term "regulated futures contracts" has the meaning given to such term by section 1256(b) of the Code as in effect before the enactment of the Tax Reform Act of 1984.

Q–7 Who qualifies as a commodities dealer or as a person regularly engaged in investing in regulated futures contracts for purposes of the profit presumption?

A–7 For purposes of this section, the term "commodities dealer" has the meaning given to such term by section 1402(i)(2)(B) of the Code. Section 1402(i)(2)(B) defines a commodities dealer as a person who is actively engaged in trading section 1256 contracts (which includes regulated futures contracts as defined in Q&A–6) and is registered with a domestic board of trade which is designated as a

contract market by the Commodity Futures Trading Commission. To determine if a person is regularly engaged in investing in regulated futures contracts all the facts and circumstances should be considered including, but not limited to, the following factors: (1) Regularity of trading at all times throughout the year; (2) the level of transaction costs; (3) substantial volume and economic consequences of trading at all times throughout the year; (4) percentage of time dedicated to commodity trading activities as compared to other activities; and (5) the person's knowledge of the regulated futures contract market.

Q–8 If a commodities dealer or a person regularly engaged in investing in regulated futures contracts participates in a syndicate, as defined in section 1256(e)(3)(B) of the Code, does the rebuttable presumption of "entered into for profit" apply to the transactions entered into through the syndicate?

A–8 No. A participant in a syndicate does not qualify for the rebuttable presumption of "entered into for profit" with respect to transactions entered into by or for the syndicate. A syndicate is defined in section 1256(e)(3)(B) of the Code as any partnership or other entity (other than a corporation which is not an S corporation) if more than 35 percent of the losses of such entity during the taxable year are allocable to limited partners or limited entrepreneurs (within the meaning of section 464(e)(2)).

Q–9 Will the Service continue to make the closed and completed transaction argument set forth in Rev. Rul. 77–185, 1977–1 C.B. 48, with respect to transactions covered by section 108 of the Act?

A–9 No. The closed and completed transaction argument will not be made regarding transactions subject to section 108 of the Act. In general, losses in such transactions will be allowed for the taxable year of disposition if the transaction is not viewed as a sham and satisfies the "entered into for profit" test described in Q&A–2. Nevertheless, for certain positions covered by section 108 of the Act, various Code sections may apply without regard to whether such position constitutes a straddle to disallow or limit the loss otherwise allowable in the year of the disposition. For example, dispositions of certain positions held by a partnership which resulted in a loss to a partner may be limited or disallowed under section 465 of 704(d).

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 26 U.S.C. 7805).

August 17, 1984.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved:

Ronald A. Pearlman,

Acting Assistant Secretary of the Treasury.

[FR Doc. 84–22444 Filed 8–21–84; 8:45 am]

BILLING CODE 4830–01–M

Office of the Secretary

31 CFR Part 128

Reporting of International Capital and Foreign Currency Transactions and Holdings, Transfers of Credit, and Export of Coin and Currency

AGENCY: Department of the Treasury, Office of the Secretary.

ACTION: Final rule.

SUMMARY: This document removes §§ 128.32 and 128.34, which relate to certain reporting requirements of banks and banking institutions, from title 31, Code of Federal Regulations. Sections 128.32 and 128.34 require that banks and banking institutions provide certain information to a Federal Reserve Bank on a monthly basis. This information, however, is now being reported to the bank supervisory agencies.

EFFECTIVE DATE: August 23, 1984.

FOR FURTHER INFORMATION CONTACT: Thomas H.E. Moran, Room 5127, Department of the Treasury, 15th and Pennsylvania Ave. NW., Washington, DC 20220, 202–566–2969.

SUPPLEMENTARY INFORMATION: Part 128 of title 31, Code of Federal Regulations, sets forth the requirements and describes the forms used for reporting international capital and foreign currency transactions and holdings. Forms FC–1a and FC–2a are designated for use by United States banks and banking institutions to report their assets, liabilities and positions in specified currencies, and those of their foreign branches and majority-owned foreign subsidiaries, to a Federal Reserve Bank each month. At the request of the Department of the Treasury, the Federal Reserve Board has discontinued collecting this information and these forms are no longer being used. The information is now being reported to the bank supervisory agencies on a form issued by the Federal Financial Institutions Examination Council. Accordingly, the requirements that monthly reports be made to a Federal Reserve Bank on forms FC–1a and FC–2a are being removed from the regulations.

This final rule relates to agency procedure, management, and organization and, therefore, no general notice of proposed rulemaking is required by 5 U.S.C. 553(b). Because this rule merely removes obsolete provisions from Part 128 and imposes no obligation or duty on any person, and is a technical and procedural rule, the Department of the Treasury finds that good cause exists for dispensing with a delayed effective date for the rule pursuant to 5 U.S.C. 553(d).

Special Analyses

The provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable to this rule because no notice of proposed rulemaking is required pursuant to 5 U.S.C. 553(b). This rule relates to agency procedure, management, and organization and, therefore, is not subject to Executive Order 12291.

List of Subjects in 31 CFR Part 128

Banks, Banking, Currency, Federal Reserve System, Foreign banking, Reporting or recordkeeping requirements.

Authority

This rule is issued pursuant to the authority of the Secretary of the Treasury contained in Pub. L. 97–258, 96 Stat. 997 (31 U.S.C. 5315 (1982)).

Part 128, Subpart C, Chapter I of Title 31, Code of Federal Regulations, is amended as follows:

PART 128—[AMENDED]

§§ 128.32 and 128.34 [Removed]

Part 128 is amended by removing § 128.32 and § 128.34.

Dated: August 14, 1984.

David C. Mulford,

Assistant Secretary of the Treasury.

[FR Doc. 84–22406 Filed 8–22–84; 8:45 am]

BILLING CODE 4810–33–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD3 84-59]

Regatta; Queen City Powerboat Race, Long Island Sound

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Queen City Powerboat Race sponsored by the Wright Island Marina of New Rochelle, NY. This powerboat racing event will be held off the north shore of Long Island between Matinicock and Oak Neck Points on September 29, 1984. This regulation is needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: This regulation becomes effective on September 29, 1984 at 12:00 noon and terminates the same day at 3:00 p.m.

FOR FURTHER INFORMATION CONTACT: LTJG D.R. Cilley, (212) 668-7974.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for this regulation. Following normal rule making procedures would have been impracticable. Although the application for this event was received at the Third District Boating Safety Office on March 8, 1984, the determination of the area where this regulation will take effect was not agreed upon until August 3 1984. Therefore, there was not sufficient time to publish proposed rules in advance of the event.

Drafting Information

The drafters of this regulation are LTJG D.R. Cilley, Project Office, Boating Safety Officer and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulations

The Queen City Powerboat Race will be held off the north shore of Long Island on September 29, 1984. This event is sponsored by the Wright Island Marina of New Rochelle, New York. This powerboat race was held in 1983 in Long Island Sound along the New York coastline between New Rochelle and Rye, New York. Because several problems developed with other users of this area, the event has been moved this year to reduce these conflicts and to improve the safety of the event. Approximately 40 powerboats, 20 to 40 feet in length, will race 7 times around a course 8.7 nautical miles in length for a total race distance of 61 miles. The race should start at 1:00 p.m. and last until approximately 3:00 p.m. The sponsor will provide several vessels to mark the corners of the race course and to assist the Coast Guard and local authorities in patrolling this event. Mariners should use extreme caution while near the race course area. The Coast Guard will issue a safety voice broadcast to properly notify boaters of this event and the contents of this regulation issued for its control. In order to provide for the safety of life and property on navigable waters, the Coast Guard will restrict vessel movement in the area of the race course prior to and during the event.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulation

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35-312 to read as follows:

§ 100.35-312 Queen City Powerboat Race, Long Island Sound.

(a) *Regulated Area.* Off the north shore of Long Island between Matinicock and Oak Neck Points within the area defined by the following points:

Latitude 40 Degrees 54 Minutes 32 Seconds N
Longitude 73 Degrees 38 Minutes 13 Seconds W

Latitude 40 Degrees 55 Minutes 28 Seconds N
Longitude 73 Degrees 34 Minutes 13 Seconds W

Latitude 40 Degrees 55 Minutes 37 Seconds N
Longitude 73 Degrees 34 Minutes 14 Seconds W

Latitude 40 Degrees 56 Minutes 00 Seconds N
Longitude 73 Degrees 38 Minutes 00 Seconds W

(b) *Effective Period.* This regulation will be effective from 12:00 noon to 3:00 p.m. on September 29, 1984. The approved rain date for this event is September 30, 1984 and this regulation will be effective for the same times.

(c) *Special Local Regulations.* (1) All persons or vessels not registered with sponsor as participants or not part of the regatta patrol are considered spectators.

(2) No spectator shall enter, pass through or remain within the regulated area as marked by the sponsor or Coast Guard patrol personnel.

(3) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(4) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

(33 U.S.C. 1233; 49 U.S.C. 108; 49 CFR 1.46(b) and 33 CFR 100.35)

Dated: August 10, 1984.

R.L. Johanson,

Captain, U.S. Coast Guard, Acting Commander, Third Coast Guard District.

[FR Doc. 84-22378 Filed 8-22-84; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD3 84-06]

Drawbridge Operation Regulations; Christina River, DE

AGENCY: Coast Guard DOT.

ACTION: Final rule.

SUMMARY: At the request of Delaware Department of Transportation, the Coast Guard is changing the regulations governing the Market Street Bridge at Wilmington, Delaware by requiring that advance notice be given at all times, while still providing for closed periods during commuter rush hours. This change is being made because no requests have been made to open the draw since 1980. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw and will still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on September 24, 1984.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District (212) 668-7994.

SUPPLEMENTARY INFORMATION: On March 22, 1984, the Coast Guard published a proposed rule (49 FR 10678) concerning this amendment. The Commander, Third Coast Guard District also published this proposal as a Public Notice dated April 7, 1984. In each notice interested persons were given until May 7, 1984 to submit comments.

On April 24, 1984, the Coast Guard published a final rule (49 FR 17450) that reorganized Coast Guard regulations for

drawbridges (Part 117 of Title 33, Code of Federal Regulations) to consolidate common requirements and to organize bridge regulations into a more usable format. This final rule follows the revised numbering and format. However, certain editorial changes have been made in the numbering of the paragraphs without substantive change.

Drafting Information

The drafters of these regulations are Ernest J. Feemster, project manager, and Mary Ann Arisman, project attorney.

Discussion of Comments

No written comments were received on the proposed rule. However, the Coast Guard was informally notified that there are preliminary plans to build condominiums and/or marinas upstream of the bridge. When or if this will take place has not been substantiated. Further changes to these regulations can be made at such time as increased use of this waterway becomes a reality. Bridge opening logs show that no openings were made since 1980. Such openings are not presently required or anticipated because silting has reduced existing water depths. The bridge in the closed position provides a vertical clearance of 8 feet above Mean High Water and 13 feet above Mean Low Water.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. This is based on the fact that eight hours notice will accommodate commercial traffic in the event facilities upstream are reactivated, will permit use of waterborne equipment for construction and dredging, and will provide for any occasional recreational vessel that can not pass through the closed draw. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations in amended by redesignating the existing § 117.237(b) as § 117.237(c) and redesignating the existing § 117.237(c) as § 117.237(b) and revising it to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.237 Christina River.

* * * * *

(b) The draw of the Third Street Bridge, mile 2.3 and Walnut Street bridge, mile 2.8, both at Wilmington shall open on signal. The draw of the Market Street Bridge, mile 3.0 at Wilmington shall open on signal if at least eight hours notice in given. From 7 a.m. to 8 a.m. and 4:30 p.m. to 5:30 p.m., Monday through Saturday except holidays, the draws of these three bridges need not be opened for the passage of vessels. Any vessel which has passed through one or more of these bridges immediately prior to a closed period and which requires passage through the other bridge or bridges in order to continue to its destination shall be passed through the draw or draws of the bridge or bridges without delay. The draws of these bridges shall open at all times as soon as possible for passage of a public vessel of the United States.

* * * * *

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

Dated: August 8, 1984.

R.L. Johanson,

Captain, U.S. Coast Guard, Acting Commander, Third Coast Guard District.

[FR Doc. 84-22416 Filed 8-22-84; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

[Docket No. 30810-154]

Snapper-Grouper Fishery of the South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule; technical amendment.

SUMMARY: NOAA issues this final rule implementing a technical amendment clarifying the mesh size specifications for fish traps in the Fishery Management Plan for the Snapper-Grouper Fishery of the South Altantic (FMP). The promulgated regulations did not clearly and accurately express the intent of the FMP. The intended effect of this rule is to present the specifications for fish trap mesh size more clearly and in sufficient detail to avoid confusion in the construction of fish traps.

EFFECTIVE DATE: August 23, 1984.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813-893-3722.

SUPPLEMENTARY INFORMATION: NOAA published a final rule on August 31, 1983 (48 FR 39466) to implement the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (FMP). The final rule as published did not express accurately the intent of the FMP regarding allowable mesh sizes and mesh configurations for fish traps. Section 646.22(b)(2) states that fish traps must have a minimum mesh size of 1x2 inches or 1.5-inch hexagonal (the distance between parallel sides). This incorrectly implies that only these two mesh sizes and configurations, i.e. rectangular and hexagonal, are allowed. The FMP states that any shape mesh is allowed as long as its opening is equal to 1x2 inches or a 1.5-inch hexagon.

Section 646.22(b)(2) is being revised to include four specific criteria which clarify and accurately reflect the intent of the FMP regarding allowable mesh sizes and configurations. These criteria clearly indicated that the three mesh types in common use, i.e. 1x2-inch, 1.5 x .5-inch, and 1.5-inch hexagonal are allowable. In addition, inclusion of these criteria will provide guidance to fishermen desiring to experiment with alternative mesh types and will also facilitate enforcement of mesh requirements.

Other Matters

This action is taken under the authority of 50 CFR Part 646 and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 646

Fish, Fisheries, Fishing.

Dated: August 20, 1984.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

PART 646—[AMENDED]

For the reasons forth in the preamble, 50 CFR 646.22 is amended as follows:

1. The authority for Part 646 reads as follows:

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

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

§ 646.22 Gear limitations.

* * * * *

(b) * * *

(2) Effective September 28, 1984, fish traps must meet all of the following mesh size requirements:

(i) Two square inch minimum open mesh area;

(ii) One-inch minimum length for shortest side;

(iii) Minimum distance of 1-inch between parallel sides of rectangular openings, and one and one-half (1.5) inches between parallel sides of mesh opening with more than four sides; and

(iv) One and nine tenths (1.9) inches minimum distance for diagonal measurement.

Examples of fish trap mesh configurations which meet the minimum requirements are shown in Figure 1.

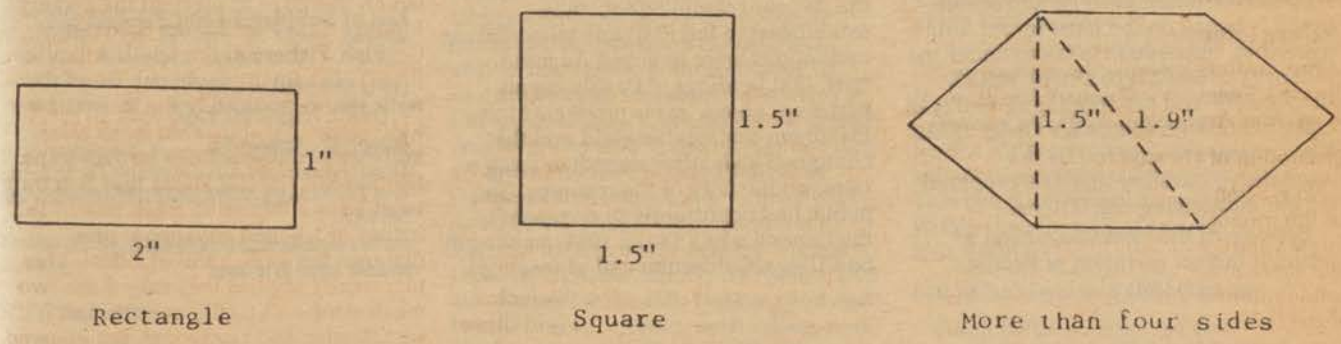

Figure 1. Examples of fish trap configurations which meet the minimum mesh sizes (not to scale).

* * * * *

[FR Doc. 84-22481 Filed 8-22-84; 8:45 am]
BILLING CODE 3510-22-M

50 CFR Part 663

[Docket No. 40446-4072]

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure and request for comments.

SUMMARY: NMFS announces closure of the fishery for Pacific ocean perch taken between 43°00′ and 47°30′ N. latitude (Columbia subarea) off the coasts of Oregon and Washington, and seeks public comment on this action. This closure is authorized under regulations implementing the Pacific Coast Groundfish Fishery Management Plan which state that retention or landing of a species is prohibited when that species' quota is reached. The Acting Director, Northwest Region, NMFS, has determined in consultation with the State fishery management agencies of Oregon and Washington that the 1984 fishery quota of 950 metric tons for Pacific ocean perch in the Columbia subarea was reached by August 15, 1984. This closure is intended to reduce overfishing of a species which is biologically stressed.

EFFECTIVE DATE: This notice is effective from 0001 hours Pacific Daylight Time, August 16, 1984, until 2400 hours Pacific Standard Time, December 31, 1984, unless modified, superseded, or rescinded. Comments will be accepted until September 7, 1984.

ADDRESSES: Dr. T.E. Kruse, Acting Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C1 5700, Seattle, WA 98115, or Mr. E.C. Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731. The aggregate data upon which this determination is based are available for public inspection at the office of the Director, Northwest Region, during business hours until the end of the comment period.

FOR FURTHER INFORMATION CONTACT: T.E. Kruse, 202-526-6150.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved on January 4, 1982, and final implementing regulations were published October 5, 1982 (47 FR 43964). The regulations at 50 CFR 663.21(b) and 611.70(e)(1) require the Secretary of Commerce (Secretary) to prohibit retention or landing of a species when the numerical optimum yield (OY) for that species is reached. The 1984 OY for Pacific ocean perch in the Columbia subarea (between 43°00′ and 47°30′ N. latitude) is 950 metric tons (mt). Based on the best available information, and after consultation with the Washington Department of Fisheries and the Oregon Department of Fish and Wildlife, the Acting Regional Director determined that this quota will be reached by August 15, 1984. The States of Oregon and Washington closed State ocean waters in the Columbia subarea at midnight on this date.

Pacific ocean perch is managed according to a 20-year rebuilding schedule designed to enable this species to recover from overfishing in the past. A trip limit of 5,000 pouds or ten percent (by round weight) of all fish on board was effective for the first half of the year. However, projections made in July indicated that the 950-mt quota for the Columbia subarea would be reached the first week of August. Therefore, effective August 1, 1984, the trip limit was further reduced by restricting landings to 20 percent (by weight) of all fish on board, not to exceed 5,000 pounds (49 FR 30948, August 2, 1984). The data available from two weeks' fishing under the reduced trip limit indicate that overall landings were not substantially slowed by this action, and may even have increased slightly. Accordingly, the Secretary determined that the quota will be reached, and retaining or landing Pacific ocean perch caught in the Columbia area must be prohibited after August 15, 1984. The closure applies to domestic and foreign fisheries. No Pacific ocean perch caught in the Columbia subarea (between 43°00′ and 47°30′ N. latitude) may be

retained or landed until January 1, 1985. A message has been sent to the fleet commanders of the foreign fishing and processing vessels advising them of this action.

Classification

The determination to prohibit further retention or landings of Pacific ocean perch is based on the most recent data available. This action is taken under the authority of 50 CFR 663.21(b), 663.23, 611.70(e)(1), and 611.70(e)(3)(ii), and is in compliance with Executive Order 12291. The actions are covered by the regulatory flexibility analysis prepared for the authorizing regulations.

Because of the immediate need to prohibit further retention of Pacific ocean perch and thereby prevent the overharvest that could otherwise result, the Agency finds that advance notice and public comment on this closure are impracticable and not in the public interest, and that no delay should occur in its effective date. The public was notified, in the course of implementing the 20-year rebuilding schedule established in the FMP and when fishing restrictions were imposed August 1, 1984, that landings of Pacific ocean perch are above levels producing the maximum sustainable yield and that continued high harvests reduce long-term productivity of the resource. The public had opportunity to comment at the Council's July 11–12, 1984, meeting in San Diego, California, and at meetings of the Groundfish Task Force and Groundfish Advisory Subpanel. Public comments also will be accepted for 15 days after this notice is published in the **Federal Register.** The Secretary therefore finds good cause to waive the 30-day delayed effectiveness provision of 50 CFR 663.23(c).

List of Subjects in 50 CFR Part 663

Fish, Fisheries.

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

Dated: August 20, 1984.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 84-22443 Filed 8-20-84; 5:08 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 49, No. 165
Thursday, August 23, 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 JUSTICE

Immigration and Naturalization Service

8 CFR Part 235

Inspection of Persons Applying for Admission; Preinspection

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: INS and Customs perform inspection outside the United States to "preclear" air travelers at the request of the airlines. Existing statutes authorize reimbursement for overtime and excess costs, such as housing and other related cost-of-living allowances expended in providing preclearance service. Although both agencies bill the airlines for overtime charges, only U.S. Customs charges the carriers for excess costs. Consequently, INS is not maximizing its collection of revenue to the fullest extent possible.

This proposed regulation would shift financial burden for excess costs relating to INS personnel at preclearance facilities from the United States Government to the benefiting carriers.

DATE: Comments must be received on or before October 22, 1984.

ADDRESS: Please submit written comments, in duplicate, to the Director of Policy Directives and Instructions, Immigration and Naturalization Service, Room 2011, 425 I Street NW., Washington, D.C. 20536.

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: Valerie M. Blake, Immigration Inspector, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536. Telephone: (202) 633–2694.

SUPPLEMENTARY INFORMATION: Pursuant to the terms of section 103(a) of the Immigration and Nationality Act, as amended, the Attorney General may, with concurrence of the Secretary of State, establish offices of the Service in foreign countries, and provide sufficient employees to staff those offices. In 1952, at the request of the Government of Canada and participating airlines, INS established a preclearance station at Toronto International Airport, Malton, Ontario, Canada. Shortly thereafter, INS was joined by the U.S. Customs Service. In addition to Toronto, such offices now exist at Montreal, Quebec; Winnipeg, Saskatchewan; Calgary and Edmonton, Alberta; and Vancouver and Victoria (primarily ferries), British Columbia, Canada. Other stations are located in Hamilton, Bermuda, and Nassau and Freeport, Bahamas. These offices have been established with all excessive costs related to preclearance having been borne by the Service.

In 1968, the Assistant Secretary of the Treasury requested that the Comptroller General consider whether a charge for Customs' expenses in providing preclearance services would be authorized or required by 31 U.S.C. 483, the "user fee" statute authorizing agencies to prescribe charges for government services that benefit identifiable entities. The Comptroller General issued a decision (B–164426) agreeing that a charge covering the excess cost of providing preclearance services would be authorized. According to Customs regulations, (19 CFR 24.18), reimbursable excess costs for preclearance include allowances and expenses for items such as quarters, post-of-duty differentials, and transportation of family members and household effects. In fiscal year 1983, the airlines reimbursed the Customs Service an amount in excess of three million dollars. INS did not receive reimbursement and would not, under current regulations. Because INS has a smaller number of inspectors assigned to preclearance activities, the total amount of reimbursable expenses would be less than that paid to Customs. Recoverable expenses would, however, approximate $900,000. As recommended by the Government Accounting Office, this proposed rule would present another opportunity to increase revenue to the Treasury of the United States, and more appropriately place any financial liability for inspectional services on the benefiting user; not on the Government of the United States.

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

List of Subjects in 8 CFR Part 235

Administrative practice and procedure, Air carriers, Inspections, Transportation, Travel and transportation expense.

Accordingly, it is proposed to amend Chapter 1 of Title 8 of the Code of Federal Regulations as follows:

PART 235—INSPECTION OF PERSONS APPYLING FOR ADMISSION

In § 235.5, new paragraphs (c)(1) through (c)(6) would be added to read as follows:

§ 235.5 Preinspection.

* * * * *

(c) *Preclearance of travelers in a foreign country; reimbursable costs.* (1) Preclearance is the examination and inspection of travelers at foreign places where Service personnel are stationed for that purpose.

(2) At the request of a carrier, travelers on a direct route to the United States from a foreign place described in paragraph (c)(1) of this section may be precleared prior to departure from such place. A charge based on the excess cost to the Immigration and Naturalization Service of providing preclearance services as defined in paragraph (c)(3) of this section shall be made to the carrier.

(3) The reimbursable excess cost is the difference between the cost of examining and inspecting travelers upon arrival in the United States assuming no preclearance was provided, and the cost of providing preclearance for travelers at the place of departure. Such excess cost shall include all items attributable to the preclearance operation. This does not include the salary of personnel regularly assigned to a preclearance station other than approved salary differentials related to the foreign assignments and the salary of relief

details made necessary by reason of the nature of the operation. In addition, such cost shall include the following allowances and expenses:

(i) Foreign quarters;

(ii) Cost-of-living allowances;

(iii) Education allowances;

(iv) Transportation cost incident to the assignment to the foreign station and return, including transportation of family and household effects;

(v) Home leave and associated transportation costs; and

(vi) Equipment, supplies and administrative costs including costs of supervising the preclearance installation.

(4) The reimbursable excess cost described in paragraph (c)(3) of this section shall be determined for each preclearance installation. On the basis of the excess cost figure for each installation, the excess cost of providing preclearance service for a biweekly pay period shall be determined. The initial schedule of biweekly excess cost will be based on the actual excess cost for Fiscal Year 1983. Thereafter a quarterly (ending with the pay period closely corresponding to June 30, September 30, December 31, and March 31) cost analysis will be conducted and the schedule of biweekly excess costs will be adjusted so that the current cost schedule will reflect the actual excess costs of the previous quarter. Such schedules of biweekly costs for each installation shall be published in the **Federal Register.** The biweekly excess cost in effect at an installation at the time the charge is made shall be used in calculating the prorated charge for preclearance service for each carrier in accordance with paragraph (c)(5) of this section.

(5) The charge to each carrier for preclearance service shall be its prorated share of the applicable excess cost prorated to the vessel receiving such services during the billing period on the following basis:

(i) Five percent shall be distributed equally among carriers serviced.

(ii) Ten percent shall be distributed proportionately as the number of clearances for each carrier serviced bears to the total number of clearances.

(iii) Eighty-five percent shall be distributed proportionately as the number of passengers and/or crew serviced for each carrier bears to the number of passengers and/or crew serviced.

(6) Immigration clearances for which overtime compensation is provided for by the Act of March 2, 1931 and expenses recovered thereunder are in no way affected by this section.

(Secs. 103 and 235 of the Immigration and Nationality Act, as amended;) (8 U.S.C. 1103 and 1225))

Dated: August 13, 1984.

Alan C. Nelson,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 84-22408 Filed 8-22-84; 8:45 am]

BILLING CODE 4410-10-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303 and 308

Applications, Requests, Submittals, Delegations of Authority, and Notices of Acquisition of Control

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Notice of proposed rulemaking.

SUMMARY: The FDIC is proposing to amend its regulations concerning the procedures for remote service facility applications ("RSFs"), requests for reconsideration of denied applications, petitions, or requests, and public comment on merger applications. The amendments would (1) permit establishment of additional RSFs and relocation of existing RSFs after notice to the appropriate FDIC regional director provided that the regional director does not object to the proposal, (2) expand the Director of the Division of Bank Supervision's and regional directors' delegated authority to act on additional RSF applications and RSF relocation applications, (3) specify the content of petitions for reconsideration, (4) specify who within the FDIC will reconsider denied applications, petitions, or requests, and (5) shorten the time period over which comments on merger applications may be filed from 45 days to 30 days.

DATE: Comments must be received by September 24, 1984.

ADDRESS: Comments should be sent to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. Comments may be hand delivered to Room 6108 between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Carmen J. Sullivan, Assistant Director, Corporate Applications and Special Activities Section, Division of Bank Supervision, (202) 389-4545, Charles R. Denesia, Chief, Applications Section, Division of Bank Supervision, (202) 389-4345, or Donald F. Pfeiffer, Supervising Review Examiner, Merger Unit, Division of Bank Supervision, (202) 389-4341, 550 17th Street NW., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

Remote Service Facilities

The FDIC is proposing to amend Part 303 of its regulations in several respects. Section 303.12(c) of FDIC's regulations presently limits the delegated authority of the Director of the Division of Bank Supervision ("Director") and the regional directors to act on branch, relocation, and remote service facility applications ("RSFs") in several ways. Under that section, for example, a regional director's delegated authority to approve an RSF application is only effective if the applicant meets certain capital criteria, the applicant is in substantial compliance with applicable laws and regulations, any financial arrangements concerning the RSF made with the applicant's directors, officers, major shareholders or their interests are reasonable, the requirements of the National Historic Preservation Act, the National Environmental Policy Act, and the Community Reinvestment Act ("CRA") are favorably resolved, and no comment protesting the application on CRA grounds other than from a competing financial institution has been filed. In brief, the above criteria must be met in order for the regional director's authority to act on and approve the application to be effective.

In addition, the Director's and regional directors' delegated authority to act on branch, relocation, and RSF applications is limited as follows: (i) The Director or regional director may approve but not deny any branch, relocation, or RSF application if the applicant's Uniform Financial Institutions Rating System rating (composite CAMEL), *see* 1 FED. DEPOSIT INS. CORP. LAW, REG., RELATED ACTS (FDIC) 5079, Uniform Interagency Consumer Compliance rating (Compliance), *see* 1 FED. DEPOSIT INS. CORP. LAW, REG., RELATED ACTS (FDIC) 5213, and Community Reinvestment Act ("CRA") rating are 1 or 2; (ii) the Director or regional director may approve or deny any branch, relocation, or RSF application if any one of the applicant's composite CAMEL, Compliance, or CRA ratings is 3 but none of the ratings are 4 or 5; and (iii) the Director or regional director may deny, but not approve any branch, relocation, or RSF application if any one of the applicant's composite CAMEL, Compliance, or CRA ratings is 4 or 5.

The FDIC is proposing to expand the delegated authority of the Director and regional directors to act on RSF

relocation applications and applications for additional RSFs. Under the proposed amendments, the delegated authority to act on such applications would not be limited by the criteria set out above, i.e., the regional directors and Director would have the authority to consider and act upon such applications regardless of the applicant's capital, its composite rating, etc. Any substantive grant or denial of the application would, however, be based upon the six factors set out in section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816). As applicants seeking to establish additional RSFs or relocate existing RSFs must still publish notice of the intended action, the amendment will not affect the public's right to comment on such applications. The amendment is anticipated to benefit banks inasmuch as it is expected to shorten the overall processing time required for RSF relocation and additional RSF applications.

In addition to the above, FDIC proposes to amend the application procedures for additional RSFs and relocations of existing RSFs. Section 303.14(l)(2) of FDIC's regulations presently indicates that a bank or insured branch of a foreign bank that wishes to establish an initial RSF, additional RSF, or relocate an existing RSF is to file a letter application with the appropriate FDIC regional office. The letter application is to give full particulars of the proposal including the matters listed in § 303.2(a). The establishing bank or insured branch of a foreign bank also must publish notice of the application as required by § 303.14(b).

FDIC is proposing to amend the application procedures as follows. Under the proposal, an establishing bank or insured branch of a foreign bank will still be required to file a letter application containing the material set forth in § 303.2(a) and meet the applicable publication requirements as to an initial RSF. Once approval is granted, the RSF may be established. Thereafter, the bank or insured branch of a foreign bank only need file notice with the appropriate FDIC regional office of its intent to establish an additional RSF or relocate an existing RSF. Unless otherwise notified, the applicant may establish the additional RSF or relocate the existing RSF. The notice is to contain the information set out in § 303.2(a) and the bank or insured branch must publish notice as required by § 303.14(b). The FDIC will have 15 days from the date of the last publication or 15 days from receipt of the notice, whichever is later, to object to the establishment of the additional RSF and 21 days from the date of the last publication or 21 days from the receipt of the notice, whichever is later, to object to the relocation of an existing RSF. If it is determined that the proposal warrants further consideration, the regional director will notify the applicant within the 15- or 21-day time period that the RSF should not be established or relocated until the FDIC takes formal action. The proposal also states that a bank or insured branch of a foreign bank that received approval to establish one or more RSFs under procedures in place prior to the proposal will be permitted to establish additional RSFs or relocate an existing RSF under the new procedures. The change in procedure is expected to expedite processing of such applications and thereby benefit banks and insured branches of foreign banks. Inasmuch as applicants must meet the publication requirements, the amendments should not adversely affect the public's right to comment on and/or protest such applications.

Merger Applications

FDIC is proposing to amend its procedures affecting the time period in which persons may comment upon proposed merger transactions. Section 303.14(b)(2) currently provides that anyone who wishes to comment in writing on a merger application may do so any time before FDIC has completed processing the application. The section further provides that processing will not be completed earlier than 15 days after publication of notice of the application as required by § 303.14(b)(1)(i) or 15 days after FDIC's receipt of the application, whichever is later. As the applicant is required to publish notice of the proposed transaction once each week on the same day for five consecutive weeks and, when published in a daily newspaper, one additional publication on the thirtieth day from the date of the first publication, the comment period under current regulations is normally 45 days or longer.

The FDIC is proposing to shorten the time period during which comments on a merger application may be made from 45 to 30 days. *See* 12 CFR 303.14(b)(2). (A companion amendment to the text of the required public notice as set out in § 303.14(b)(3) would also be made.) Although this action would affect the public's right to comment, the FDIC does not feel that the impact of the change will be substantial. More often than not, FDIC does not receive any public comments on a proposed merger transaction. Based on its past experience, the FDIC anticipates that the public will have ample time to comment on merger transactions under the proposed procedure. The change is expected to expedite processing on merger applications thereby benefiting banks.

Reconsiderations

FDIC is proposing to amend § 303.10(d) of its regulations concerning reconsideration of denied applications, petitions, or requests. That section currently provides that an applicant may, within 15 days of receipt of notice of a denial, petition the Board of Directors (or the Board of Review where the Board of Review denied the application, petition, or request under delegated authority) for reconsideration of the denial. Reconsideration is not available where the application, petition, or request was previously reconsidered and denied. The applicant may request an opportunity to amend its application or to submit information in rebuttal of the denial, either in writing or in an oral presentation. Upon filing of the petition for reconsideration, the applicant is given 60 days in which to amend the application. If the applicant requests an opportunity to make oral presentation, the applicant is to be advised of the date, time, place and person(s) before whom presentation shall be made.

FDIC is proposing to amend § 303.10(d) to specify that the petition for reconsideration is to (1) set forth reasons why the FDIC should reconsider the application, petition, or request, and (2) set forth any relevant, subtantive information that for good cause was not previously contained in the application, petition, or request on which the petitioner seeks reconsideration. The petition for reconsideration is to be filed with the appropriate regional director or, in a case where the application, petition, or request does not concern a particular insured nonmember bank or insured branch of a foreign bank, with the Executive Secretary of the FDIC.

The Board of Directors, or, in the case of a denial under delegated authority, the Board of Review, shall reconsider the application, petition, or request.

The applicant still must petition for reconsideration within 15 days of receipt of notice of the denial. Lastly, the amendment would clarify that as to section 19 denials (applications for permission for an individual who has been convicted of a crime involving dishonesty or a breach of trust to serve as a director, officer, or employee of an insured bank), reconsideration will be governed by the procedures currently

set out in Subpart G of section 308 of FDIC's regulations. This would require a change to § 308.61 of Subpart G in order to delete what would become, upon adoption of the amendments to § 303.10(d), an obsolete cross-reference to the latter section. The amendment to § 308.61 would reduce the waiting time for a hearing from a maximum of 60 days to a maximum of 30 days after the FDIC receives a request for a hearing. This change would provide consistency with the waiting period for the other types of hearings governed by Subpart G and would speed the hearing process. An affected individual or bank would, however, retain the right, as under the current version of § 308.61, to petition for a later hearing date.

FDIC's intent in proposing this amendment is to clarify for the applicant's benefit what information should be included in the petition for reconsideration. This, together with other proposed changes, should minimize the average processing time for reconsideration requests, which will benefit the applicant.

Regulatory Flexibility Analysis/ Paperwork Reduction Act

The Board of Directors pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) certifies that the proposed amendments, if adopted, are not expected to have a significant economic impact on a substantial number of small entities. The amendments will not establish any recordkeeping or reporting requirement or affect the competitive position of banks. The amendments should permit banks and insured branches of foreign banks to establish and/or relocate RSFs in shorter time periods as the amended delegations for RSFs and amended procedures for additional RSFs and relocations thereof shold expedite approvals where warranted. These changes will not affect the information applicant banks must provide to the FDIC in such applications. Although the proposal does alter reconsideration procedures somewhat, the amended procedures should not have any economic impact on any bank. Current procedures already require a written petition for reconsideration. The amendment merely sets forth with greater specificity the type of information a petitioner should place in the reconsideration petition.

List of Subjects

12 CFR Part 303

Administrative practice and procedure, Authority delegations, Bank deposit insurance, Banks, Banking.

12 CFR Part 308

Administative practice and procedure, Claims, Courts, Equal access to justice, Lawyers, Penalties.

For the reasons set out above, it is proposed that Part 303 of Title 12 of the Code of Federal Regulations be amended as set forth below.

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, DELEGATIONS OF AUTHORITY, AND NOTICES OF ACQUISITION OF CONTROL

1. The authority citation for Part 303 reads as follows:

Authority: Secs. 2(5), 2(6), 2(7)(j), 2(8), 2(9 "Seventh" and "Tenth"), 2(18), 2(19), Pub. L. 797, 64 Stat. 876, 881, 891, 893 as amended by Pub. L. 86–463, 74 Stat. 129; sec. 2, Pub. L. 87–827, 76 Stat. 953; Pub. L. 88–593, 78 Stat. 940; Pub. L. 89–79, 79 Stat. 244; sec. 1, Pub. L. 89–356, 80 Stat. 7; sec. 12(c), Pub. L. 89–485, 80 Stat. 242; sec. 3, Pub. L. 89–597, 80 Stat. 824; title II, secs. 201, 205, Pub. L. 89–695, 80 Stat. 1055; sec. 2(b), Pub. L. 90–505, 82 Stat. 856; secs. 6(c) (7), (12), (13), Pub. L. 95–369, 92 Stat. 616–620; title III, secs. 306, 309 and title VI, sec. 602, Pub. L. 95–630, 92 Stat. 3677, 3683 (12 U.S.C. 1815, 1816, 1817(j), 1818, 1819 "Seventh" and "Tenth", 1828, 1829); title I, sec. 108, Pub. L. 90–321, 82 Stat. 150 as amended by title IV, sec. 403, Pub L. 93–495, 88 Stat. 1517 and title VI, sec. 608, Pub. L. 96–221, 94 Stat. 171 (15 U.S.C. 1607).

2. It is proposed that § 303.10(d) be revised to read as follows:

§ 303.10 Procedure on applications.

* * * * *

(d) *Opportunity to petition for reconsideration of a denied application, petition, or request.* Within 15 days of receipt of notice that its application, petition, or other request has been denied, any applicant may petition the FDIC for reconsideration of such application, petition, or request (except an application, petition, or request already previously denied upon reconsideration). The petition must be in writing and should (1) specify reasons why the FDIC should reconsider its action and (2) set forth relevant, substantive information that for good cause was not previously set forth in the application, petition, or request to be reconsidered. The petition should be filed with the regional director for the region in which the insured bank or insured branch of a foreign bank which is the subject of the action on which reconsideration is sought is located. If a particular insured bank or insured branch of a foreign bank was not the subject of the application, petition, or request on which reconsideration is sought, the petition should be filed with the Executive Secretary of the FDIC at the FDIC's principal office. Applications, petitions, or requests denied by the Board of Directors will be reconsidered by the Board of Directors. Applications, petitions, or requests denied under delegated authority by the Board of Review, the Director of the Division of Bank Supervision, or a regional director will be reconsidered by the Board of Review. Notwithstanding the paragraph (d)(1) any action taken by the Board of Review pursuant to § 303.13(o) shall be subject to review by the Board of Directors in accordance with § 303.13(o)(7) and (ii) requests for reconsideration of denials of applications under section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) shall be made in accordance with the proceudres set out in Part 308.

3. It is proposed that paragraph (c) of § 303.12 be amended by inserting the number "(1)" after the caption, by redesignating present paragraphs (1) through (4) as paragraphs (i) through (iv) respectively, by redesignating paragraphs (5) and (6) as (2) and (3) respectively, by revising redesignated paragraph (c)(1), and by adding a new sentence at the conclusion of redesignated paragraph (c)(2) to read as follows:

§ 303.12 Applications where authority is not delegated.

* * * * *

(c) *Conditions precedent to delegation to act on branch applications and relocations.* (1) (Important: The requirements set forth in this paragraph are procedural in nature only and should not be construed as standards or criteria which will be used in determining whether a specific application will be approved or denied.) Authority to approve branch applications and relocations (including initial remote service facilities but excluding additional remote service facilities or relocations thereof) pursuant to § 303.11(a)(7) is delegated only where the following requisites have been satisifed.

* * * * *

(2) * * * The provisions of this paragraph (c)(2) and of paragraph (c)(3) are inapplicable to applications for establishing additional remote service facilities and applications to relocate existing remote service facilities.

* * * * *

4. It is proposed that § 303.14 be amended by revising paragraph (b)(2), the text following the colon in paragraph (b)(3), and paragraph (l)(2) to read as follows:

§ 303.14 Application procedures.

* * * * *

(b) * * *

(2) *Comments.* Anyone who wishes to comment on an application may do so by filing comments in writing with the regional director at any time before the FDIC has completed processing the application. Processing will be completed, for applications other than branch relocation and remote service facility relocation applications and merger applications, not less than 15 days after the publication of the notice required by paragraph (b)(1) of this section or 15 days after FDIC's receipt of the application, whichever is later; for branch relocation and remote service facility relocation applications, not less than 21 days after the last publication or 21 days after FDIC's receipt of the application, whichever is later; for merger applications, not less than 30 days after the first publication or 30 days after FDIC's receipt of the application, whichever is later. This time period may be extended by the regional director for good cause. The regional director shall report the reasons for such action to the Board of Directors.

(3) *Notice of right to comment.* * * * Any person wishing to comment on this application may file his or her comments in writing with the regional director of the Fedeal Insurance Corporation at its regional office (address of the regional office) before processing of the application has been completed. Processing will be completed no earlier than the (relocations-21st, mergers-30th, other applications described in paragraph (a) of this section-15th) day following either the date of the (merger applications-first, all other applications described in paragraph (a)-last) required publication or the date of receipt of the application by the FDIC, whichever is later. The period may be extended by the regional director for good cause. The nonconfidential portion of the application file is available for inspection within one day following the request for such file. It may be inspected in the Corporation's regional office during regular business hours. Photocopies of information in the nonconfidential portion of the application file will be made available upon request. A schedule of charges for such copies can be obtained from the regional office.

* * * * *

(l) * * *

(2) *Application procedures.* (i) For the purpose of this section, "establishing" means owning or leasing a remote service facility either individually or jointly. An establishing bank or a foreign bank with an insured State branch shall file a letter giving full particulars of the proposal, including the matters listed in § 303.2(a), to establish an initial remote service facility with the appropriate regional office and comply with the provisions of paragraph (b) of this section. Once this application has been approved, an establishing bank or a foreign bank with an insured State branch may add additional remote service facilities or relocate existing facilities without formal application by: (A) Notifying the appropriate regional office in writing of the intended action, and (B) complying with the notice provisions of paragraph (b) of this section. The notice shall include the matters listed in § 303.2(a). Such informal application shall be deemed to be an application for the purposes of §§ 303.11 and 303.14. In the case of additional remote service facilities, unless notified otherwise within 15 days of the last publication of notice as required by paragraph (b) of this section or within 15 days after the regional office's receipt of the notice, whichever is later, or in the case of relocations, unless otherwise notified within 21 days of the last publication of notice as required by paragraph (b) of this section or within 21 days after the regional office's receipt of the notice, whichever is later, the additional remote service facility or relocation of an existing remote service facility will be considered approved. If it is determined that the proposal warrants further consideration, the regional director will notify the applicant within the 15- or 21-day period that the remote service facility should not be established or relocated until further action is taken by the FDIC.

(ii) An establishing bank or foreign bank with an insured State branch having one or more remote service facilities established under preexisting regulations may establish additional remote service facilities or relocate existing remote service facilities without formal application by following the procedures set forth in paragraph (2)(i) (A) or (B) of section § 303.14(l).

PART 308—RULES OF PRACTICE AND PROCEDURE

5. The authority citation for Part 308 reads as follows:

Authority: Sec. 2(9), Pub. L. 797, 64 Stat. 881 (12 U.S.C. 1819); sec. 18, Pub. L. 94–29, 89 Stat. 155 (15 U.S.C. 78w); sec. 801, Pub. L. 95–630, 92 Stat. 3641 (12 U.S.C. 1972); sec. 203, Pub. L. 96–481, 94 Stat. 2325 (5 U.S.C. 504).

6. It is proposed that § 308.61 be amended by revising paragraph (a) to read as follows:

§ 308.61 Hearing.

(a) The Executive Secretary shall order a hearing to commence within 30 days after receipt of a request for hearing pursuant to § 308.59. The hearing shall be held in Washington, D.C., or at another designated place, before a presiding officer designated by the Executive Secretary. The Executive Secretary may order a later hearing date upon petition of the individual or in the case of a section 19 denial, the affected individual or the bank afforded the hearing.

* * * * *

By Order of the Board of Directors, this 13th day of August 1984.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84–22376 Filed 8–22–84; 8:45 am]

BILLING CODE 6714–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Part 990

[Docket No. R–84–1170; FR–1834]

Modification to the Performance Funding System; Correction

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule on the Public Housing Performance Funding System that appeared in the **Federal Register** of Monday, July 30, 1984 (49 FR 30330). The action is necessary to correct a conflict in the preamble that was the result of inadvertent error. This document deletes a justification for a 30-day comment period in the preamble that contradicts the stated comment period of 60 days.

DATE: Comments on the proposed rule must be received on or before September 28, 1984.

ADDRESS: Send comments to the Office of General Counsel, Rules Docket Clerk, Room 19276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: John T. Comerford, Financial Management Branch, Office of Public

and Indian Housing, Room 4216, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 426–1872. This is not a toll-free number.

The following correction is made in FR Doc. 84–19983 appearing on page 30330 in the issue of July 30, 1984:

On page 30331, column two, the first two full paragraphs and the heading above them, "OTHER MATTERS", are deleted.

Dated: August 17, 1984.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 84–22387 Filed 8–22–84; 8:45 am]

BILLING CODE 4210–33–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 3282

[Docket No. R–84–1147; FR–1767n]

Manufactured Home Procedural and Enforcement Regulations Monitoring Inspection Fees

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Proposed rule.

SUMMARY: HUD proposed to amend regulations which establish the method of calculating and collecting monitoring inspection fees for manufactured housing units:

DATE: Comment due date: October 22, 1984

ADDRESS: Interested persons are invited to submit comments to the Rules Dockets Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Each comment should include the commenter's name and address and must refer to the docket number indicated in the hearing of this rule. A copy of each comment will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: James C. McCollom Director, Manufactured Housing and Construction Standards Division, Office of Manufactured Housing and Regulatory Functions, Department of Housing and Urban Development, (202) 755–6920. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Section 620 of the National Manufactured Housing Construction and Safety Standards Act (the Act), 42 U.S.C. 5419, authorizes the Secretary to establish and impose on manufactured home manufacturers, distributors and dealers incurred by the Secretary in conducting inspections required by the Act.

The current fee amount, established by notice in the **Federal Register** under 24 CFR 3282.454, is $19.00 per housing unit. 24 CFR 3282.210 establishes a method of payment of this fee when labels are issued and a method of giving credit for labels that are applied to additional transportable sections of manufactured housing units. 24 CFR 3282.307 governs the establishment and distribution of fees at the State level.

Preliminary Matter

The Department recently revised 24 CFR 3282.454 to enable the Secretary to adjust the manufactured home monitoring inspection fee by notice in the **Federal Register** rather than by rule making (49 FR 26576, June 28, 1984). In this proceeding, the Department is addressing a different aspect of § 3282.454. Here, the issue is whether to require manufacturers to pay the monitoring inspection fee for "each manufactured home", or for "each transportable section of each manufactured housing unit." Also in this proceeding, in a related, proposed revision to 24 CFR 3282.210, the Department would eliminate the current system of credits associated with inspection labeling of multi-unit manufactured homes. Finally, the Department proposes to amend § 3282.307 to comport with the revision to § 3282.454.

Notably, should the revision proposed in this proceeding be adopted, the fee imposed on each transportable *section* of a home will be less than the fee would be if it were imposed on a *complete unit* basis. This is because the Department's methodology for establishing a fee requires a division of the (anticipated) number of units to be manufactured into the anticipated total inspection program costs. Since more transportable sections are manufactured than complete units, this results in a lower "per unit" fee. As discussed at length below, the current inspection program already entails inspections of the independent sections of a complete unit. Thus, the costs of conducting the inspections program will not change because of this proposal to assess fees on a per-unit section basis.

Discussion

At the inception of the inspection program, HUD recognized that every transporatable section of a manufactured home had to be identified with a label until it was mated with other sections of the home. Thus, the Department established a system under 24 CFR 3282.210, which essentially requires manufacturers to purchase labels for each transportable section of their manufactured homes, regardless of whether a unit is transported in a single section or multiple sections. These are the fees collected to offset the Secretary's expenses for conducting inspections under Section 620 of the Act.

At that time, however, HUD believed that so-called "dry half" of a double-wide would not require any appreciable amount of inspection. It determined, therefore, that manufacturers should be given credits for labels which they purchase and applied to the "dry halves" of double-wides. 24 CFR 3282.210 provides for such credits.

After several years of experience, it has become apparent that, similar to "wet sections", "dry sections" of double-wides and triple-wides require a significant degree of inspection. The structural design and construction of multisectional housing units is far more complex than that of single section units. In every case, the added sections contain electrical, hearing, and ventilating systems, and plumbing systems are included in some cases. HUD has been required to conduct comprehensive inspection of all sections of multisectional units to assure conformance to Federal standards and to monitor the performance of HUD approved inspection agencies. For this reason, any fee reasonably assessed upon a manufacturer should be imposed with respect to each transportable section of a manufactured home.

On the other hand, if the current system of assessing units as a whole persists, an inequitable situation will arise between manufacturers. Based on past production figures, the Department estimates that the great majority of manufactured homes will be transported as single complete units. Manufacturers of these complete units would continue to pay inspection fees which would in effect, be subsidizing the fees paid by manufacturers of units transported in sections. Under the rule proposed, however, each manufacturer would pay a fee which reflects the inspection requirements attendant to that manufacturer's product line.

If this rule making is ultimately adopted, it follows that the current credit system established under 24 CFR 3282.210 should be eliminated. Specifically, under the current system the manufacturer purchases labels from a HUD-approved production inspection primary inspection agency (IPIA) about one month in advance of applying those labels to all transportable sections of

housing units. The manufacturer provides the inspection agency with a check payable to HUD in the amount currently in effect under § 3282.454, multiplied by the number of labels purchased. A month later, when the manufacturer needs more labels, it determines how many labels it has applied to added sections of multiwides, orders an additional quantity of labels and provides the inspection agency with a check payable to HUD in the amount currently in effect under § 3282.454, multiplied by the number of labels ordered, less the number of labels it has applied to added sections. It is estimated that the aggregate cost of this label-accounting process by all of the manufacturers in the United States is about $2,800 per year.

The IPIA verifies the number of credits requested, by its own records, and forwards the manufacturer's check to HUD's monitoring contractor, who assures that every label is accounted for and that the required fee is collected for every label issued. The monitoring contactor verifies the amount of the check from its production records, resubmits unsigned checks or improperly written checks and forwards the verified check to the HUD Office of Finance and Accounting. It is estimated that the cost of verifiying credits by the monitoring contractor and the 24 active IPIAs is $20,000 per year. This cost and the manufacturers' costs add up to $22,800 per year, which costs could be saved if label credits were eliminated. Elimination of the credit provision should also result in fewer record-keeping and accounting requirements for the manufacturers.

Finally, § 3282.307(a) is being amended, without further substantive change, in order to conform to the revisions to §§ 3282.454 and 3282.210 discussed above. Notably, § 3282.307(b) would continue to provide for the distribution of fees among States based on complete units, as opposed to transportable sections of these units, since States respond to the complaints of a consumer after a complete unit has been purchased.

In accordance with 24 CFR 50.20(l), this rulemaking is not subject to the environmental assessment requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4332.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Anaylsis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more, (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule will lessen recordkeeping requirements for affected businesses and save administrative costs. However, the amount of savings and costs involved for small entities as a consequence of these rule revisions are not of economic significance and an initial analysis under 5 U.S.C. 603 is unwarranted.

This proposed rule was listed as Item H–30–83 on page 15938 in the Department's Semiannual Agenda of Regulations published on April 19, 1984 (49 FR 15902) under Executive Order 12291 and the Regulatory Flexibility Act.

The applicable Catalog of Federal Domestic Assistance program number is 14.804.

The collection of information requirement contained in this rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Please send any comments regarding the collection of information requirement to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20403, Attention: Desk Officer for HUD.

List of Subjects in 24 CFR Part 3282

Administrative practice and procedure, Consumer protection, Intergovernmental relations, Investigations, Mobile Homes.

For the reasons set out in the Preamble and under the authority of the National Manufactured Housing Construction and Safety Standards Act, 24 CFR Part 3282 is proposed to be amended as follows:

PART 3282—MOBILE HOME PROCEDURAL AND ENFORCEMENT REGULATIONS

1. Section 3282.210 would be revised to read as follows:

§ 3282.210 Payment of monitoring fee.

(a) Each manufacturer shall pay the monitoring fee established under §§ 3282.454 and 3282.307 for each transportable section of each manufactured housing unit which it manufactures under the Federal standards.

(b) The monitoring fee shall be paid in the form of a check made payable to the Secretary or the Secertary's or the Secretary's agent. The manufacturer shall give to the IPIA the required check in the amount of the number of labels, as required by § 3282.362(c)(2), multiplied by the amount of the fee per transportable section of each manufactured housing unit.

2. Section 3282.307 would be revised to read as follows:

§ 3282.307 Monitoring inspection fee—establishment and distribution.

(a) Each approved State shall establish a monitoring inspection fee in an amount required by the Secretary. This fee shall be an amount paid by each manufactured home manufacturer in the State for each transportable section of each manufactured housing unit produced by the manufacturer in that State. In non-approved and conditionally-approved States, the fee shall be set by the Secretary.

(b) The monitoring inspection fee shall be paid by the manufacturer to the Secretary or the Secretary's agent, who shall distribute the fees collected from all manufactured home manufacturers among the approved and conditionally-approved States based on the number of new manufactured housing units whose first location after leaving the manufacturing plant is on the premises of a distributor, dealer, or purchaser in that State, and the extent of participation of the State in the joint team monitoring program set out in § 3282.308.

3. Section 3282.454 would be revised as follows:

§ 3282.454 Monitoring inspection fee.

(a) The Secretary may establish by notice in the Federal Register a monitoring inspection fee which is to be paid by manufacturers for each transportable section of each manufactured home manufactured in nonapproved and conditionally approved states as described in § 3282.210. To determine the amount of the inspection fee to be paid for each transportable section of each manufactured home, the Secretary shall divide the (estimated) number of transportable sections of manufactured homes (based on recent industry production figures) into the anticipated aggregate cost of conducting the inspection program. To determine the

aggregate cost of conducting the inspection program, the Secretary shall calculate the sum necessary to support (1) inspection-related activities of State Administrative Agencies; (2) inspection-related activities performed by the Department of Housing and Urban Development; (3) inspection-related activities performed by monitoring inspection contractor(s); (4) miscellaneous activities involving the performance of inspection-related activities by the Department, including on-site inspections on an ad-hoc basis; and (5) maintenance of adequate reserve funds.

(b) The monitoring inspection fee to be established by approved states under § 3282.307(a) shall be in an amount required by the Secretary.

(c) The Secretary may at any time revise the amount of the fees established under paragraphs (a) or (b) of this section by placing a notice of the amount of the revised fee in the **Federal Register.**

(Sec. 620, National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401); Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d))

Dated: June 15, 1984.

Maurice L. Barksdale,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-22405 Filed 8-22-84; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-147-84]

Treatment of Certain Losses on Straddles Entered Into Before Effective Date of Economic Recovery Tax Act of 1981

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the Federal Register, the Internal Revenue Service is issuing Temporary Income Tax Regulations § 1.165-13T (Treasury Decision 7968) relating to the treatment of certain losses on straddles entered into before the effective date of the Economic Recovery Tax Act of 1981. The text of those temporary regulations also serves as the text for a notice of proposed rulemaking for final income tax regulations.

DATES: Written comments and requests for a public hearing must be delivered or mailed before October 22, 1984. The amendments are proposed to be effective for any disposition of 1 or more positions which were entered into before January 1, 1982, and form part of a straddle and to which the amendments made by Title V of the Economic Recovery Tax Act of 1981 do not apply.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-147-84), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Neil W. Zyskind of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (LR-147-84), 202-566-3287, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amends 26 CFR by adding a new § 1.165-13T. The final regulations which are proposed to be based on the temporary regulations would amend 26 CFR by adding new § 1.165-13 to Part 1 (Income Tax; Taxable years beginning after December 31, 1953). The regulations are to be issued under the authority contained in section 7805 of the Code (68A Stat. 917, 26 U.S.C. 7805). For the text of the temporary regulations, see FR Doc. 84-22444 (T.D. 7968) published in the Rules and Regulations portion of this issue of the **Federal Register.**

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting the temporary regulations referred to in this document as final regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Neil W. Zyskind of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.61-1—1.281-4

Income taxes, Taxable income, Deductions, Exemptions.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84-22445 Filed 8-21-84; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD3 84-32]

Drawbridge Operation Regulations; Raccoon Creek, NJ

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of Consolidated Rail Corporation (CONRAIL), the Coast Guard is considering a change to the regulations governing the Raccoon Creek railroad bridge at Bridgeport, New Jersey. It is proposed that the draw open on signal March 1 through November 30 from 7 a.m. to 11 p.m., and on signal upon four hours notice at all other times. This proposal is being made because openings for vessels are minimal during these periods. This action should continue to relieve the bridge owner of the burden of having a person constantly available to open the draw and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before October 9, 1984.

ADDRESS: Comments should be mailed to Commander (oan-br), Third Coast

Guard District, Bldg. 135A, Governors Island, NY 10004. The comments and other materials referenced in this notice will be available for inspection and copying at this address. Normal office hours are between 9 a.m. and 3 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Third Coast Guard District (212) 668–7994.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or for any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Third Coast Guard District will evaluate all communications received and will determine a final course of action on this proposal. The proposed regulations may be changed in light of comments received.

On April 24, 1984, the Coast Guard published a final rule (49 FR 17450) that reorganized regulations for drawbridges (Part 117 of Title 33, Code of Federal Regulations) to consolidate common requirements and to organize bridge regulations into a more usable format. This proposed rule follows the revised numbering and format.

A final rule was issued on August 25, 1983 (49 FR 38632) providing for change in regulations at the Route 130 highway bridge over Raccoon Creek. This change was inadvertently not incorporated into the reorganization of regulations (49 FR 17450). To correct this error, its content has been included in section § 117.741 with no substantive changes.

Drafting Information

The drafters of this notice are Ernest J. Feemster, project manager, and Mary Ann Arisman, project attorney.

Discussion of Proposed Regulations

In the closed position, the Raccoon Creek railroad bridge has a seven-foot vertical clearance at Mean High Water necessitating opening of the draw for many vessels. Raccoon Creek once supported commercial vessel traffic upstream of the bridge but no commerical traffic has used the upstream waterway in recent years. There also are no existing commercial facilities upstream of the bridge that receive shipments by water.

Bridge opening logs from 1979 to 1983 were studied prior to proposing this action. However, the logs do not reflect marine traffic since the bridge was regularly left in the open position at various times. The logs also appear to be used mainly to document train passage.

Boating on the creek occurs mainly during the day throughout the year, except during severe winter periods. Vessels engaged in skiing, fishing, trapping, hunting and recreational boating reportedly pass through the bridge. A large percentage of vessels using the waterway appear to be docked on Raccoon Creek.

The Route 130 highway drawbridge with a four-foot vertival clearance at Mean High Water is about two-tenths of a mile downstream of the railroad bridge. It currently requires four hours notice for openings between 11 p.m. and 7 a.m. throughout the year.

The Coast Guard, at the owner's request, is proposing that the Raccoon Creek railroad bridge open on signal (or be maintained in the open position) from March through November from 7 a.m. to 11 p.m. and require four hours notice at all other times. Four hours notice from 11 p.m. to 7 a.m. will not pose an undue inconvenience to vessels since similar reguations exist at the Route 130 highway bridge which has a lower vertical clearance. Similarly, four hours notice at all times from December through February would not appear to pose a problem since most vessels do not use the waterway during this period. The bridge presently opens on signal from March through November. From December through February, it need only open on signal from 6 a.m. to 10 p.m. on non-holiday weekdays with four hours notice required at all othe times.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. No commercial, water-dependent facility is expected to be impacted by this action since no such facility exists upstream of the bridge or is planned. Additionally few, if any, recreational vessels normally transit the bridge when four hours notice would be required. Because any vessel requiring an opening during the notice periods need only contact the bridge owner four hours in advance to receive an opening, the overall impact on vessels will be minimal. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations by revising § 117.741 to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.741 Raccoon Creek.

(a) The draw of the Route 130 highway bridge, mile 1.8 at Bridgeport shall open on signal from 7 a.m. to 11 p.m. the draw shall open on signal from 11 p.m. to 7 a.m. if a least four hours notice is given. The draw shall open at all times as soon as possible for passage of a public vessel of the United States.

(b) The draw of the CONRAIL railroad bridge, mile 2.0 at Bridgeport shall open on signal March 1 through November 30 from 7 a.m. to 11 p.m., and on signal upon four hours notice at all other times. The draw shall open as soon at possible at all times for passage of a public vessel of the United States.

(33 U.S.C. 499; 49 CFR 1.46(c)(2); 33 CFR 1.05–1(g)(3))

Dated August 10, 1984.

R.L. Johanson,

Captain, U.S. Coast Guard, Acting Commander, Third Coast Guard District.

[FR Doc. 84-22419 Filed 8-22-84; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84-787; RM-4725]

Noncommercial Educational FM Broadcast Station in Palm Desert, CA; Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of FM Channel 219A to Palm Desert, California as that community's first local noncommercial educational channel, at the request of the University of Southern California.

DATES: Comments must be filed on or before Ooctober 5, 1984, and reply comments on or before October 22, 1984.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.504(a), Table of Assignments, Noncommercial Educational FM Broadcast Stations (Palm Desert, California); MM Docket No. 84–787, RM–4725.

Adopted: August 7, 1984.
Released: August 14, 1984.

By the Chief, Policy and Rule Division.

1. The Commission has before it a petition for rule making, filed by the University of Southern California ("petitioner"), requesting the assignment of FM Channel 219A to Palm Desert, California, as that community's first local noncommercial educational assignment. Palm Desert currently has assigned to it two commercial allocations, Channels 244A and 276A. Petitioner has stated its intention to apply for the channel, if assigned.

2. Channel 219A can be assigned to Palm Desert in compliance with the Commission's minimum distance separation requirements if a site restriction of 8.7 kilometers (5.4 miles) southeast is imposed. This will negate a short-spacing to Station KVCR, Channel 220 at San Bernadino, California. Since Palm Desert is located within 320 kilometers (199 miles) of the U.S.-Mexico border, the concurrence of the Mexican Government is required before the assignment can be finalized.

3. We believe the public interest would be served by seeking comments on the proposed channel assignment which could provide Palm Desert with its first local noncommercial educational service. Accordingly it is proposed to amend the Noncommercial Educational FM Table of Assignments, § 73.504(a) of the Rules, for the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Palm Desert, California		219A

4. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by refernce 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 October 5, 1984, and reply comments on or before October 22, 1984, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner as follows: F. Joseph Brinig, Esq., Fortas and Hardman, 1200–29th Street, NW., Washington, D.C. 20007–3385 (Counsel to petitioner).

6. The Commission had 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, § 73.504(a) 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 *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comment 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.

Charles Schott,

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, § 73.504(a) 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 Commision's Rules.)'

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-22398 Filed 8-22-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-786; RM-4655; RM-4721; RM-4746]

FM Broadcast Station in Fenwick Island, DE, and Hurlock, MD; Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of FM Channels 221A to Fenwick Island, Delaware, at the request of Gregory W. Guise, and 265A to Hurlock, Maryland, at the request of the Muir Corporation. Both channels could provide a first local FM service to their community.

DATES: Comments must be filed on or before October 5, 1984, and reply comments on or before October 22, 1984.

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

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

SUPPLEMENTARY INFORMATION:

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 (Fenwick Island, Delaware, and Hurlock, Maryland); MM Docket No. 84-786, RM-4655, RM-4721, RM-4746.

Adopted: August 7, 1984.
Released: August 14, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has before it petitions for rule making seeking the assignment of a first local FM channel to Fenwick Island, Delaware, and to Hurlock, Maryland. Gregory W. Guise ("Guise") seeks the assignment of FM Channel 221A to Fenwick Island (RM-4721). The Muir Corporation ("Muir") requests the assignment of the same channel to Hurlock, Maryland, while Genesis Communications, Incorporated ("Genesis") seeks the assignment of Channel 265A there (RM's-4655 and 4746, respectively).[1] Fenwick Island and Hurlock are located 47 miles apart, rather than the 65 miles required for the assignment of co-channel frequencies. All parties have stated their intention to apply for the channel, if assigned.

2. Channel 221A can be assigned to Fenwick Island in compliance with the Commission's minimum distance separation requirements, if the transmitter is sited at least 3.2 miles (5.1 kilometers) south. Although Channel 221A cannot also be assigned to Hurlock, Maryland, Channel 265A can be assigned in compliance with the Commission's minimum distance separation. The Hurlock assignment requires a site restriction of 0.3 miles (0.5 kilometers) south.

3. We believe the public interest would be served by seeking comments on the proposed assignment of a first local FM channel to both Fenwick Island and Hurlock. Accordingly, we propose to amend the FM Table of Assignments, § 73.202(b) of the Rules, for the communities listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Fenwick Island, DE		221A
Hurlock, MD		265A

4. The Commission's authority to institute rulemaking 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 October 5, 1984, and reply comments on or before October 22, 1984 and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

Gregory W. Guise, 961 Clopper Road, T-3, Gaithersburg, MD 20878 (Petitioner for Fenwick Island, Delaware)

Daniel M. Redmond, Fletcher, Heald & Hildreth, 1225 Connecticut Ave. NW., Suite 400 (Counsel for Muir Corp., Hurlock, Maryland)

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rulemaking proceedings to amend the FM Table of Assignments, Section 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 *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 constituted 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, 306)

Federal Communications Commission.

Charles Schott,

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' Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in

[1] The petition of Genesis (RM-4746) will be treated as comments in support of the Hurlock assignment as it was filed after the December 16, 1983, cut-off for the filing of FM petitions. *See,* Public Notice, December 9, 1983, Mimeo No. 1306.

initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-22397 Filed 8-22-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-792; RM-4634]

FM Broadcast Station in Atlantic City, NJ; Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to delete FM Channel 240A from Atlantic City, New Jersey, in response to a request filed by Franklin Broadcasting Company, for failure of any applicant to specify a transmitter site in accordance with the Commission's mileage separation requirements.

DATES: Comments must be filed on or before October 5, 1984, and reply comments must be filed on or before October 22, 1984.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner or Ralph Smith, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

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 (Atlantic City, New Jersey); MM Docket No. 84-792, RM-4634.

Adopted: August 7, 1984.
Released: August 14, 1984.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is a petition for rule making filed by Franklin Broadcasting Company ("Franklin"), licensee of Station WFLN-FM (Channel 239), Philadelphia, Pennsylvania, requesting the deletion of FM Channel 240A from Atlantic City, New Jersey. Comments in support and a Supplement thereto were filed by Pleasant Broadcasters, Inc. ("Pleasant") licensee of Station WADB(FM) (Channel 240A), Point Pleasant, New Jersey. An opposition was filed by Dean Lewis [1] ("Lewis"), to which petitioner and Pleasant jointly responded.

2. Channel 240A was allocated to Atlantic City, New Jersey, by *Report and Order* in BC Docket No. 81-725, 47 FR 43385, published October 1, 1982, in response to a petition filed by Doctor R. Grants, Jr. ("Grants"). In order to bring this proceeding into proper prospective, a summation of the background leading to the allocation will be provided.

3. Initially, in proposing the assignment of Channel 240A, Crants requested a waiver of the minimum distance separation requirements of § 73.207 of the Commission's Rules with respect to Station WFLN-FM, to permit placing his transmitter at a site on the southwest tip of Atlantic City. Alternatively, Crants proposed the use of a site one mile offshore to overcome the mileage separation deficiency. The Commission denied Crants request for waiver of the distance separation rule noting that since Atlantic city has three other FM channel assignments, as well as substantial AM service, no showing of a compelling need to justify his request was found. See, *Notice of Proposed Rule Making,* 46 FR 52151, published October 26, 1981. However the Commission did acknowledge that the offshore proposal could resolve the mileage separation conflict provided the transmitter was located approximately 4.2 miles southwest of the community. This required the further *proviso* that petitioner submit evidence to indicate the extent to which he investigated applicable Federal, State and local jurisdictional requirements, if any, in order to obtain approval for use of an offshore site. Moreover, petitioner was requested to provide a technical showing to substantiate that, in accordance with § 73.315 of the Rules, a 3.16 mv/m signal could be provided over all of Atlantic City from the offshore site.

4. The Commission assigned Channel 240A to Atlantic City based on the technical showings supplied by Crants, as well as a staff engineering analysis which revealed that a transmitter site 4.2 miles southwest of the city (*i.e.*, one mile offshore), would meet the minimum separation requirements of § 73.207 of the Rules, as well as provide a city-grade signal to all inhabited areas of the community.

5. Franklin and Pleasant both asset that Channel 240A has been allocated to Atlantic City for a substantial period with no applications submitted for an offshore site. They note that three applications [2] for Channel 240A at one-

[1] Lewis is one of three applicants for Channel 240A at Atlantic City.

[2] See applications of Dean Lewis (File No. BPH-830823AF); High Tech Industries, Inc. (File No. BPH-830825AF); and Starlight Broadcasting Corp. (File No. BPH-831003AD).

shore sites have been filed, each of which requests waiver of § 73.207 of the Rules with respect to Stations WFLN–FM and WADB (FM). Pleasant adds that in view of the lack of any application for an acceptable on-shore site, it appears that there is no interest in applying for use of the channel from the restricted area offshore, which it describes as "highly undesirable and expensive."

6. Pleasant also supports the request for denial from the standpoint of what it considers would otherwise be objectionable interference to its signal for Station WADB in the Oyster Creek area from another station operating in Atlantic City on the co-channel.

7. Finally, Franklin asserts that if Crants had proposed the offshore site in speculation that Docket 80–90 would reduce the mileage separation requirements, thereby resulting in the possible use of Channel 240A on land, the termination of that proceeding, retaining the previous mileage separation requirements between co-channel Class A stations still prevents use of that channel from an on-land site. Accordingly, Franklin maintains that in view of the inadequacies cited, there is no public interest justification in retaining the allocation.

8. In his opposition, Dean Lewis concedes that an offshore transmitter site would be too prohibitively expensive to justify construction of a Class A facility. Theretofore, Lewis indicates that he has proposed an on-land site from which city grade service could be provided to all of Atlantic City. Admittedly, Lewis notes such site would be short spaced to Stations WFLN and WADB (*i.e.*, .90 and .98 miles, respectively). Lewis claims, however, that those stations have not shown that harmful interference would occur from his proposal inasmuch as he intends to operate with less than maximum facilities (3 kw at 220' HAAT). Lewis claims that the Commission has previously granted *de minimis* short-spacings where it has been shown that no feasible transmitter site exists in fully-spaced territory, and urges that such is the case with respect to Channel 240A. Therefore, Lewis urges retention of Channel 240A at Atlantic City. In the event we determine that grant of Lewis' waiver request is not meritorious and delete Channel 240A, he requests that all pending applicants therefor be considered on a comparative basis with the renewal applications of WFLN–FM and WADB.

9. The reply of Franklin and Pleasant, in a joint filing, addressed procedural matters raised by Lewis that relate to applications outside the scope of this proceeding. Thus, we have excluded consideration of that aspect of the opposition, and of the replies.

10. Separately, Franklin filed a reply which asserts that the Commission has already denied a waiver of the spacing rule and therefore should not entertain such a consideration here. Channel 240A was assigned to Atlantic city nearly two years ago, for which the Commission has received no application that complies with § 73.207 of the Commission's Rules. We previously had been provided information to show that operation from an offshore site is feasible. However, it appears that we no longer have a party interested in applying for an offshore site. Thus, we shall solicit comments on Franklin's petition to delete Channel 240A from Atlantic City, New Jersey. Moreover, we note that there is a pending Commission proposal in MM Docket No. 84–231 to assign Channel 297B1 to Atlantic City. Such proposal would still permit the opportunity for interested parties to apply for that channel to provide Atlantic City with a fourth FM service on a higher class of channel.

11. In view of the above, the Commission seeks comments on the proposal to amend the FM Table of Assignments, § 73.202(b) of the Rules, with regard to Atlantic City, as follows:

City	Channel No.	
	Present	Proposed
Atlantic City, NJ	236, 240A, 245, and 279.	236, 245, 279, and 297B1

12. 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.

13. Interested parties may file comments on or before October 5, 1984, and reply comments on or before October 22, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Reed Miller, Esq., Arnold and Porter, 1200 New Hampshire Ave., NW., Washington, D.C. 20036.

14. 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.

15. For further information concerning this proceeding, contact Nancy V. Joyner or Ralph Smith, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Charles Schott,

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 § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-22403 Filed 8-22-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-789; RM-4810]

Television Broadcast Station in Anchorage, AK; Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to assign UHF Television Channel 33 to Anchorage, Alaska, as that community's seventh local television broadcast service, in response to a petition filed on behalf of Brown Resources, Inc.

DATES: Comments must be filed on or before October 5, 1984, and reply comments must be filed on or before October 22, 1984.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner or Stanley Schmulewitz, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Anchorage, Alaska); MM Docket No. 84-789, RM-4810.

Adopted: August 7, 1984.
Released: August 14, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by Brown Resources, Inc. ("petitioner"), seeking the assignment of UHF television Channel 33 to Anchorage, Alaska, as that community's seventh local television broadcast service. Petitioner has failed to indicate the necessary commitment to apply for the channel, if assigned, and should correct the omission in its supporting comments.

2. Anchorage (population 174,431),[1] in Anchorage Borough (population 174,431), is located on the coast of south central Alaska. Currently, it is served by six VHF television stations, as follows: KTUU-TV (Channel 2); KTBY (CP issued for Channel 4); Channel 5 (vacant and unapplied for); KAKM (Channel *7); KTVA (Channel 11); and KIMO (Channel 13).

3. A staff engineering study reveals that UHF television Channel 33 can be assigned to Anchorage consistent with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules.

4. In view of the fact that the proposed assignment could provide a seventh local television service to Anchorage, we believe the proposal warrants consideration. Therefore, we shall propose to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Anchorage, AK	2-, 4-, 5, *7-, 11, and 13-.	2-, 4-, 5, *7-, 11, 13-, and 33.

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 5, 1984, and reply comments on or before October 22, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: David E. Brown, Chairman, Brown Resources, Inc., P.O. Box 13320, Houston, TX 77219.

7. The Commission has determined that the revelant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner or Stanley Schumlewitz, 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 the 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 mesage (spoken or written) concerning the merits of a pending party rule making, other than comments officially filed at the Commission, or oral presentation

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

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, 305).

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(e)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments (See § 1.420(d) of the Commission's Rules.

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in writting comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 84-22400 Filed 8-22-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 84-788; RM-84-788]

Television Broadcast Stations in Islamorada, Key West, FL; Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein, at the request of Florida Educational Television, Inc., proposes assignments of UHF TV Channel *18 to Islamorada, Florida; VHF TV Channel *13 to Key West, Florida; and VHF TV Channel *9 to Marathon, Florida. The proposal could provide each community with a first noncommercial educational television facility.

DATES: Comments must be filed on or before October 5, 1984, and reply comments on or before October 22, 1984,

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

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Islamorada, Key West and Marathon, Florida; MM Docket No. 84-788, RM-4821.

Adopted: August 7, 1984.
Released: August 14, 1984.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration a petition for rule making filed June 21, 1984, by Florida Educational Television, Inc. ("petitioner") seeking the assignment of VHF TV Channel *3 or VHF TV Channel *15 to Islamorada, Florida; VHF TV Channel *13 or UHF TV Channel *28 to Key West, Florida; and UHF TV Channel *9 or UHF TV Channel *24 to Marathon, Florida. The proposal could provide each community with its first noncommercial educational television facility. Petitioner stated an intention to apply for all three channels, if assigned.

2. Key West (population 24,382),[1] the county seat, Islamorada (population 1,500) and Marathon (population 7,568) in Marathon County (population 63,188), are in the Florida Keys. Key West is located 200 kilometers (120 miles) southwest of Miami. Marthon is located 150 kilometers (95 miles) southwest of Miami. Islamorada is located 105 kilometers (65 miles) southwest of Miami. Key West is currently served by UHF Television Stations KTKW (Channel 16) and KQHJ (Channel 22).

3. The assignments of VHF TV Channel *13 to Key West, and VHF TV Channel *9 to Marathon, can be made in compliance with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules.[2] Channel *3 at Islamorada is short-spaced to a proposal for Channel 3 at Key West (RM-4800). Channel *15 at Islamorada is short-spaced to a land mobile service on Channel 14 in Miami. However, a staff engineering study indicates that UHF TV Channel *18 can be assigned to Islamorada in compliance with the minimum distance separation requirements of the Commission's Rules.

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

[2] In a separate rule making (RM-4800), Channel 3 is proposed for Key West as a commercial assignment.

4. In view of the fact that the proposal could provide each community listed herein with its first noncommercial facility, the Commission believes it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments, § 73.606(b) of the Rules, for the following communities, to read as follows:

City	Channel No.	
	Present	Proposed
Islamorada, FL		*18.
Key West, FL	16+ and 22+.	3, *16+ and 22+.
Marathon, FL		*9+.

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 5, 1984, and reply comments on or before October 22, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Florida Educational Television, Inc., Cordon and Jacob, Second Floor, 1920 N Street, NW., Washington D.C. 20036 (Counsel to Petitioner).

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634–6530. However, member of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Charles Schott,

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 TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-22399 Filed 8-22-84; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-791; RM-4807]

Television Broadcast Station in Cedar Rapids, IA; Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF Television Channel 48 to Cedar Rapids, Iowa, as its fourth commercial television assignment, in response to a petition filed by Donna Montgomery.

DATE: Comments must be filed on or before October 5, 1984, and reply comments on or before October 22, 1984.

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

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of amendment of §§ 73.606(b), Table of Assignments, Television Broadcast Stations (Cedar Rapids, Iowa); MM Docket No. 84-791, RM-4807.

Adopted: August 7, 1984.
Released: August 14, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by Donna Montgomery ("petitioner") requesting the assignment of UHF Television Channel 48 to Cedar Rapids, Iowa, as that community's fourth commercial television assignment. Petitioner has filed information in support of the proposal and indicated an interest in applying for the channel, if assigned.

2. Cedar Rapids (population 110,243),[1] seat of Linn County (population 169,775), is located in eastern Iowa, approximately 170 kilometers (105 miles) northwest of Des Moines, Iowa.

3. UHF Television channel 48 can be assigned to Cedar Rapids, Iowa in compliance with the minimum distance separation requirements of § 73.610 and § 73.698 of the Commission's Rules.

4. Based on the above facts, we believe that the public interest would be served by seeking comments on petitioner's request. Accordingly, it is proposed to amend the Television Table of Assignments, § 73.605(b) of the Commission's Rules, for the community listed below:

City	Channel No.	
	Present	Proposed
Cedar Rapids, IA	2, 9-, and 28+.	2, 9-, 28+, and 48-

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 5, 1984, and reply comments on or before October 22, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Jerry D. Montgomery, 105 West Jefferson, Fairfield, Iowa 52556 (Consultant to petitioner).

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact D. David Weston, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Charles Schott,

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 TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference

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

Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-22402 Filed 8-22-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-790; RM-4801]

Television Broadcast Station in Morehead City, NC; Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of VHF Television Channel 8 to Morehead City, North Carolina, as its first TV assignment, in response to a petition filed by Contemporary Communications.

DATES: Comments must be filed on or before October 5, 1984, and reply comments on or before October 22, 1984,.

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

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: .

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.606 (b), Table of Assignments, Television Broadcast Stations (Morehead City, North Carolina); MM Docket No. 84-790, RM-4801.

Adopted: August 7, 1984.
Released: August 14, 1984.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by Contemporary Communications ("petitioner"), requesting the assignment of VHF Television Channel 8 to Morehead City, North Carolina, as that community's first commercial television assignment. Petitioner has filed information in support of the proposal and indicated an interest in applying for the channel, if assigned.

2. Morehead City (population 4,259),[1] in Carteret County (population 41,092) is located on the North Carolina coast approximately 210 kilometers (130 miles) southeast of Raleigh, North Carolina.

3. The proposed assignment of VHF Television Channel 8 to Morehead City requires a site restriction 2.3 miles southeast to avoid short spacing to WITN-TV (Channel 7), Washington, North Carolina and WNCT-TV (Channel 9), Greenville, North Carolina.

4. In view of the foregoing and the fact that the proposed assignment could provide a first local television broadcast service to Morehead City, the Commission believes it appropriate to propose amending the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Morehead City, NC		8+

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 5, 1984, and reply comments on or before October 22, 1984, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Contemporary Communications, c/o Larry G. Fuss, Sr., P.O. Box 3976, Jackson, Georgia 30233.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,* 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact D. David Weston, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Charles Schott,

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 TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice,* they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel then was requested for any of the communities involved.

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

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 84-22401 Filed 8-22-84; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket HM-193, Notice No. 84-8]

Tritium and Carbon-14; Low Specific Activity Radioactive Materials Transported for Disposal

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Materials Transportation Bureau (MTB) proposes to amend § 173.425 of the Hazardous Materials Regulations (HMR) to except certain low specific activity radioactive materials containing tritium (hydrogen-3) or carbon-14 from most requirements of the HMR when the materials are being transported for disposal. This proposed rule would allow the shipment of waste material such as scintillation counting media, animal carcasses and tissue containing not more than 0.05 microcuries per gram of tritium or carbon-14 without further consideration of their radioactive hazards. This action is consistent with the Nuclear Regulatory Commission (NRC) provisions specified in new § 20.306, Title 10, Code of Federal Regulations relating to the disposal by NRC licensees of tritium and carbon-14 low activity radioactive materials.

DATE: Comments must be received on or before September 24, 1984.

ADDRESS: Send comments to Dockets Branch, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590, (202) 426-3148. Comments should identify the docket number, and five (5) copies should be submitted, if possible. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped post card. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: A. Wendell Carriker, Office of Hazardous Materials Regulation, Materials Transportation Bureau, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426-2313.

SUPPLEMENTARY INFORMATION:

A. Background

The requirements of § 173.425 address most shipments of low-level radioactive waste transported from NRC or Agreement State licensees to licensed disposal facilities. Medical, biomedical, and related research institutions generate relatively large volumes of tritium and carbon-14 contaminated wastes that meet the definition of low specific activity radioactive material (§ 173.403(n)(4)(iii)). Much of the waste from these institutions is several orders of magnitude below the maximum activity level limit established for low specific activity radioactive materials. However, they still exceed the statutory definition of radioactive materials which includes any material having a specific activity greater than 0.002 microcuries per gram of material (49 U.S.C. 1807).

Most scintillation media wastes also meet the definition of a flammable liquid and are suspected to be carcinogens as well. Animal carcasses and tissues are not classified as hazardous materials *per se* but their disposal is often times handled in the same manner as hazardous materials. The flammability of the very low specific activity scintillation media is considered by MTB to present a greater hazard in transportation than their radiotoxicity. This proposal, therefore, would require that very low specific activity scintillation media be packaged, marked, labeled and otherwise prepared for shipment and transported on the basis of their flammability or another acute hazard, if present. Animal carcasses and tissues containing low levels of tritium or carbon-14 which do not meet the definition of another hazard class could be transported as materials not subject to the HMR.

B. NRC Rule Change

The NRC investigation of problems associated with these low activity wastes from the biomedical community resulted in rules documents published in the **Federal Register** on October 8, 1980 (45 FR 67018) for the proposed rule, and March 11, 1981 (46 FR 16230) for the final rule. As adopted, the new Section 20.306 allows licensees greater latitude in the disposal of certain wastes containing low concentrations of tritium and carbon-14. In essence, if the specific activity of animal carcasses and tissues and liquid scintillation media are not greater than 0.05 microcuries per gram, they may be disposed of without regard to the radioactive nature of the materials. When compared to other radionuclides, the fundamentally lower radiation hazards of tritium and carbon-14 allow these low activity wastes to be disposed of safely when emphasis is placed on the other hazardous or noxious properties presented by the materials.

C. Radiological Hazards During Transport

Existing provisions of the HMR require the shipper to consider all hazards associated with a material when packaging and offering a hazardous material for transportation. Although the subject materials meet the definition of radioactive material for purposes of transportation, the radiological consequences to personnel and the environment in the event of release during transportation are considered to be extremely small. The potential risks associated with possible gradual buildup of activity at disposal locations over a period of time was considered in the NRC rulemaking. The potential risk of a buildup of activity as a result of transportation activities is even less.

Classification of Rule, Reporting Requirements, and Impact on Small Entities

A. Non-Major Rule

MTB has determined that this proposed rule will not result in a "major rule" under the terms of Executive Order

12291 and is not significant under DOT implementing procedures (44 FR 11034), nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). Although a regulatory impact analysis is not required, MTB has prepared a draft regulatory evaluation and environmental assessment and entered it in the Docket which is available for inspection at the address shown above. In addition, the Value/Impact Statement prepared by the NRC in support of its rulemaking which deregulated these wastes is available in the Docket and addresses the overall impacts of the less restrictive disposal of these materials.

B. Impact of Small Entities

Based on limited information available concerning size and nature of entities likely to be affected, I certify that this proposal will not, if promulgated, have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 173

Hazardous materials transportation.

In consideration of the foregoing, 49 CFR Part 173 would be amended as follows:

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

In 173.425, paragraph (d) would be added to read as follows:

§ 173.425 Transport requirements for low specific activity (LSA) radioactive materials.

* * * * *

(d) Except for transportation by aircraft, low specific activity material that conforms with the provisions specified in 10 CFR 20.306 are excepted from all requirements of this subchapter pertaining to radioactive materials when offered for transportation for disposal. A material which meets the definition of another hazard class is subject to the provisions of this subchapter relating to that hazard class.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1 and paragraph (a)(3) of App. A to Part 106)

Issued in Washington, D.C. on August 17, 1984.

Joseph T. Horning,

Acting Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 84-22395 Filed 8-22-84; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 628

[Docket No. 40781-4081]

Bluefish Fishery; Correction

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule; corrections.

SUMMARY: This document corrects a partial sentence omission and a typographical error in the proposed rule for the Bluefish Fishery that was published July 11, 1984, 49 FR 28276. It also corrects two paragraph headings published in the regulatory text.

FOR FURTHER INFORMATION CONTACT: Peter Colosi, Bluefish Management Coordinator, 617-281-3600, ext. 272.

SUPPLEMENTARY INFORMATION:

1. In FR Doc. 84-18350, page 28277, column 2, second complete paragraph, line 10, a period is added after FCZ. The next sentence is corrected to read "U.S. fishermen using hook and line, conventional gill nets, traps, haul seines, and pound nets to conduct a directed fishery for bluefish in the FCZ were allowed to harvest bluefish without limit." On page 28279, column 1, first complete paragraph, line 7, the OMB control number is corrected to read "0648-0016."

§ 628.7 [Corrected]

2. In § 628.7, page 28282, first column, paragraph designation "(l)" is corrected to "(j)" and paragraph designation "(m)" is corrected to "(k)".

Dated: August 20, 1984.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

[FR Doc. 84-22480 Filed 8-22-84; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 49, No. 165
Thursday, August 23, 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

Forms Under Review by Office of Management and Budget

August 17, 1984.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, D.C. 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Revision

Agricultural Marketing Service

Reporting and Recordkeeping Requirements Under Regulations (Other than Rules of Practice) Under the Perishable Agricultural Commodities Act, 1930
FV–211, FV–231
Recordkeeping, On occasion, Annually
Businesses or other for-profit; Small businesses or organizations: 20,350 responses; 151,162 hours; not applicable under 3504(h)
John D. Flanagan (202) 447–3212

Farmers Home Administration

7 CFR 1955–A, Liquidation of Loans Secured by Real Estate and Acquisitions of Real and Chattel Property
FmHA 1955–1
On occasion
Individuals or households, State or local governments, Farms, Businesses or other for-profit, Non-profit institutions: 23,460 responses; 7,007 hours; not applicable under 3504(h)
Frances Calhoun (202) 382–1452

Food and Nutrition Service

Food Stamp Program—Photo Indentification
Annually
Individuals or households, State or local governments: 24,349,279 responses; 135,829 hours; not applicable under 3504(h)
Paul Jones (703) 756–3439

New

Human Nutrition Information Service

Continuing Survey of Food Intakes by Individuals (CSFII)
Six times a year
Individuals or households: 20,400 responses; 15,300 hours; not applicable under 3504(h)
Robert L. Rizek (301) 436–8457

Jane A. Benoit,
Acting Department Clearance Officer.

[FR Doc. 84–22363 Filed 8–22–84; 8:45 am]
BILLING CODE 3410–01–M

Animal and Plant Health Inspection Service

Forest Service

Supplement to the Final Environmental Impact Statement on the Gypsy Moth Suppression and Eradication Projects

AGENCY: Animal and Plant Health Inspection Service and Forest Service, USDA.

ACTION: Notice.

SUMMARY: This document announces that the Forest Service and Animal and Plant Health Inspection Service of the Department of Agriculture will prepare a supplement to the Programmatic Environmental Impact Statement on Gypsy Moth Suppression and Eradication Projects in the United States.

FOR FURTHER INFORMATION CONTACT: Gary Moorehead, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, APHIS, USDA, Room 663, Federal Building, Hyattsville, MD 20782, (301) 436–8295; or Thomas N. Schenarts, Area Director, Insect Disease Management Staff, Northeastern Area, State and Private Forestry, Forest Service, U.S. Department of Agriculture, 370 Reed Road, Broomall, PA 19008, (215) 461–3158.

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service (APHIS) and the Forest Service of the United States Department of Agriculture published a notice in the **Federal Register** on March 23, 1984 (49 FR 10963–10964) that a final environmental impact statement (EIS) on Gypsy Moth Suppression and Eradication Projects had been prepared and was available for public comment. The notice provided for a 45-day public review and comment period on the final EIS risk analysis, using worst case assumptions. The final EIS was approved on May 8, 1984. A notice of this approval was published in the **Federal Register** on May 14, 1984 (49 FR 20345).

Since the final EIS on Gypsy Moth Suppression and Eradication Projects was approved on May 8, 1984, the Forest Service and APHIS have received additional comments and new information concerning issues raised in the final EIS on Gypsy Moth

Suppression and Eradication projects. In response to these comments and the new information, the Forest Service and APHIS will prepare a supplement to the final EIS on Gypsy Moth Suppression and Eradication Projects, approved May 8, 1984.

The responsible officials are R. Max Peterson, Chief, Forest Service, and Bert W. Hawkins, Administrator, Animal and Plant Health Inspection Service.

No further action will be taken under the final EIS on Gypsy Moth Suppression and Eradication Projects, approved May 8, 1984, until it has been supplemented.

The draft supplement to the gypsy moth programmatic environmental impact statement is expected to be filed with the U.S. Environmental Protection Agency on or about November 1, 1984, and released to the public for a 45-day review and comment period. The final supplement is expected to be filed and released on or about February 15, 1985.

Dated: August 17, 1984.

John H. Ohman,

Acting Chief, Forest Service.

Dated: August 17, 1984.

Bert W. Hawkins,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 84-22362 Filed 8-22-84; 8:45 am]

BILLING CODE 3410-34-M

BILLING CODE 3410-11-M

Forest Service

Deschutes National Forest Grazing Advisory Board; Meeting

The Deschutes National Forest Grazing Advisory Board will meet at 9 a.m., September 18, 1984, at the Forest Supervisor's Office, 1645 NE Forbes Road, Bend, OR 97701. The purpose of this meeting and field trip is:

1. Review Deschutes National Forest Range Management Program for 1984 and 1985.

2. Review Allotment Management Plans and Range Betterment Funds.

3. Open discussion of topics of interest to the Advisory Board.

This meeting will be open to the public. Persons who wish to attend should contact Will Griffin, 1645 NE Forbes Road, Bend, OR 97701, telephone 382-6922, extension 564.

Lee F. Coonce,

Deputy Forest Supervisor.

August 14, 1984.

[FR Doc. 84-21354 Filed 8-22-84; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Office of the Secretary

DEPARTMENT OF LABOR

Steel Advisory Committee; Meeting

On December 6, 1983, five subcommittees were established to serve the Steel Advisory Committee. Those subcommittees were: Subcommittee on the State of the Industry, Subcommittee on Trade Issues, Subcommittee on Capital Formation Issues, Subcommittee on Industry Rationalization Issues, and Subcommittee on Employment, Productivity and Adjustment Issues.

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1 (1976), as amended, notice is hereby given that the Subcommittee on The State of the Industry will meet on September 7, 1984 at 1:00pm–2:00pm. This meeting will be held in Room 4830, Main Commerce Bldg., 14th & Const. Ave., NW, Washington, D.C.

The purpose of this meeting is to present this Subcommittee's consensus findings regarding The State of the Industry. For further information regarding this Subcommittee's agenda, meeting schedule, objectives or structure, please contact Dr. Timothy P. Roth, Executive Director, Steel Advisory Committee, whose mailing address is: Room 6324, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; or telephone (202) 377-0703. With regard to general questions relating to the Administration of this Subcommittee as required by the Federal Advisory Committee Act, please contact Robert H. Brumley, II, Special Assistant to the General Counsel, U.S. Department of Commerce (202) 377-4772.

The public is welcome to attend this meeting and will be admitted to the extent that seating is available. Persons wishing to make formal statements should notify the Executive Director of the Committee in advance of this meeting. The Subcommittee Chair retains the prerogative to place limits on the duration of oral statements and discussions. Written Statements may be submitted before or after each session.

Dated: August 17, 1984.

Timothy P. Roth, Ph.D.,

Executive Director, Steel Advisory Committee.

[FR Doc. 84-22391 Filed 8-22-84; 8:45 am]

BILLING CODE 8411-00-M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Economic Development Administration

Title: Employment Data of Recipient or Other Party Connected with EDA Assistance

Form numbers: Agency—ED-525; OMB—0610-0021

Type of request: Extension of the expiration date

Burden: 150 respondents; 1,200 reporting hours

Needs and uses: The data is used by Civil Rights Specialists to determine if employees are in compliance with civil rights statutes and, especially to see in what areas the employment practices may need improvement.

Affected Public: State or local governments, businesses or other for-profit institutions, non-profit institutions.

Frequency: On occasion.

Respondent's obligation: Mandatory.

OMB Desk Officer: Timothy Sprehe, 395-4814.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to the OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20203.

Dated: August 17, 1984.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 84-22392 Filed 8-22-84; 8:45 am]

BILLING CODE 3510-CW-M

Agency Forms Under Review by the Office of Management and Budget (OMB)

Correction

In FR Doc. 84-21953 beginning on page 32883 in the issue of Friday, August 17, 1984, make the following corrections on that page:

1. In the third column, in the third line, insert "for" after "sector".

2. In the same column, in the fifteenth line from the bottom, insert "is required for preparation of the" after "data".

BILLING CODE 1505-01-M

International Trade Administration

Automated Manufacturing Equipment Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

Federal Register citation of previous announcement: 49 FR 31123, August 3, 1984.

Previously announced time and date of the meeting: 9:30 a.m., August 28, 1984.

Changes in the meeting: 9:30 a.m., August 29, 1984.

Dated: August 20, 1984.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 84-22393 Filed 8-22-84; 8:45 am]

BILLING CODE 3510-DT-M

Arizona State University; Decision on Application for Duty-Free Entry of Scientific Instrument

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 Number: 84-155. Applicant: Arizona State University, Tempe, AZ 85287. Instrument: Calorimeter, Model 1287 with Accessories. Manufacturer: Setaram, France. Intended Use: See notice at 49 FR 19562.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument can operate as a heat flow calorimeter from ambient to 1500° centigrade. The National Bureau of Standards advises in its memorandum dated August 10, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-22390 Filed 8-22-84; 8:45 am]

BILLING CODE 3510-DS-M

Brookhaven National Laboratory; Decision on Application for Duty-Free Entry of Scientific Instrument

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 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 Number: 84-53. Applicant: Brookhaven National Laboratory, Upton, NY 11973. Instrument: Polarization Neutron Spectrometer. Manufacturer: Franke & Hydrick KG, West Germany. Intended Use: See notice at 49 FR 7841.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument is capable of highly precise, spin dependent and non-spin dependent studies. The National Bureau of Standards advises in its memorandum dated August 6, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-22389 Filed 8-22-84; 8:45 am]

BILLING CODE 3510-DS-M

University of California; Decision on Application for Duty-Free Entry of Scientific Instrument

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 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 84-197. Applicant: University of California, Berkeley, CA 94720. Instrument: Video Display Tube and Electronic Image Generator. Manufacturer: Joyce Electronics, United Kingdom. Intended Use: See notice at 49 FR 22677.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides high levels of illumination (500 candelas per square meter) and raster rotation through 360°. The National Institutes of Health advises in its memorandum dated July 26, 1984 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Program Staff.

[FR Doc. 84-22388 Filed 8-22-84; 8:45 am]

BILLING CODE 3510-DS-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Partially Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Tuesday and Wednesday, 11 and 12 September 1984.

Time of Meeting: 0900–1200 hours, 11 September (Open); 1200–1700 hours, 11 September (Closed); 0830–1700 hours, 12 September (Closed).

Place: Fort Lewis, Washington.

Agenda

The Army Science Board Steering Committee will meet in an open (unclassified) session on the morning of 11 September for briefings and discussions covering the following ASB business: (1) Army Materiel Command (formerly DARCOM, the U.S. Army Materiel Development and Readiness Command) Lab Reviews, (2) 1985 Summer Study Topics, (3) Fall Meeting at Fort Rucker, (4) Membership Processing/Taskings, and, (5) Functional Subgroup Operations. The closed (classified) portions of the meeting are for briefings from the Army Deployment Evaluation Activity (ADEA) on achievements since the ASB 1980 Summer Study. The open portion of the meeting is open to the public. Any person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The closed portions of the meeting are closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The clasified and nonclassified matters to be discussed in these portions of the meeting are so inextricably intertwined so as to preclude opening them to the public. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 84–22348 Filed 8–22–84; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of meeting: Tuesday, 11 September 1984.

Times of meeting: 0800-1700 hours (Closed).

Place: Army Material Command (AMC) (formerly DARCOM, the U.S. Army Material Development and Readiness Command), Alexandria, Virginia.

Agenda.

The Army Science Board Ad Hoc Subgroup on TACOM (U.S. Army Tank Automotive Command, an Army laboratory) Effectiveness Review will meet in an executive session for discussion and finalization of the report. The purpose of this external laboratory review is to ensure its continuing excellence by providing independent observations on potential and actual performance of the lab, including professional judgment on the cause of deficiencies, if any. The subgroup has received numerous briefings and discussions at a classified level as a part of this undertaking. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1 subsection 10(d). The Classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner

Administrative Officer, Army Science Board.

[FR Doc. 84–22349 Filed 8–22–84; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Tuesday and Wednesday, 18 and 19 September 1984.

Times of meeting: 0830–1700 hours, both days (Closed).

Place: Army Research Institute for the Behavioral and Social Sciences, Alexandria, Virginia.

Agenda

The Aviation Simulation Subpanel of the Army Science Board Ad Hoc Subgroup on Soldier Research Issues will meet for a review of research on current and projected aviation simulation. Briefings and discussions will be classified. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 84–22350 Filed 8–22–84; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Tuesday & Wednesday, 18 & 19 September 1984.

Times of meeting: 0830–1700 hours, both days (Closed).

Place: The Pentagon, Washington, D.C.

Agenda

The Army Science Board Ad Hoc Subgroup on Nondevelopmental C³I Items will meet in an Executive Session to write its final report. The purpose of the study is to effect an increase in the purchase of "off the shelf" equipment for the Army. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 84–22351 Filed 8–22–84; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Office for Civil Rights

Proposed Annual Operating Plan for Fiscal Year 1985

Correction

In FR Doc. 84–19851, beginning on page 30224 in the issue of Friday, July 27, 1984, make the following correction: On page 30226, in the third column, in the heading for Table 1, on the second line, "November" should read "October".

BILLING CODE 1505–01–M

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before September 24, 1984.

ADDRESSEES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426–7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that the public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Deputy Under Secretary for Management publishes this notice containing proposed information requests prior to the submission of these requests to the OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatment; (2) Title; (3) Agency form number (if any); (4) Frequency of the collection; (5) The affected public; (6) Reporting Burden; and/or (7) Recordkeeping Burden; and (8) Abstract.

OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: August 20, 1984.

Ralph J. Olmo,

Acting Deputy Under Secretary for Management.

Office for Civil Rights

Type of Review Requested: New
Agency Form Number: ED 203
Title: Fall 1984 Vocational Education Civil Rights Survey
Frequency: Quadrennially
Affected Public: State or Local Governments; Businesses or other for profit organizations
Reporting Burden: Responses: 7,450; Burden Hours: 52,150
Recordkeeping Burden: Recordkeepers: 7,450; Burden Hours: 249

Abstract: The data collected in this survey will be used by the Office for Civil Rights to assist in making determinations of possible non-compliance with Civil Rights Laws by schools, or school districts.

Type of Review Requested: New
Agency Form Number: ED 101; ED 102
Title: Fall 1984 Elementary and Secondary School Civil Rights Survey
Frequency: Biennially
Affected Public: State or Local Governments
Reporting Burden: Responses: 28,500; Burden Hours: 183,036
Recordkeeping Burden: Recordkeepers: 28,500; Burden Hours: 1,425

Abstract: The data collected in this survey will be used by the Office for Civil Rights to assist in making determinations of possible non-compliance with civil rights laws by schools and school districts.

Office of Educational Research and Improvement/National Institute of Education

Type of Review Requested: New
Title: Applications for Planning and Institutional Operations Grants for Research and Development Centers
Agency Form Number: ED 2471–2
Frequency: Other; One-time submission
Affected Public: Individuals or Households; State or Local Governments; Businesses or other for-profit organizations; Non-Profit Institutions
Reporting Burden: Responses: 275; Burden Hours: 25,520

Abstract: Public or private agencies, organizations, institutions or individuals may submit applications for short-term planning grants to plan for a specified research and development center. Institutions of higher education or interstate agencies established by compact to operate subsidiary bodies for postsecondary research and development may submit applications for long-term institutional operations awards.

[FR Doc. 84–22343 Filed 8–22–84; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[EPA Docket No. 84–08–NG]

Vermont Gas Systems, Inc.; Application To Increase Volumes of Natural Gas Imported From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Application To Increase the Volumes of Natural Gas Imported from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on August 2, 1984, of an application from Vermont Gas Systems, Inc. (Vermont Gas) to amend its existing authorization to increase from 24,000 Mcf to 24,800 Mcf the daily firm volumes of natural gas to be imported during contract year November 1, 1984, to October 31, 1985, and to import 100,000 Mcf of additional natural gas from Canada on a best efforts, interruptible basis during the same contract year from TransCanada Pipe Lines Limited (TransCanada). Vermont Gas requests that authorization be granted by October 29, 1984.

The application was filed with the FRA pursuant to section 3 of the Natural Gas Act. Protests or petitions to intervene are invited.

DATES: Protests or petitions to intervene are to be filed no later than 4:30 p.m., September 24, 1984.

FOR FURTHER INFORMATION CONTACT:

Olga T. Ronkovich (Natural Gas Division Office of Fuels Programs), Economic Regulatory Administration, Forrestal Building, Room GA–007, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9482.

Diane J. Stubbs (Office of General Counsel, Natural Gas and Mineral Leasing), Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6667.

SUPPLEMENTARY INFORMATION: Vermont Gas purchases its entire supply of natural gas from the general system supply of TransCanada, a Canadian corporation. Vermont Gas is totally dependent upon TransCanada for its gas supply. The delivery point is at the international boundary near Highgate Springs, Vermont. Vermont Gas sells

and distributes this gas supply entirely within the state of Vermont.

Pursuant to DOE/ERA Opinion and Order No. 39 (1 ERA 70,544, Federal Energy Guidelines, March 1, 1982), Vermont Gas is currently authorized by the Economic Regulatory Administration (ERA) to import up to 23,200 Mcf per day of natural gas from TransCanada on a firm basis. In the contract year November 1, 1984—October 31, 1985, the volumes increase to 24,000 Mcf per day, in the contract year November 1, 1985—October 31, 1986, to 24,800 Mcf per day, and volumes increase to a maximum of 25,600 Mcf per day beginning November 1, 1986, and ending on October 31, 1991. Pursuant to DOE/ERA Opinion and Order No. 53 (1 ERA 70,556, Federal Energy Guidelines, January 9, 1984), the applicant is also currently authorized to import, on a best-efforts interruptible basis, an additional quantity of gas in the amount of 100,000 Mcf between November 1, 1983, and October 31, 1984. After the 100,000 Mcf has been imported, but no later than October 31, 1984, imports will resume at the daily rate authorized in DOE/ERA Opinion and Order No. 39.

In this application, Vermont Gas states that it will shortly execute an amendment to its agreement with TransCanada of February 16, 1966, which provides as follows: (1) An increase in the daily firm deliveries by TransCanada from 24,000 Mcf to 24,800 Mcf for the contract year November 1, 1984, to October 31, 1985, and (2) an extension for the same contract year for the sale of up to 100,000 Mcf of additional natural gas to Vermont Gas by TransCanada on a best efforts, interruptible basis. Under its March 25, 1981, gas purchase contract with TransCanada, Vermont Gas incurs no take-or-pay obligation until after it has taken 10 Bcf of gas in any contract year. Since the annual volume limitation imposed by the Canadian National Energy Board (NEB) on TransCanada's exports to Vermont Gas in its License GL-19, as amended, is 6.5 Bcf per year on a firm basis, the take-or-pay provision will not be invoked.

The additional volumes requested will be delivered through existing facilities, and according to Vermont Gas, purchases of both the additional interruptible and additional firm gas will be made at a price of $3.40 per MMBtu. The price for the gas will be based upon Canada's Volume Related Incentive Pricing Program (VRIP), which involves a two-tier pricing program. The VRIP provides for a discount for gas purchases in excess of a base volume computed according to a formula administered by the Minister of Energy Mines and Resources, Canada. In accordance with a contract amendment entered into on October 17, 1983, between Vermont Gas and TransCanada, purchases of gas during the 1983–84 winter months (November 1983—April 1983) were allocated between base volumes sold at the uniform border price of $4.40 per MMBtu's and the incentive volumes sold at $3.40 per MMBtu's. That contract set the price for gas sold between November through April at $4.0664 per MMBtu. Vermont stated that the parties intend to continue an allocation system under the proposed amendment similar to the October 17, 1983, contract agreement. A copy of the new agreement will be submitted once it has been executed by both parties.

In support of its application, Vermont Gas asserted that this arrangement will allow the import to be competitive through October 31, 1985, and therefore conforms to the policy guidelines and delegation orders issued by the Secretary of Energy. Vermont Gas stated that immediate market demands in the service area required it to secure the additional firm and interruptible volumes for the November 1, 1984, to October 31, 1985, contract year. However, Vermont Gas claimed that the parties will be exploring the possibilities of negotiating a long-term market responsive arrangment in the context of the new policy guidelines.

Vermont Gas asserted that the proposed increase in the maximum daily volumes was not inconsistent with the public interest because the increase in supply from the additional gas will permit Vermont Gas to meet demand in its market area. The interruptible gas is designed primarily to be used by existing interruptible industrial customers who would otherwise be burning oil, which currently sells for approximately $5.00 per MMBtu. Vermont Gas alleged that this will result in the displacement of imported fuel oil. The additional firm gas is designed primarily to meet the increased demand in the residential and commercial heating load in Vermont Gas' market area. This growth is due primarily to conversions from other fuels.

Vermont Gas stated that the firm and interruptible increase in daily volumes of natural gas will not affect the total quantity of gas which TransCanada is authorized to export and sell to Vermont Gas over the term of the license issued by the NEB. Such volumes have already been reserved for and dedicated to Vermont Gas. Vermont Gas asserted that the purchase of natural gas in excess of a projected total volume forecast for the contract year November 1, 1984–October 31, 1985, will serve to reduce the overall average cost of contract gas for that year, thereby benefitting all of Vermont Gas' customers.

The decision on this application will be made consistent with the Secretary of Energy's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest. Parties that may oppose this application should address in their comments the issue of competitiveness as set forth in the policy guidelines. The applicant has asserted that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Other Information

Any person wishing to come a party to the proceeding must file a petition to intervene. Any person may file a protest with respect to this application. The filing of a protest will not serve to make the protestant a party to the proceeding. Any protests received will be considered in determining the appropriate action to be taken on the application. All protests and petitions to intervene must meet the requirements that are specified by the regulations that were in effect on October 1, 1977, in 18 CFR 1.8 and 1.10. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-033-B, RG-43, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. They must be filed no later than 4:30 p.m., September 24, 1984.

This application is intended to be processed on the basis of a record developed through written comments and replies. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute

that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties and persons whose petitions to intervene are pending. If no party files a motion requesting additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed pursuant to this notice.

A copy of Vermont Gas' application is available for inspection and copying in the Natural Gas Divison Docket Room, GA-033-B, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on August 17, 1984.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 84-22370 Filed 8-22-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Algonquin Gas Transmission Co.; Amendment to Application

[Docket No. CP82-119-010]

August 17, 1984.

Take notice that on June 27, 1984, Algonquin Gas Transmission Company (Algonquin Gas) filed in Docket No. CP82-119-010 its fourth amendment to its pending application filed in Docket No. CP82-119-010 for a certificate of public convenience and necessity authorizing Canadian gas sales and storage services related to gas imported at Niagara Falls, New York (fourth amendment) pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the fourth amendment which is on file with the Commission and is open to public inspection.

It is explained that the fourth amendment modifies Algonquin Gas' amendment to its application in Docket No. CP82-119-002 to reflect changes in facilities for Canadian gas sales and storage services in light of the planned installation of intervening facilities related to a domestic gas sales service detailed in Algonquin Gas' third amendment in this proceeding. Algonquin Gas notes that on June 18, 1984, the Commission approved a settlement agreement and issued a certificate of public convenience and necessity to Algonquin Gas authorizing it to render domestic gas service as set forth in its third amendment in Docket No. CP82-119-007, CP82-119-008, and CP82-119-009. Such service, it is explained, in Phase 1A of Docket No. CP82-119, would result in the construction of pipeline facilities prior to facilities required for Canadian gas sales and storage service proposed in its fourth amendment and, consequently, requires modification of the facilities previously proposed in earlier filings in Docket No. CP82-119. The nature and quantities of such Canadian sales and storage services proposed in its fourth amendment remain essentially as earlier proposed it said.

The precise quantities of Rate Schedule C-1 service Algonquin Gas proposes to provide its customers are shown below.

CANADIAN GAS SALES QUANTITIES

Customer	Rate schedule C-1 maximum changes daily quantities (Million Btu) by year			
	1 to 9	10	11	12
Bay State Gas Co	3,978	2,983	1,989	994
Boston Gas Co	7,500	5,625	3,750	1,875
Bristol and Warren Gas Co	50	38	25	13
Colonial Gas Co	2,753	2,065	1,376	688
Commonwealth Gas Co	10,674	8,005	5,337	2,668
The Connecticut Light and Power Co	6,500	4,875	3,250	1,625
Connecticut Natural Gas Corp	7,922	5,941	3,961	1,980
Town of Middleborough, MA	101	76	51	25
New Jersey Natural Gas Co	1,527	1,145	764	382
North Attleboro Gas Co	37	28	19	9
City of Norwich, CT	50	38	25	13
The Pequot Gas Co	85	64	43	21
Providence Gas Co	6,227	4,670	3,113	1,557
South County Gas Co	150	113	75	38
The Southern Connecticut Gas Co	3,427	2,570	1,713	847
Total	40,981	38,236	24,491	12,745

The storage service quantities proposed for each customer electing to purchase Canadian gas storage service are as follows:

CANADIAN GAS STORAGE QUANTITIES

Customer	Rate schedule STC Canadian gas storage demand and capacity quantities (MMBtu)	
	Storage demand	Storage capacity
Bristol and Warren Gas Co	109	9,827
Commonwealth Gas Co	13,371	1,337,041
The Connecticut Light and Power Co	12,245	795,918
Connecticut Natural Gas Corp	10,165	1,534,961
Town of Middleborough, MA	51	7,704
City of Norwich, CT	204	10,204
The Pequot Gas Co	204	18,367
South County Gas Co	306	27,551
The Southern Connecticut Gas Co	4,286	428,572
Total	40,941	4,170,145

Algonquin Gas states that this fourth amendment is being filed primarily to reflect changes in Algonquin Gas' proposed facilities and certain related matters which are necessary in light of events that have taken place since the filing of the second amendment, particularly, the addition of Phase 1A domestic gas sales services prior to the commencement of the services proposed herein.

Algonquin Gas further states that the Phase 2 facilities and service proposed are based upon the assumption that imported quantities would remain the same as previously authorized by the National Energy Board of Canada (NEB) and as reflected in the second amendment in this proceeding.

Algonquin Gas states that sales of the Canadian gas to its customers are to be made pursuant to proposed Rate Schedule C-1, and that a *pro forma* copy of this rate schedule was filed in Docket No. CP82-119-001 in August 1982. Algonquin Gas further states that certain aspects of such upstream transportation would be provided by Niagara Interstate Pipeline System (NIPS) rather than Trans-Niagara Pipeline, and a compression charge by TransCanada Pipelines Limited (TransCanada) is now contemplated. These and other necessary matters would be addressed in a future supplemental filing of revised *pro forma* tariff sheets for Rate Schedule C-1, it is submitted.

It is stated that the rates for service under amended proposed Rate Schedule C-1 would be based upon the costs incurred in rendering the service, including reimbursement to Algonquin Gas for the upstream services rendered by Pan-Alberta Gas Ltd. (Pan-Alberta) TransCanada, NIPS, and Texas Eastern Transmission Corporation (Texas Eastern) and a handling charge for the transportation of the gas through the Algonquin Gas pipeline system to the delivery points where the customers would receive gas purchased under Rate Schedule C-1.

Algonquin Gas asserts the reimbursement of the Canadian cost of purchased gas is proposed on a cost-of-service basis with the provision that, in the event that the Canadian gas border price changes and Algonquin Gas obtains any required authorization to purchase the Canadian gas at such changed price, the price to be utilized in Algonquin Gas' billings under Rate Schedule C-1 would reflect such change.

It is stated that with respect to the reimbursement to Algonquin Gas for delivery and transportation charges by TransCanada, NIPS, and Texas Eastern,

provision would be made in Section 7 of Rate Schedule C–1 for Algonquin Gas to flow through any changes in payments for such charges through coincident rate adjustments.

Algonquin Gas requests that the Commission grant to Algonquin Gas any authorization necessary to permit the flow through procedures described above.

Algonquin Gas states that the Canadian gas storage service would be available to those of its customers who are purchasing gas pursuant to proposed Rate Schedule C–1 and have nominated such storage service under Rate Schedule STC, and that a *pro forma* copy of that rate schedule was filed in Docket No. CP82–119–001 in August 1982. In addition, it is stated that certain aspects of Rate Schedule STC, such as the identity of the storage service supplier, are subject to revision and would be addressed in a future supplemental filing of revised *pro forma* tariff sheets for Rate Schedule STC.

Algonquin Gas further states that the rates for service under proposed Rate Schedule STC are to be based upon the costs incurred in rendering the service, including a separate charge to reimburse Algonquin Gas for Transco's storage service and a handling charge for the transportation of the storage gas, after withdrawal from storage, through the Algonquin Gas pipeline system to the delivery points where the customers would receive such gas.

With respect to the reimbursement to Algonquin Gas of the Transco storage payments, Algonquin Gas states that provision would be made in Section 9 of Rate Schedule STC for Algonquin Gas to flow through any changes in such payments through coincident rate adjustments. Algonquin Gas states that the flow through procedure reflected in Rate Schedule C–1 for payments to TransCanada, NIPS, and Texas Eastern, is also applicable to the flow through procedure reflected in proposed Rate Schedule STC, and Algonquin Gas requests the Commission to grant any special permission required to authorize this pass-through.

By its fourth amendment, Algonquin proposes to construct the following pipeline loops:

(a) 14.6 miles of 30-inch pipeline loop of its existing 26-inch mainline extending from Bridgewater, New Jersey, to Morris Township, New Jersey, together with appurtenant regulator facilities, at an estimated cost of $22.6 million;

(b) 4.6 miles of 30-inch pipeline loop of its existing 26-inch mainline and 30-inch loop from Valve 20 to Valve 21 in Newtown, Connecticut, at an estimated cost of $6.6 million;

(c) 4.3 miles of 16-inch pipeline loop of its existing C–1 system in North Haven, Connecticut, from Valve C12A–1 to the existing North Haven meter station at an estimated cost of $4.2 million;

(d) 4.4 miles of 10-inch pipeline loop of its existing E–1 system from Franklin, Connecticut, to Norwich, Connecticut, at an estimated cost of $3.1 million;

(e) 1.6 miles of 12-inch pipeline loop of its existing G–10 system in Berkley, Massachusetts, at an estimated cost of $1.1 million;

(f) 1.5 miles of 10-inch pipeline loop of its existing G–2 system in Tiverton, Rhode Island, at an estimated cost of $1.1 million; and

(g) 0.9 mile of 10-inch pipeline loop of its existing B–1 system in Naugatuck and Waterbury, Connecticut, from the 26-inch mainline and 30-inch loop to the existing Waterbury meter station, at an estimated cost of $766,000.

Algonquin Gas also proposes to make the following modifications to its existing compressor facilities:

(a) Install one additional 3,830 horsepower turbine compressor unit and make modifications to the process piping configuration at its existing compressor station at Cromwell, Connecticut, at an estimated cost of $9.4 million;

(b) Make modifications to the process piping configuration at the existing Stony Point, New York and Burrillville, Rhode Island compressor facilities at an estimated cost of $1.9 and $1.5 million, respectively, ($3.4 million overall); and

(c) Restage the compressor to be built for Phase 1A service at the Hanover, New Jersey, compressor facility at an estimated cost of $284,000.

Algonquin Gas further proposes to make miscellaneous modifications to existing meter facilities at various locations on its pipeline system, at a total estimated cost of $1.8 million. Construction is anticipated to be completed for service to commence November 1, 1987, it is said, and will include the establishment of a new delivery point to an existing customer, The Connecticut Light and Power Company, at Brookfield, Connecticut.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 6, 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. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–22446 Filed 8–22–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–612–000]

Algonquin Gas Transmission Co.; Application

August 17, 1984.

Take notice that on July 27, 1984, Algonquin Gas Transmission Company (Applicant), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP84–612–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to render a long-term (20-year) storage and redelivery service to its participating customers under its proposed Rate Schedule SS–III, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The SS–III service would be offered in conjunction with a storage and redelivery arrangement with Texas Eastern Transmission Corporation (TETCO) which TETCO is making available due to a storage agreement with Consolidated Gas Transmission Corporation (Consolidated), it is stated. Applicant states that TETCO has filed an application in Docket NO. CP84–419–000 for authorization for the service it would render and that Consolidated has filed an application in Docket No. CP84–306–000 for its storage service to TETCO.

Applicant proposes a new storage service (SS–III service) to replace its interim storage service currently being rendered pursuant to Rate Schedule S–TS which would terminate June 15, 1986. It is explained that the quantity of gas to be stored under the proposed SS–III service would be 4,670,000 dt equivalent annually compared with 3,840,6000 dt equivalent being stored under the S–IS storage service. The new service is independent of the present S–IS service and is offered as a firm service primarily in conjunction with service under Applicant's Gas' Rate Schedules F–1,

WS–1 and STB. The SS–III service is proposed to be a firm service as long as the quantities of SS–III gas are taken within the sum of the contract maximum daily quantities otherwise deliverable under firm Rate Schedules F–1, WS–1 and STB.

Applicant states that the proposed long-term storage service would commence on April 1, 1986, and that the proposed service by TETCO would be rendered under its proposed Rate Schedule SS–III.

The various quantities of gas which would be stored by the Applicant under this proposal are as follows:

	Million Btu	
	Storage capacity	Storage demand
Bay State Gas Co	723,000	7,236
Boston Gas Co	1,063,900	10,639
Bristol and Warren Gas Co	19,000	190
Colonial Gas Co	100,000	1,000
Commonwealth Gas Co	434,200	4,342
The Connecticut Light and Power Corp	640,000	6,400
Connecticut Natural Gas Corp	705,300	7,053
Fall River Gas Co	95,000	950
The City of Norwich, CT	48,000	480
The Pequot Gas Co	4,000	40
Providence Gas Co	500,000	5,000
South County Gas Co	8,000	80
The Southern Connecticut Gas Co	329,000*	3,290
Total	4,670,000	46,700

Applicant submits that no new facilities are required to handle the gas which would be delivered pursuant to the proposed storage service; however, TETCO's underlying service allows for the firming up of deliveries if enough customers, including Applicant on behalf of its customers, nominate to do so and if, in TETCO's judgment, expansion of its facilities is economically feasible. It is averred that should this occur Applicant would also expand its facilities if customer needs were sufficient and approvals of related certificate applications were granted. In addition Applicant requests authority to flow through on a current basis charges for underlying storage service being provided by both TETCO and Consolidated.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 6, 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 notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–22449 Filed 8–22–84; 8:45 am]

BILLING CODE 6717–01–M

Algonquin Gas Transmission Co.; Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

[Docket No. TA84–2–20–007]

August 17, 1984.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on August 10, 1984 tendered for filing Substitute Fifth Revised Sheet No. 201 to its FERC Gas Tariff, Second Revised Volume No. 1.

Agonquin Gas states that Substitute Fifth Revised Sheet No. 201 is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment as set forth in Section 17 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. Such tariff sheet is being filed to track revised rates filed by its pipeline supplier, Texas Eastern Transmission Corporation, pursuant to Commission's Order issued July 31, 1984 in Docket No. TA84–2–17–001.

Algonquin Gas proposes the effective date of Substitute Fifth Revised Sheet No. 201 to be September 1, 1984.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protest should be filed on or before August 24, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–22450 Filed 8–22–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP82–420–002]

ANR Storage Co.; Amendment

August 17, 1984.

Take notice that on June 28, 1984, ANR Storage Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP82–420–002 pursuant to section 7(c) of the Natural Gas Act, an amendment to its pending application in Docket No. CP82–420–002 so as to reflect a change in the storage field and the partnership that would develop such storage field, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that it requested authorization in Docket No. CP82–420–001 to provide 10,000,000 Mcf of storage service for Transcontinental Gas Pipe Line Corporation (Transco) with receipt of the storage gas at the interconnection of the facilities of Applicant and Great Lakes Gas Transmission Company (Great Lakes) in Crawford County, Michigan. Such storage services was to be rendered in connection with the development of the Whitewater 36/36A fields in Grand Traverse County, Michigan, by ANR Michigan Storage Company (ANR Michigan) in to Docket No. CP82–478–001, it is submitted.

Applicant states that on October 13, 1983, Couch Gas Storage Company (Couch Gas) filed, in Docket No. CP84–14–000, an application that was structured to be an alternative to applications filed by ANR Michigan in Docket No. CP82–478–001 and Applicant

in Docket No. CP82-420-001. Applicant explains that subsequently, Couch Gas Storage Limited Partnership Couch Limited, which is composed of Couch Gas and Couch Ranch, and ANR Michigan have formed a partnership, known as the Washington 28 Gas Storage Company (Washington 28), to develop and to operate the Washington 28 storage field located in Washington Township, Macomb County, Michigan, to provide the 10,000,000 Mcf of storage service to Transco.

Applicant states that as a result of the foregoing change in the storage field from which storage service is to be provided, Transco and Applicant have entered into a new gas storage agreement dated May 22, 1984 (Agreement), which reflects: (1) A change in the monthly storage charge, (2) a change in commencement date, (3) a change in compressor fuel required, and (4) a change in receipt point.

It is explained that the Agreement provides that during the 1987 and subsequent summer periods (April 1 October 31), Transco would cause Great Lakes to deliver to Applicant for storage, up to 10,000,000 Mcf of natural gas at daily volumes up to 75,000 Mcf at an existing interconnection of Michigan Consolidated Gas Company and Great Lakes in St. Clair County, Michigan (the Belle River Mills delivery point), together with a volume of gas for compressor fuel usage equal to 1.20 percent of the volumes so delivered. It is also explained that the agreement further provides that during the 1987-1988 and subsequent winter periods (November 1-March 31), Applicant would make available to Great Lakes at the Belle River Mills delivery point, these volumes at daily rates of up to 150,000 Mcf less a volume of gas for compressor fuel usage equal to 0.75 percent of the volume so redelivered.

Applicant states that provision has been made in the agreement for excess daily deliveries and redeliveries when Applicant is able to do so without jeopardizing its ability to meet its other obligations. Applicant aslso states that provision has been made for deliveries and redeliveries of such volumes in excess of 10,000,000 Mcf of gas during any contract year.

As consideration for providing this storage service, Transco would pay Applicant a monthly fee based upon the estimated costs incurred by Applicant to render the service, it is asserted. Such monthly fee is estimated at $857,050 or 102.82 cents per Mcf annually. Applicant states that the term of the agreement between Applicant and Transco is twenty years commencing on April 1, 1987. Applicant states also that the storage service described above would not necessitate the installation of any facilities by Applicant.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 6, 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. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22451 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-595-000]

Colorado Interstate Gas Co.; Application

August 17, 1984.

Take notice that on July 20, 1984, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP84-595-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the systemwide transportation of natural gas, on a firm basis, for Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, CIG requests certificate authority to transport, on a firm basis up to 32,000 Mcf per day for Tennessee pursuant to a gas transportation agreement (agreement) dated January 12, 1984. It is explained that, initially, the transportation of gas would be from certain sources of supply set forth in the agreement; however, authority is requested for the transportation of gas from other sources of supply that may develop in proximity to CIG's existing or future pipeline system.

CIG further states that any additional delivery points or facilities that may be required to connect supply sources would be constructed under CIG's blanket authority or pursuant to a separate certificate application, if necessary. CIG asserts that it would submit an annual tariff filing informing the Commission of any additions or deletions of delivery points. CIG states that this annual tariff filing would detail the delivery points for all gas sources covered under the agreement.

CIG states that Tennessee would provide compensation for fuel usage and unaccounted-for gas to the extent reasonably required. It is further stated that Tennessee would pay a transportation rate equal to the product of the redelivery volumes and CIG's jurisdictional rates and charges for the cost of service.

CIG states that both itself and Tennessee form the proposed transportation arrangement. It is stated that Tennessee would be able to receive gas which is distant from its existing pipeline system without the major facilities which might otherwise be required to connect the gas directly. It is further stated that both CIG and its customers would benefit through the receipt of revenues associated with the performance of the transportation services for Tennessee.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 6, 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 approrpriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public

convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for CIG to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22452 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-606-000]

Columbia Gas Transmission Corp.; Application

August 17, 1984.

Take notice that on July 26, 1984, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-606-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing increased contract demands under revised service agreements with Baltimore Gas and Electric Company (BG&E), Commonwealth Gas Pipeline Corporation (Commonwealth), Washington Gas Light Company, Shenandoah Gas Company, and Frederick Gas Company, Inc. (collectively referred to as WGL), and Waterville Gas Company (Waterville), existing wholesale customers of Applicant all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to enter into revised service agreements with

(1) BG&E, effectuating an increase in its winter contract quantity under Rate Schedule WS of 1,405,200 dt equivalent of natural gas from 6,791,800 dt to 8,197,000 dt in Zone 2 to be effective November 1, 1984.

(2) Commonwealth, effectuating an increase in its contract demand under Rate Schedule CDS of 400 dt equivalent of natural gas per day from 235,600 dt per day to 236,000 dt per day in Zone 2, to be effective December 1, 1984.

(3) WGL, effectuating an increase in contract demand under Rate Schedule CDS Of 50,000 dt equivalent of natural gas per day from 416,100 dt per day to 466,100 dt per day, and a decrease under Rate Schedule WS of 50,000 dt per day from 267,800 dt per day in maximum daily quantity and 2,500,000 dt from 13,390,000 dt to 10,890,000 dt in winter contract quantity in Zone 2, to be effective November 1, 1984.

(4) Waterville, effectuating an increase in maximum daily obligation under Rate Schedule SGS of 2,500 dt equivalent of natural gas per day from 2,500 dt per day to 5,000 dt per day in Zone 4, to be effective November 1, 1984.

Applicant states that the customers' requests for service changes were made pursuant to the provisions of Applicant's FERC Gas Tariff, Original Volume No. 1.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 6, 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 notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22453 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-70-002]

East Tennessee Natural Gas Co.; Petition To Amend

August 17, 1984.

Take notice that on August 10, 1984, East Tennessee Natural Gas Company (Petitioner), P. O. Box 10245, Knoxville, Tennessee 37939-0245, filed in Docket No. CP84-70-002 a petition to amend further the order issued on February 27, 1984, in Docket No. CP84-70-000 pursuant to section 7(c) of the Natural Gas Act so as to authorize Petitioner to extend the term of the off-system sale to its customer, Laurel Fuel Company (Laurel), for a one-year period or to December 5, 1985, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is explained that in Docket No. CP84-70-001,[1] Petitioner requested the Commission to amend the February 27, 1984, order so as to authorize Petitioner to reduce its rate to Laurel to Petitioner's then current Zone 1 commodity rate, plus the GRI surcharge of 1.25 cents per million Btu, plus a 1.0-cent per Mcf charge for transportation service provided by Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee). Petitioner states in its petition that continuation of the off-system sale to Laurel for an additional one-year period beyond the December 5, 1984, expiration date, would enable Petitioner to avoid or reduce minimum bill charges from its pipeline supplier, Tennessee, and would benefit Petitioner's jurisdictional customers which would receive as credits to Account No. 191 the jurisdictional portion of the revenues received from the sale to Laurel.

Petitioner, therefore, requests that the Commission further amend its order of February 27, 1984, so as to authorize Petitioner to extend the term of the off-system sale to Laurel for one year, from December 6, 1984, to December 5, 1985.

Petitioner alleges that it has no other market available to it, either on-system or off-system, in which it can dispose of the volumes necessary to avoid the incurrence of minimum bill charges.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 6, 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

[1] Petitioner states that the Commission has not as yet acted on the petition to amend filed in Docket No. CP84-70-001.

Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the National Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22455 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-4-001]

Granite State Gas Transmission, Inc.; Petition for Waiver of Filing Fee

August 17, 1984.

Take notice that on July 27, 1984, Granite State Gas Transmission, Inc. (Granite State) tendered a petition for waiver of a filing fee of $2,300 as prescribed by § 381.205 of the Federal Energy Regulatory Commission's (Commission) regulations (18 CFR § 381.205). This petition is in connection with the July 27, 1984 filing of Granite State's Substitute Seventh Revised Sheet No. 7 to its FERC Gas Tariff, First Revised Volume No. 1.

Granite State contends that Substitute Seventh Revised Sheet No. 7 merely adjusts its rates, previously accepted for effectiveness on July 1, 1984, to track the revised rates filed by Tennessee for sales under its Rate Schedule CD-6 to conform with the requirements of the Commission's June 29, 1984 order. Granite State asserts that this rate adjustment was not caused by its error, inadvertence or fault, but is directly attributable to action by Tennessee in including the settlement in the antitrust litigation as a credit to its Account No. 191 in calculating the surcharge that would be effective beginning July 1, 1984, a matter that the Commission had already ruled on, prior to the first Tennessee filing on May 31, 1984.

Therefore, because Commission Order No. 361 recognizes that waivers of filing fees should be considered on a case-by-case basis, and because Granite State is a small interstate pipeline which would incur an unnecessary economic burden with the payment of a second filing fee for its July 1, 1984 purchased gas adjustment, Granite State requests that this petition be granted.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before August 24, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22456 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-597-000]

Idaho Power Co.; Filing

August 20, 1984

The filing Company submits the following:

Take notice that on August 14, 1984, Idaho Power Company (Idaho) tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during June, 1984, along with cost justification for the rate charged. This filing includes the following supplements:

Utah Power & Light Company—Supplement 32
Sierra Pacific Power Company—Supplement 30
Portland General Electric Company—Supplement 25
Washington Water Power Company—Supplement 20
Montana Power Company—Supplement 29

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 5, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22457 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-209-013]

Lawrenceburg Gas Transmission Corp. and Texas Gas Transmission Corp.; Petition for Investigation and Hearing

August 17, 1984.

Take notice that on July 27, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP84-209-013, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207) a petition requesting the Commission to initiate an investigation and an expedited hearing on the impact on Columbia of the transportation and delivery of natural gas by Texas Gas Transmission Corporation (Texas Gas) to Cincinnati Gas and Electric Company (CG&E) at Texas Gas' Butler, Ohio, delivery point, pursuant to Section 311(a) of the Natural Gas Policy Act of 1978 (NGPA), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Columbia further requests that the Commission issue an order prohibiting Texas Gas from delivering gas to CG&E at the Butler delivery point, or any other delivery point, pursuant to Section 311(a) of NGPA until the Commission has reviewed the impact of the deliveries to CG&E on Columbia.

Columbia states that CG&E is one of its major wholesale customers. Columbia alleges that CG&E recently began purchasing gas supplies from an independent producer and that Texas Gas is transporting these supplies, amounting to 85,000 Mcf per day, on behalf of CG&E pursuant to section 311(a) of the NGPA, and delivering the supplies to CG&E at the Butler delivery point. Columbia alleges that this large volume of spot market gas has an immediate and adverse effect on its core market. Specifically, Columbia states that as a result of the deliveries by Texas Gas, Columbia's costs must be spread over fewer gas volumes purchased by fewer customers at higher costs and that Columbia must continue to purchase sufficient gas supplies in order to be prepared to deliver full contract volumes at its customers' request.

Columbia requests that the Commission order an expedited hearing to develop facts on the issues of: (1) Whether massive spot gas purchases displacing core market sales by Columbia increases gas costs to its customers, (2) whether massive spot gas purchases displacing Columbia's core market jeopardize its ability to provide reliable service to its customers, and (3) whether it is in the public interest to permit massive spot gas purchases that shift costs among customers where there may be a significant displacement of Columbia's core market sales.

Columbia asserts that Part 284 of the Commission's Regulations, which implements section 311 of the NGPA, does not expressly require advance approval from the Commission to change the use of delivery facilities, such as Texas Gas' Butler delivery point. Columbia further asserts that there is a need for Commission review of any proposed change in the use of an existing facility that has the potential of displacing significant core market sales by jurisdictional pipeline companies. Therefore, Columbia submits that Texas Gas should not be permitted to provide transportation service for CG&E under section 311 of the NGPA without an opportunity for prior notice, comment and review by the Commission.

Any person desiring to be heard or to make any comments or protest with reference to said petition should on or before September 6, 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 or Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to became a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22458 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-502-002]

Michigan Consolidated Gas Co.; Interstate Storage Division; Amendment

August 17, 1984.

Take notice that on July 6, 1984, Michigan Consolidated Gas Company (Applicant), 500 Griswold St., Detroit, Michigan 48226, filed in Docket No. CP82-502-002 pursuant to section 7(c) of the Natural Gas Act an amendment to its pending application filed in Docket No. CP82-502-000 so as to reflect a change in the proposed service necessitated by a change in the storage fields, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that its application, as amended, requests authority to transport gas for ANR Storage Company (ANR) incidental to the storage of gas by ANR for Transcontinental Gas Pipe Line Corporation (Transco). It is explained that the storage service provided for Transco was to be rendered by ANR from fields to be developed in the northern part of the Lower Peninsula of Michigan. Applicant states that recently, ANR and Couch Ranch have agreed in principle to the formation of a partnership (Partnership) for the purpose of developing and operating as a gas storage field the Washington 28 gas field, located in Washington Township, Macomb County, Michigan, for the provision of storage service by ANR. The use of the Washington 28 gas field would be an alternative to the use of the aforementioned northern Michigan fields, it is submitted.

Applicant states that it has entered into a long-term (20-year) transportation agreement with ANR which provides that during the 1987 and ensuing summer periods (April 1 through October 31), ANR would deliver up to 10,100,000 Mcf of natural gas, at a daily rate of up to 75,750 Mcf, together with a compressor fuel equal to 0.2 percent of the daily volumes delivered to Applicants' Interstate Storage Division (ISD). Applicant states that these deliveries to ISD would be made at an interconnection between the pipeline facilities of ISD and Great Lakes Gas Transmission Company (Great Lakes) in St. Clair County, Michigan (Belle River delivery point); and ISD would transport and redeliver these volumes to ANR and Couch Ranch in Macomb County, Michigan (Romeo delivery point). It is submitted that during the 1987 and ensuing winter periods (November 1 through March 31), ANR would deliver to ISD up to 10,100,000 Mcf of natural gas at a daily rate of up to 149,625 Mcf at the Romeo delivery point and ISD would transport these volumes to Great Lakes at the Belle River delivery point, less a volume of gas for compressor fuel equal to 0.5 percent of the daily volumes redelivered.

Applicant indicates that the transportation agreement further provides that ISD may, at ANR's request, receive transportation daily volumes in excess of 75,750 Mcf in the summer period, or 149,625 Mcf in the winter period, when, in Applicant's sole judgement, available capacity exists on the ISD system.

Applicant states that it and ANR have also agreed that at ANR's request, and Applicant's option, Applicant would transport during the summer period up to 149,625 Mcf of natural gas from the Romeo to the Belle River delivery points and similarly, at ANR's request and at Applicant's option, Applicant would transport during the winter period up to 75,750 Mcf of natural gas from the Belle River to the Romeo delivery points.

Applicant shows that the transportation services proposed herein would be accomplished by means of a displacement arrangement under which the gas received by ISD during the summer period at the Belle River delivery point would be injected into Applicant's Storage Fields in St. Clair County, Michigan, and that these fields are currently part of Applicant's Utility Division (UD). It is indicated that equivalent volumes of gas would be delivered by ANR Pipeline Company (ANR Pipeline) to ISD, for the account of UD, at the interconnection of the facilities of ISD and ANR Pipeline in Washtenaw County, Michigan, for subsequent delivery to the Partnership at the Romeo delivery point. Similarly, the withdrawal gas received by ISD during the winter period at the Romeo delivery point would be redelivered to UD for consumption in the Detroit metropolitan area while equivalent volumes are withdrawn from the aforementioned storage fields and delivered to Great Lakes at the Belle River delivery point, it is explained.

Applicant further states that in conjunction with this transportation service, it proposes to construct and operate, a 20-inch tap at an estimated cost of $15,000. Applicant states that ISD would charge ANR $58,050 per month for the proposed transportation service and that a charge of 3.47 cents per Mcf would be assessed by ISD for all gas transported by ISD in excess of the contract quantity during any summer or winter period.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 6, 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. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22459 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-112-000]

Midwestern Gas Transmission Co.; Tariff

August 17, 1984.

Take notice that on August 13, 1984, Midwestern Gas Transmission Company (Midwestern) tendered for filing the following tariff sheets to Original Volume No. 1 of its FERC Gas Tariff, to be effective September 12, 1984.

Original Sheet Nos. 85–B, 85–C, 85–D, and 169–A
First Revised Sheet No. 169
Second Revised Sheet No. 85–A
Third Revised Sheet Nos. 84 and 168
Fourth Revised Sheet No. 85

Midwestern states that these tariff sheets revise the minimum bill in its CD–2 Rate Schedule to provide for the direct allocation of take-or-pay payments which it makes to TransCanada PipeLines Ltd. between ANR Pipeline Company and the rest of Midwestern's Northern System customers. Midwestern states that the tariff sheets implement the recent authorization by the Economic Regulatory Administration's Opinion No. 57 of Midwestern's revised contracts with TransCanada.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission; 825 North Capitol Street, NE. Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitons or protests should be filed on or before August 24, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22460 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-111-000]

MIGC, Inc.; Petition For Waiver

August 17, 1984.

Take notice that on August 1, 1984, that MIGC, Inc. (MIGC) tendered for filing a "Petition For Waiver Of section 154.111 Of The Commission's Regulations Under The Natural Gas Act." This petition for waiver is in response to the Federal Energy Regulatory Commission's (Commission) Order No. 380 in Docket No. RM 83–71–000 issued May 25, 1984. In this petition, MIGC also requests that the Commission grant an interim waiver, effective July 31, 1984, pending a final order on this petition. MIGC believes application of § 154.111 will cause irreparable harm to MIGC and many innocent parties, and states it would be better to avert an emergency situation than to address the issues after the harm has been done.

MIGC states that it does not have the flexibility necessary to survive under this rule because its gas supply is almost totally casinghead gas, because MIGC is a short-line system completely contained within the Powder River Basin of northeastern Wyoming, and because MIGC has only two customers to which it can sell gas (Colorado Interstate Gas Company (CIG) and McCulloch Gas Transmission Corporation (MGTC)).

MIGC contends that if this rule is applied to MIGC, it would be unable to operate as designed, *i.e.*, a casinghead gas gathering system. MIGC believes this rule would give CIG the capability to create monumental swings in MIGC's sales. Since MGTC's market is highly seasonal, CIG would have the ability to cause a virtual shutdown of MIGC's system in the summer months when CIG would be most likely to exercise this option. For example, when CIG unilaterally and without foundation shut its purchase valve with MIGC and ceased all takes from July 28, 1983 until the middle of September, despite the take-or-pay clause in MIGC's Rate Schedule PL–1.

MIGC states that oil producers which produce casinghead gas must have a reliable market for gas. MIGC asserts that if CIG is let out of its commitment to be a reliable market, MIGC would be unable to purchase gas from its historical supply ares. Under such circumstances, MIGC would soon be unable to provide adequate service to MGTC, leaving those residential, commercial and industrie customers without a reliable gas supply.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. 385.211, 385.214). All such petitions or protests should be filed on or before August 29, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22461 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-585-000]

Mississippi Power Company; Filing

August 20, 1984.

Take notice that on August 6, 1984, Mississippi Power Company submitted for filing an amendment to the Interconnection Agreement between Mississippi Power Company (Power Company) and South Mississippi Electric Power Association (SMEPA).

The Amendment provides for the discontinuance of one of the two existing interconnection points between Power Company and SMEPA and is desired by both parties. Continued existence and operation of the second point of interconnection is unaffected by this amendment.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 4, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22462 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA84-24-000]

Nielson Enterprises, Inc.; Petition for Staff Adjustment

August 20, 1984.

On August 1, 1984, Nielson Enterprises, Inc. (Nielson), P.O. Box 370, Cody, Wyoming 82414, filed with the Federal Energy Regulatory Commission (Commission) a petition for staff adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA)[1] and the Commission's Rules of Practice and Procedure.[2]

Nielson requests an adjustment from § 271.805(d) of the Commission's regulation. This section requires both the operator and any purchaser of natural gas to give written notice of disqualification if a section 108 stripper well produced more than 60 mcf per production day of nonassociated natural gas for a 90-day production period. Nielson believes the Berry No. 1 well should not be disqualified as a stripper well even though Nielson admits that it did not timely file a petition for enhanced recovery. Yet, Nielson states that the well's production over 60 mcf per production day was due to enhanced recovery techniques; namely, well workover and installation of a Lufkin pump to pump off water accumulation in the well bore.

Nielson states that special hardship exists which may cause out-of-pocket costs in excess of total sales revenues if Nielson must pay refunds from the date of disqualification (April 1, 1982) to the present. Therefore Nielson requests that it be allowed to collect the section 108 price for this period of disqualification to the present.

Any person desiring to participate in this adjustment proceeding shall file a motion to intervene in accordance with Rule 1105 of the Commission's revised Rules of Practice and Procedure. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22463 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

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[1] 15 U.S.C. 3301-3432 (1982).

[2] 18 CFR 385.1101-385.1117 (1983).

[Docket No. CP84-565-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Application

August 17, 1984.

Take notice that on July 11, 1984, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP84-565-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline facilities in the Mustang Island Area, offshore Texas, and the transportation of natural gas, for a limited term, for Neches Gas Distribution Company (Neches), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has contracted to purchase the natural gas reserves underlying Mustang Island (MI), Block 831, offshore Texas, from Seagull Energy E & P, Inc., and other smaller producers in order to augment its system supply over the long term. To avoid exacerbating its present oversupply situation, Applicant indicates that it has assigned its rights to purchase the MI Block 831 reserves to Neches through a period ending June 30, 1986, pursuant to a limited-term assignment agreement dated June 13, 1984, between the two parties.

Applicant proposes to construct and operate 25 miles of 20-inch lateral pipeline which upon completion would connect MI Block 831 to the Matagorda Offshore Pipeline System's (MOPS) 758 Lateral located in MI Block 758. Applicant estimates that the proposed facilities can be installed at a cost of approximately $25.8 million and would provide a maximum design capacity of 276,000 Mcf of gas per day. Applicant proposes to finance the construction from cash on hand.

In addition Applicant proposes to transport, on a best-efforts basis, the assigned MI Block 831 reserves for the account of Neches. It is stated that the proposed transportation service would be performed by Applicant for Neches' account during the assignment period described above. Applicant would receive the MI Block 831 reserves at the platform and transport said reserves via the facilities proposed, the 758 Lateral, MOPS and Applicant's MOPS-to-United Extension. Applicant would then, it is stated, redeliver thermally equivalent volumes to Exxon Gas System, Inc. (EGSI) at an interconnect to be constructed in Refugio County, Texas, for further transportation. Applicant proposes to charge 23.73 cents per Mcf received for the transportation service provided Neches.

Furthermore, Applicant states it would contract with EGSI for transportation services for Neches account. It is proposed that EGSI would accept the MI Block 831 as in Refugio County, Texas, and transport said gas on Applicant's behalf for the account of Neches. It is explained that EGSI would charge Northern 18 cents per Mcf for a monthly average quantity of 15 billion Btu per day or 16 cents per million Btu for a monthly average quantity of greater than 15 billion Btu per day. Applicant states it would then invoice Neches for the EGSI transportation charges incurred.

Applicant proposes a new rate and accounting treatment for the facilities requested, since the MI Block 831 production would be assigned to Neches through June 30, 1986. During the assignment period Applicant proposes to record in FERC Account No. 101, Gas Plant in Service, the cost the MI Block 831 lateral in proportion to the production availability. It is anticipated that the initial amount to be recorded in FERC Account No. 101 would be 35/276 of $25.8 million and the remaining costs would be recorded in FERC Account No. 105, Gas Plant Held for Future Use. As production availability increases, it is expected that a corresponding amount of construction costs would be transferred from FERC Account No. 105 to FERC Account No. 101.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 6, 1984, file with the Federal Energy Regulatory Commission, Washington, DC 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 notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22464 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-560-000]

Northwest Pipeline Corp.; Application

August 17, 1984.

Take notice that on July 10, 1984, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP84-560-000, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for the account of NGL Production Company (NGL) all as more fully set forth in the application which is on file and open to public inspection.

Northwest proposes to transport, on a best-efforts basis, up to 5,000 Mcf of natural gas per day for the account of NGL for a limited term expiring April 18, 1986, pursuant to a gas transportation agreement (Agreement) dated May 29, 1984.

It is stated that the gas to be transported would be a portion of the volumes which would be purchased by Overthrust Gas Brokers Company (OGBC) from Cities Service Oil Company (Cities) and resold by OGBC to NGL and tendered to Northwest for transportation at existing points of interconnection between the Montana-Dakota Utilities Co. (Mondak) pipeline and the Colorado Interstate Gas Company (CIG) pipeline in Park County, Wyoming (Elk Basin receipt point), or Fremont County, Wyoming (Madden receipt point). It is explained that Northwest, utilizing its March 11, 1980, gas transportation and exchange agreement with CIG, would provide for the transportation of NGL's gas to existing points of delivery on Northwest's transmission system in Sweetwater County, Wyoming, or Uintah County, Utah. Northwest states that it would then transport NGL's gas on its mainline and redeliver thermally equivalent volumes of gas, less fuel, to NGL's Foundation Creek, North Douglas Creek, and Moxa Arch processing plants located on Northwest's facilities in Rio Blanco County, Colorado, and Lincoln County, Wyoming.

For all gas transported and delivered to NGL, Northwest would charge a mainline transportation of 1.25 cents per million Btu plus a GRI adjustment of 1.18 cents per million Btu, it is submitted. Northwest states that it would also retain 0.83 percent of volumes transported as reimbursement for mainline fuel usage and that these rates are set forth on Sheet No. 2 in Northwest's currently effective FERC Gas Tariff, Volume No. 2. Northwest asserts that NGL would also reimburse Northwest for the charges incurred from CIG in transporting NGL's gas from the Elk Basin and Madden receipt points to Northwest's transmission system, which rate is currently 36.0 cents per MMBtu plus reimbursement of compressor fuel in kind.

Northwest estimates that the initial transportation volumes under this proposal would be about 5,000 Mcf per day.

It is explained that the transportation service proposed herein ins conditioned upon the availability of pipeline capacity sufficient to provide such service without detriment or disadvantage to Northwest's existing customers who are dependent on Northwest's general system supply.

Further, it is stated that Northwest, pursuant to §157.209(a)(2) of the Commission's Regulations, commenced transporting these volumes of gas for the account of NGL on April 18, 1984, Northwest subsequently filed in Docket No. CP84-450-000 its prior notice requesting authorization to continue this service until June 30, 1985. The transportation service proposed herein would include and supercede the service in Docket No. CP84-450-000.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 6, 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 notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believed, 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 Northwest to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22465 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC84-18-000]

PacifiCorp, Doing Business as Pacific Power & Light Co.; Application

August 20, 1984.

Take notice that on August 13, 1984, PacifiCorp, doing business as Pacific Power & Light Company (Pacific), submitted for filing an application seeking an order authorizing it to sell to the City of Powell, Wyoming, Pacific's Powell substation and 2.12 miles of 69 kV tap line, pursuant to section 203 of the Federal Power Act.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211

and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 4, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22466 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-601-000]

PacifiCorp, Doing Business as Pacific Power & Light Co.; Filing

August 20, 1984.

The filing Company submits the following.

Take notice that PacifiCorp, Doing Business as Pacific Power & Light Company (Pacific) on August 15, 1984, tendered for filing, in accordance with § 35.13a(d)(5) of the Commission's Regulations, Pacific's Revised Appendix 1 for the State of Oregon. The Revised Appendix 1 calculates an average system cost for the State of Oregon applicable to the exchange of power between Bonneville Power Administration (Bonneville) and Pacific.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective April 1, 1984, which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Oregon Public Utility Commission and Bonneville's Direct Service Industrial Customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22467 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL84-33-000]

Petition of Seminole Electric Cooperative, Inc. for Declaratory Order

August 17, 1984.

Take notice that on August 2, 1984, Seminole Electric Cooperative, Inc. (Seminole) submitted for filing its petition for a declaratory order pursuant to Rule 207 of the Commission's Rules of Practice and Procedure.

Seminole states that Florida Power and Light Company's (FPL) inclusion in its March 1984 fuel cost calculation of an adjustment of $10,785,253 for "nonrecoverable oil" and FPL's attempt to pass the cost of this adjustment on to Seminole by means of the fuel adjustment clause contained in FPL's FR-1 rate schedule violates section 205 of the Federal Power Act.

Seminole therefore, requests that the Commission issue a declaratory order to the effect: (1) That the inclusion by FPL of the cost of nonrecoverable oil in its calculation of fuel cost adjustment is improper and violates section 205 of the Federal Power Act and § 35.14 of the Commission's Rules of Practice and Procedure and (2) that FPL must recalculate all bills previously rendered to Seminole to reflect a removal from them of all charges attributable to fuel adjustment clause treatment of nonrecoverable oil.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 24, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22468 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-598-000]

Southern California Edison Co.; Filing

August 20, 1984.

The filing Company submits the following:

Take notice that on August 14, 1984, Southern California Edison Company (Edison) tendered for filing a Letter Agreement amending the Edison-Riverside Interruptible Transmission Service Agreement (Agreement), which has been executed by Edison and the City of Riverside, California (Riverside).

Edison states that the Letter Agreement provides for the addition of Vincent Substation 500 kV bus as an additional Point of Receipt and also clarifies two other matters associated with the Agreement.

According to Edison copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Riverside, California.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 5, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22469 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-582-000]

Southern Natural Gas Co.; Application

August 17, 1984.

Take notice that on July 19, 1984, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP84-582-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 22 billion Btu of natural gas per day for Florida Gas Transmission Company (Florida Gas), all as more fully set forth in the application which is on

file with the Commission and open to public inspection.

Southern proposes to implement the terms of an agreement between Southern and Florida Gas dated June 1, 1983, whereby Southern has agreed to transport, on an interruptible basis, up to 22 billion Btu of natural gas per day for Florida Gas for a primary term of 8 years and year to year thereafter. Southern proposes a rate as may be set forth in its FERC Gas Tariff, Rate Schedule K–2, which is currently 26.4 cents per million Btu.

Southern states that the gas to be transported has been purchased by Florida Gas from Thomson-Monteith, *et al.* (Thomson-Monteith), and Pruett Production Company, *et al.* (Pruett Production), and would be received by Southern at the existing interconnection between the inlet of Southern's existing measurement facilities and the pipeline facilities of Florida Gas or its designee located at or near Mile Post 28.7 of Southern's 30-inch Muldon Line in Clay County, Mississippi. Southern would redeliver the daily quantity of gas at the existing point of interconnection between the pipeline facilities of Southern with the pipeline facilities of Florida Gas near Southern's Franklinton compressor station in Washington Parish, Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 6, 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 notice before the Commission or its designee on this application if no motion to intevene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–22470 Filed 8–22–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–622–000]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Application

August 17, 1984

Take notice that on July 30, 1984, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP84–622–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a transportation service for Transcontinental Gas Pipe Line Company (Transco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee requests authority to transport up to 18,800 Mcf of natural gas per day for the account of Transco from a point of interconnection between the onshore terminus of the Project SP77 facilities [1] and Tennessee's Plaquemines Parish, Louisiana, and to deliver thermally equivalent volumes of natural gas at a point of interconnection between Transco's and Tennessee's 24-inch pipeline No. 500–1 in Acadia Parish, Louisiana (Crowley delivery point). It is also indicated that Tennessee may transport for Transco volumes of gas containing liquids and liquefiable hydrocarbons and helium gas that would require processing for extraction of such materials. Such plant volume reductions (PVR) would be delivered to the South Timbalier Plant, Lafourche Parish, Louisiana, it is explained.

Tennessee proposed to charge Transco for the transportation service

(1) A volume charge equal to the product of 14.01 cents per Mcf of gas delivered at the Crowley point of delivery.

(2) A PVR charge equal to 7.36 cents for the plant volume reduction delivered at the South Timbalier Plant point of delivery.

(3) A minimum monthly bill which would consist of the volume charge of 14.01 cents multiplied by the minimum bill volume, which would consist of the number of days in said month, multiplied by sixty-six and two thirds percent of the tansportation quantity, provided, however, that the minimum bill would be reduced by the volumes, if any, tendered by Transco and not taken by Tennessee.

It is also stated that Transco would provide to Tennessee 2.03 percent of the daily volumes of gas delivered to the Crowley plant and 1.2 percent of the daily volumes of gas delivered to the South Timbalier Plant for Tennessee's system fuel and other uses.

Any person desiring to be heard or to make any protest with reference to said application should on or before

September 6, 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 part in any hearig 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 jursidiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the Procedure herein provided for, unless otherwise advised, it will be

[1] It is explained that Project SP77 facilities are owned jointly by Tennessee and Columbia Gulf Transmission Company (Columbia Gulf) and extend from Plaquemines Parish, Louisiana, to the South Pass area, offshore Lousiana. Transco and Columbia Gulf filed for authorization to transport Transco's volumes through SP77 facilities in Docket No. CP84–134–000.

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22471 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-108-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

August 17, 1984.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on August 13, 1984 tendered for filing proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1. Texas Eastern has filed two alternative sets of revised tariff sheet underlying its major rate increase. The primary revised tariff sheets reflect utilization of Texas Eastern's existing *Seaboard* method of cost classification for allocation and rate design purposes. If circumstances existing at the time do not subject Texas Eastern to the risk of undercollections if the Alternate modified fixed-variable method for determining rates is used, Texas Eastern will file to place into effect the Alternate revised tariff sheets which reflect such method.

The proposed rates will increase the level of Texas Eastern's jurisdictional rates to provide and annual increase in revenues from jurisdictional sales and services of approximately $121 million based on the test period sales and services for the 12 months ended April 30, 1984, as adjusted. Approximately $5 million of the proposed increase can be attributed to purchased gas cost increases reflected in the proposed rate level but not accounted for in the present rate level which Texas Eastern will track under the applicable provisions of its FERC Gas Tariff. The remainder of the increase is related to other than purchased gas cost increases.

Texas Eastern states that the principal reasons for the proposed rate increase are increased costs of labor, expenses, plant facilities costs, working capital requirement, income taxes, and rate of return.

As part of its proposed major rate increase, Texas Eastern has filed revised tariff sheets to reflect changes in and additions to its FERC Gas Tariff and related rate schedules. Included among them are:

(1) Section 28 providing for the tracking of the costs of transportation and compression services performed by others for Texas Eastern other than those performed pursuant to section 311(a) of the Natural Gas Policy Act of 1978;

(2) Section 29 providing for the tracking of costs of transmission and compression services performed by others for Texas Eastern pursuant to section 311(a) of the Natural Gas Policy Act of 1978;

(3) A new tariff provision which will specifically permit tracking of prepayments to gas suppliers;

(4) A change in the PGA provisions of Texas Eastern's tariff to expressly include the right to track certain take-or-pay-for payments and to exclude capitalized gas costs;

(5) A change in shrinkage for interruptable transportation;

(6) A change in the transportation rate design for transports in Zone A and Texas;

(7) Other minor changes.

Texas Eastern has requested waiver of any rules and regulations of the Commission to the extent required to put the foregoing major rate increase and accompanying tariff revisions and rate schedule revisions into effect.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before August 24, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22472 Filed 8-22-84; am]

BILLING CODE 6717-01-M

[Docket No. EL84-29-000]

Town of Highlands, North Carolina v. Nantahala Power and Light Co.; Complaint and Motion To Consolidate or To Hold in Abeyance

August 20, 1984.

Take notice that on July 30, 1984, the Town of Highlands, North Carolina (Highlands), Haywood Electric Membership Corporation and North Carolina Electric Membership Corporation (the Coops) submitted for filing a complaint regarding the justness and reasonableness of the rates being charged by Nantahala Power and Light Company (Nanthala) under its PL (COSAC) tariff, pursuant to Rules 206 and 212 of the Commission's Rules of Practice and Procedure.

Highlands and the Coops states it filed this complaint to preserve the right of Nantahala's wholesale customers to refunds in the event that Nantahala's purchased power costs are determined to be excessive in FERC Docket No. ER82-774-000, *et al.*

Highlands and the Coops request that the Commission either consolidate this complaint proceeding with FERC Docket Nos. ER82-774-000, *et al.*, or hold this complaint proceeding in abeyance pending the outcome of FERC Docket Nos. ER82-774-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before September 17, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22473 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-50-001]

Transco Gas Supply Co.; Tariff Filing

August 17, 1984.

Take notice that on August 13, 1984, Transco Gas Supply Co. (Gasco) tendered for filing Substitute Sixth Revised Sheet No. 106 to its FERC Gas Tariff, Original Volume No. 2. The revised tariff sheet provides for a change in the percentage applicable to return and income taxes for Gasco's rate base from 22.47% to 19.08% and is being filed to comply with Section 1B of Appendix A of Gasco's FERC Gas Tariff which requires that Gasco's rate of return and income tax factor be the same as that of its affiliate, Transcontinental Gas Pipe Line Corp. (Transco). In that regard, the Commission issued an order on July 25, 1984, approving Transco's "Settlement Agreement As To Rates" in Docket No. RP83-137 effective April 1, 1984. The

settlement factors approved in said order by the Commission are the basis for Gasco's return and income tax factor being submitted herewith.

Gasco states that copies of the filing have been mailed to Transco, intervenors in this proceeding and, for information purposes, to each of Transco's jurisdictional customers and interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before August 24, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22474 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-30-021]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

August 16, 1984

Take notice that on July 31, 1984, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to Original Volume No. 2 of its FERC Gas Tariff, proposed to be made effective April 1, 1984. Transco states that such sheets, which reflect reductions in Transco's production area transportation rates, are being filed pursuant to Ordering Paragraphs (B), (C) and (E) of the Commission's order issued May 4, 1984 in this proceeding. Transco further states that such revised tariff sheets reflect the cost and volumetric determinants contained in the Settlement Agreement approved by the Commission by order issued July 25, 1984 in Docket No. RP83-137, as adjusted to reflect the actual balance of net plant in service recorded on Transco's books at March 31, 1984.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 214 and Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR § 385.211 and § 385.214). All such petitions or protests should be filed on or before August 23, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22475 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP83-137-009 and TA84-2-29-004]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

August 16, 1984

Take notice that on July 31, 1984, Transcontinental Gas Pipe Line Corporation (Transco), filed revised tariff sheets proposed to be effective April 1, 1984 and May 1, 1984, to Second Revised Volume No. 1 and Original Volume No. 2 of its FERC Gas Tariff. Transco states that such sheets are being filed in accordance with Article II of the "Settlement Agreement as to Rates" in Transco's Docket No. RP83-137, approved by the Commission on July 25, 1984. Under said Article II, Transco is required to reflect the actual balance of net plant in service as of March 31, 1984 in lieu of the estimated balance utilized in the Settlement Cost of Service contained in Appendix A of the Settlement Agreement. The enclosed tariff sheets to be effective as of April 1, 1984 reflect the required adjustment to the tariff sheets submitted with the Settlement Agreement. The enclosed tariff sheets to be effective May 1, 1984 reflect the same required adjustment to the tariff sheets submitted on June 5, 1984 in Docket No. TA84-2-29-001 and effective as of May 1, 1984, pursuant to the Commission's order of May 9, 1984 accepting Transco's revised PGA filing in that docket.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 23, 1984, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22476 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-51-002]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

August 16, 1984.

Take notice that on July 31, 1984, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing Substitute First Revised Sheet No. 17 to Second Revised Volume No. 1 of its FERC Gas Tariff, proposed to be made effective April 1, 1984. Transco states that such tariff sheet, which is part of Transco's Rate Schedule T-P entitled "Transportation Service for End Users in the Production Area", reflects reductions in the rates stated on Sheet No. 17 currently on file with the Commission and that the revised tariff sheet is being filed pursuant to Ordering Paragraph (A) of the Commission's order issued May 4, 1984 in this proceeding. Transco further states that such revised tariff sheet is being filed so that the transportation rates charged under Rate Schedule T-P will be the same as the revised rolled-in rates being filed by Transco concurrently in Docket No. RP83-30.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rule 214 and Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before August 23, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies

of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22477 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-582-000]

Union Electric Co.; Filing

August 20, 1984.)

Take notice that on August 2, 1984, Union Electric Company (the Company) submitted for filing its Transmission Service Transaction 2 of Service Schedule B.

The Company states that since the filing of Transmission Transaction 1, the City of Malden (the City) has requested that the Company provide additional transmission service, in excess of that set out in that transaction. Accordingly, the Company and the City have negotiated and signed a new transaction designated as Transmission Service Transaction 2.

It is the intent of the parties that all transmission service provided prior to June 1, 1984 was provided under the terms of Transmission 1, and that all transmission service provided on or after June 1, 1984, up to and including May 31, 1989, has been and will be provided under the terms of Transaction 2, subject to all of the terms and conditions set out therein.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before September 5, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22478 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-82-003]

Valley Gas Transmission, Inc.; Tariff Filing

August 17, 1984.

Take notice that on August 9, 1984, Valley Gas Transmission, Inc. (Valley) tendered for filing the following tariff sheets to be a part of its FERC Gas Tariff, Original Volume No. 1:

Substitute Twenty-Fifth Revised Sheet No. 2A'
Substitute Twenty-Sixth Revised Sheet No. 2A
Substitute Twenty-Seventh Revised Sheet No. 2A
Substitute Original Sheet No. 10.
Substitute Twenty-Eighth Revised Sheet No. 2A
Substitute First Revised Sheet No. 10

Valley indicates that the proposed tariff sheets, to be effective for the various rate periods covered and affected by the above-captioned proceeding, are being submitted to implement agreements with respect to Valley's rates which are reflected in the Stipulation and Agreement approved by Commission letter order issued June 15, 1984.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before August 24, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22479 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-439-000]

Columbian Chemical Co.; Application for Commission Certification of Qualifying Status of a Small Production Facility

August 17, 1984.

On August 3, 1984, Columbian Chemical Company (Applicant) submitted for filing an application for certification of a facility as a qualifying facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed facility will be located at the Applicant's North Bend, St. Mary Parish, Louisiana carbon black plant near Franklin, Louisiana. The primary energy source of the facility will be low Btu waste gases from the carbon black production process. The waste gases will be burned in two boilers to produce steam which will be used to operate a steam turbine generator. The electric power production capacity of the facility will be 20 megawatts. The installation of the facility will begin approximately in November 1984.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-22454 Filed 8-22-84; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL ELECTION COMMISSION

[Notice 1984-16]

Filing Dates for Kentucky Special Election

AGENCY: Federal Election Commission.

ACTION: Notice of Filing Dates for Kentucky Special Election.

SUMMARY: Committees required to file reports in connection with the special election to be held on November 6, 1984, must file a 12-day pre-general election report by October 25, 1984, and a 30-day post-general election report by December 6, 1984.

After filing these reports, committees should file a year-end report, due January 31, 1984.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information

Office, 1325 K Street, NW., Washington, D.C. 20463, Telephone: (202) 523–4068, Toll free: (800) 424–9530.

Notice of Filing Dates for Special Election, 7th Congressional District, Kentucky

All principal campaign committees of candidates in the special election and all other political committees which support candidates in this election shall file a 12-day pre-general election report due on October 25, 1984, with coverage dates from October 1, 1984, through October 17, 1984, and a 30-day post-general election report due on December 6, 1984, with coverage dates from October 18, 1984, through November 26, 1984.

After filing these reports, committees should file a year-end report, due January 31, 1984.

Dated: August 20, 1984.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 84–22375 Filed 8–22–84; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–009522–049.

Title: The Italy, South France, South Spain, Portugal/U.S. Gulf and the Island of Puerto Rico (Med-Gulf) Conference.

Parties:

Atlanttrafik Express Service
Archille Lauro
C.IA Venezolana de Navegacion
Compania Trasatlantica
Constellation Lines S.A./Medamer Shipping Co., Ltd.
Costa Line
d'Amico Line S.N.p.A.
Egyptian Navigation Co., Ltd.
Farrell Lines, Inc.
Flota Mercante Grancolombiana S.A.
"Italia" Societa' Per Azioni di Navigazione
Jugolinija
Jugooceanija
Lykes Lines
Nedlloyd Lines
Nordana Line/Dannebrog Lines AS
Sea-Land Service, Inc.
Zim Lines

Synopsis: The proposed amendment would delete the previously adopted mandatory provisions governing independent action and amend existing conference provisions governing independent action. It would also establish provisions governing conference action with respect to service contracts.

Agreement No.: 202–009615–040.

Title: Iberian/U.S. North Atlantic Westbound Freight Conference.

Parties:

Atlanttrafik Express Service
Compania Trasatlantica Espanola, S.A.
Costa Line
Egyptian Navigation Co.
Farrell Lines, Inc.
Hapag Lloyd, A.G.
"Italia" S.p.A.N.
Nedlloyd Lines, Inc.
Sea-Land Service, Inc.
Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment would change the requirements for membership in the agreement's Spanish Olive Section by reducing the number of specified calls required for membership.

Agreement No.: 202–009615–041.

Title: Iberian/U.S. North Atlantic Westbound Freight Conference.

Parties:

Atlanttrafik Express Service
Compania Trasatlantica Espanola, S. A.
Costa Line
Egyptian Navigation Co.
Farrell Lines, Inc.
Hapag Lloyd, A.G.
"Italia" S.p.A.N.
Nedlloyd Lines, Inc.
Sea-Land Service, Inc.
Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment would delete previously adopted mandatory provisions governing independent action and establish a new article governing independent action. It would also add new provisions governing conference action with respect to service contracts.

By Order of the Federal Maritime Commission.

Dated: August 17, 1984.

Francis C. Hurney,

Secretary.

[FR Doc. 84–22358 Filed 8–22–84; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

August 17, 1984.

Background

On June 15, 1984 the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its appoval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirement conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received intitial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received within ten working days of the date of publication in the **Federal Register.**

ADDRESS: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, D.C. 20551, or delivered to room B–2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B–1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availabiity of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Judith McIntosh, Office of Information and Regulatory Affairs, Office of Management and Budget, New

Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Cynthia Classman—Divisions of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3829).

Request for Extension With Minor Revisions to the Report Form

1. Report title: Consumer Statisfaction Questionnaire
Agency form number: FR 1379
OMB Docket number: 7100–0135
Frequency: On occasion
Reports: Any entity that has a complaint regarding a state member bank.
Small businesses are affected.

General description of report: Respondent's obligation to reply is voluntary; there are no issues that arise under the Privacy Act.

The questionnaire is sent to certain people who had a complaint resolved by a Federal Reserve Bank. Complainants are requested to answer questions designed to assess the effectiveness of the Federal Reserve Bank's complaint handling efforts.

Board of Governors of the Federal Reserve System, August 17, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84–22353 Filed 8–22–84; 8:45 am]

BILLING CODE 6210–01–M

Landmark Financial Group, 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 (12 CFR 225.14) 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 the 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 September 17, 1984.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Landmark Financial Group, Inc.*, Belvidere, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares in each of the following banks. The Belvidere National Bank and Trust Company, Belvidere, Illinois and The State Bank of Kirkland, Kirkland, Illinois.

B. **Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:**

1. *Williamson County Bancorp, Inc.*, Franklin, Tennessee; to acquire 93.14 percent of the voting shares of Citizens Central Bank, Murfreesboro, Tennessee.

Board of Governors of the Federal Reserve System, August 17, 1984.

William W. Wiles,

Secretary of the Board.

[FR Doc. 84–22354 Filed 8–22–84; 8:45 am]

BILLING CODE 6210–01–M

Continental Illinois Holding Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of 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 (12 CFR 225.21(a)) 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, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States. The company has also applied under § 211.5 of Regulation K for the Board's approval under section 4(c)(13) of the Act to acquire certain companies engaged in international banking or financial activities.

The 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.

Comments regarding the application must be received at the offices of the Board of Governors not later than September 14, 1984.

A. **Board of Governors of the Federal Reserve System,** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Continental Illinois Holding Corporation*, Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the common stock of Continental Illinois Corporation, Chicago, Illinois, thereby indirectly acquiring 100 percent of the voting shares (less directors' qualifying shares) of Continental Illinois National Bank and Trust Company of Chicago, Chicago, Illinois; Continental Bank of Buffalo Grove, N.A., Buffalo Grove, Illinois; and Continental Bank of Oakbrook Terrace, Oakbrook Terrace, Illinois.

Continental Illinois Holding Corporation also has applied for the board's approval to engage indirectly through various wholly-owned subsidiaries of Continental Illinois Corporation, in the following activities previously approved for Continental Illinois Corporation by the Board: Making and servicing loans; performing

trust company functions; acting as an investment or financial adviser; leasing personal or real property or acting as agent, broker, or adviser in the leasing thereof; underwriting credit life, accident and health insurance; selling, as agent or broker, property and casualty insurance directly related to real estate loans originated or services; engaging in mortgage banking; engaging in international or foreign banking or other international or foreign financial operations.

Board of Governors of the Federal Reserve System, August 21, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-22577 Filed 8-22-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 81N-0393; DESI 6514]

Drugs for Human Use; Drug Efficacy Study Implementation; Prescription Drugs Offered for Relief of Symptoms of Cough, Cold or Allergy; Withdrawal of Approval of New Drug Applications

Correction

In FR Doc. 84-21605 beginning on page 32681 in the issue of Wednesday, August 15, 1984, make the following corrections on that page:

1. In the third column, in the fifth complete paragraph, in the fourth line, "not" should read "now".

2. In the same column, in the eighth complete paragraph, "8-265" should read "11-265".

BILLING CODE 1505-01-M

[Docket No. 84P-0212]

Sigma Chemical Co.; Oxalate Test System; Panel Recommendation on Petition for Reclassification

Correction

In FR Doc. 84-17750 beginning on page 27371 in the issue of Tuesday, July 3, 1984, make the following corrections:

1. On page 27372, third column, third complete paragraph, eleventh line, "($_{14}$C)" should have read "(^{14}C)".

2. On page 27373, first column, in the eighth and twenty-fourth lines, "×12" should have read "−12".

BILLING CODE 1505-01-M

[Docket No. 84M-0214]

Metrosoft, Inc.; Premarket Approval of the Metro 55™ (Methafilcon A) Hydrophilic Contact Lens

Correction

In FR Doc. 84-17584 beginning on page 27370 in the issue of Tuesday, July 3, 1984, make the following corrections:

1. On page 27370, in the heading, the docket number was inaccurate and should have appeared as set forth above.

2. On page 27370, second column, fourteen lines from the bottom, "Metro 55^{59}" should have read "Metro 55™".

BILLING CODE 1505-01-M

[Docket No. 84N-0108]

Studies of Effects of Marketed Drugs; Cooperative Agreements; Availability of Funds

Correction

In FR Doc. 84-17582 beginning on page 27366 in the issue of Tuesday, July 3, 1984, make the following corrections:

1. On page 27367, second column, paragraph 3, third line, "collaboration" should have read "collaborate".

2. On page 27369, first column in the table, under "1983", the entry for "chenodiol" should have read as follows:

1A	1B	1C
1983		
Chenodiol	Atracurium Besylate.	Bumetanide.

BILLING CODE 1505-01-M

Office of Human Development Services

Federal Council on the Aging; Meeting

Agency Holding the Meeting: Federal Council on the Aging.

Time and Date: Meeting begins at 9:00 AM on Wednesday, September 19, 1984 and ends at 12:00 PM on Thursday, September 20, 1984.

Place: Rockland, Maine at the Samoset Hotel, and Augusta, Maine at the Augusta Civic Center.

Status: Meeting is open to the public.

Contact Person: Rita Lowry, Room 4243, HHS North Building, 245-2451.

The Federal Council on the Aging was established by the 1973 Amendments to the Older Americans Act of 1965 (Pub. L. 93-29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health and Human Services, the Commissioner on Aging and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92-453, 5 U.S.C. App. 1, Sec. 10, 1976) that the Council will hold a meeting on September 19 and 20, 1984 from 9:00 AM-9:30 PM and from 9:30 AM-12:00 PM respectively at Rockland, Maine at the Samoset Hotel, and at the Augusta Civic Center in Augusta, Maine.

The meeting is being held in conjunction with the Bureau of Maine Elderly and the Maine Committee on Aging. The agenda will consist of a joint panel entitled: *Aging in Place: Implications for Long Term Care*, and FCA committee meetings.

Dated: August 10, 1984.

Adelaide Attard,

Chairperson, Federal Council on the Aging.

[FR Doc. 84-22374 Filed 8-22-84; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-84-1435; FR-2002]

Neighborhood Development Demonstration Program; Announcement of Fund Availability of Fiscal Year 1984

AGENCY: Office of Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of Fund Availability.

SUMMARY: HUD is establishing a Neighborhood Development Demonstration Program under Section 123 of the Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98-181). This is a demonstration program to determine the ability of neighborhood organizations to support eligible neighborhood development activities using the cooperative efforts and voluntary contributions from individuals, businesses, and nonprofit and other organizations located within the neighborhood as sources of funding support for these projects. The Federal funds are incentive funds to promote the development of this concept, and to encourage neighborhood organizations to become more self-sufficient in their development activities which benfit low- and moderate-income persons.

DATES: Effective Date: August 23, 1984. Application Due Date: October 15, 1984.

FOR FURTHER INFORMATION CONTACT: Mrs. Connie Southerland, located at the Department of Housing and Urban Development, Washington, D.C., at (202) 755–5662. The telephone number is not a toll-free number. The mailing address to obtain copies of the Request for Grant Applications, which provides further information on the Demonstrtion, is located in paragraph IV, A.l.a. of this Notice.

SUPPLEMENTARY INFORMATION: This document: (1) Notifies the public of the availability of funds appropriated; (2) identifies the program objectives; (3) describes the method of allocation and distribution of funds; (4) defines eligible neighborhood development organizations; (5) sets forth eligible neighborhood development activities; (6) sets forth application requirements for the funds; (7) identifies the selection criteria for the award of funds; and (8) specifies the reporting requirements.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventy Street, SW., Washington, D.C. 20410.

The information collection requirements contained in this Notice have been approved by OMB and the assigned OMB Control Number is 2535–0084.

I. Background

A. Legislation

Through Title I of the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1985 (Pub. L. No. 98–371), $2 million in Federal funds is being made available for the demonstration under section 123 of the Housing and Urban-Rural Recovery Act of 1983. Five percent of the funds may be used by HUD for administrative purposes as authorized by statute. The Federal funds are to match voluntary contributions raised from individuals, businesses, non-profit and other organizations located within the neighborhood over a one year grant period, but the neighborhood activities themselves may be programed over a period of two or three years. Federal payments will be made on a quarterly basis as neighborhood organizations verify the amount of funds raised from private sector sources from the previous quarter.

B. Program Objectives

The Neighborhood Development Demonstration Program is designed to determine the ability of neighborhood organizations to fund and implement neighborhood development activities using the cooperative efforts and voluntary contributions from individuals, businesses, non-profit and other organizations located within the neighborhood as a source of funding support for these projects.

The Neighborhood Development Demonstration Program has the following objectives:

—To evaluate the degree to which new voluntary contributions and other private sector support can be generated and new activities can be undertaken at the neighborhood level through Federal incentive funding.

—To determine the correlation, if any, between the demographics of a neighborhood (i.e., income level, residential/non-residential, tenant/homeowner, racial/ethnic makeup etc.) and the neighborhood organization's abilities to raise funds within the neighborhood boundaries.

—To determine the correlation, if any, between the type of improvement activity proposed and the success of fund raising efforts.

—To determine the correlation, if any, between the characteristics of the organization and the success of fund raising efforts.

II. Allocation and Distribution of Funds

The Department proposes to make grants in the form of matching funds available to neighborhood organizations as an incentive to encourage these organizations to become more self-sufficient in their development activities which benefit low- and moderate-income persons. The maximum amount of Federal matching funds for any neighborhood organization is $50,000. The amount of Federal matching funds an organization will receive depends upon the amount of funds raised from voluntary contributions within the neighborhood.

Maximum Federal matching ratios are to be established in accordance with the statutorily required "smallest number of households or greatest degree of economic distress" criteria. The maximum federal match will range from one to six Federal dollars for each dollar raised by the applicant. In determining the matching ratio, each application selected for award will be rank ordered by two tests to determine: (1) The smallest number of households; or (2) the greatest degree of economic distress.

Under each test, applications will be equally divided into six groups. Applications best satisfying either test will be placed in the group eligible to receive six Federal dollars for each neighborhood dollar. Applications placed in the other five groups will receive proportionally less, with those in the group least satisfying the test being eligible to receive one Federal dollar for each neighborhood dollar. Of the two tests, the ranking resulting in the greatest Federal contribution for the applicant will be used in determining the maximum ratio to be applied to the grant.

Applications must contain a management plan and budget which identify the target amount of voluntary contributions and the amount of Federal demonstration funds needed for a viable neighborhood project. Since one of the objectives of the demonstration is to determine the ability of organizations to raise funds, those organizations with an application containing a one-to-one match will receive an additional 10 points, out of the potential 100 for an application. Those proposing more than one-to-one match will receive proportionally fewer points.

Applications selected for award that proposed a ratio in excess of the maximum ratio established through the above rank ordering procedures will be negotiated within the maximum limitation. Applications proposing a match which is below the maximum ratio limitation will be funded at the level proposed by the applicant.

Federal payments to the participating neighborhood organizations will be made on a quarterly basis following receipt of quarterly performance and financial reports. The maximum amount of payment will be governed by the amount of voluntary contributions received in proceding quarters, based on the above formula or the ratio proposed by the applicant.

III. Eligibility

A. Eligible Neighborhood Development Organizations

An eligible neighborhood development organization must meet all of the following requirements:

1. The organization must carry out its activities:

a. In a city of over 1,000 persons or an urban county that meets the distress criteria required as a condition for assistance under the Urban Development Action Grant program, under section 119(b)(1) of the Housing

and Community Development Act of 1974 and the Department's implementing regulation at 24 CFR 570.452; or

b. In an area that has been approved by the Department for assistance under the Urban Development Action Grant Program as a "pocket of poverty," under section 119(b)(2) of the Housing and Community Development Act of 1974 and the Department's implementing regulation, at 24 CFR 570.466; and

c. In a city or urban county that has demonstrated results in providing housing for low-moderate-income persons and in providing equal opportunity in housing and in employment for low- and moderate-income persons and members of minority groups, in accordance with the requirements for assistance under the Urban Development Action Grant Program set forth at section 119(b)(1) of the Housing and Community Development Act of 1974 and the Department's implementing regulation, at 24 CFR 570.453.

2. The organization must have been established and in operation as a private voluntary, non-profit corporation for at least three years (prior to the date of application) under the laws of the State in which it operates.

3. The organization must contain a governing body composed of at least 51 percent neighborhood resident which is responsible to the neighborhood it serves.

4. The organization must have conducted one or more of the eligible neighborhood activities within the past three years which primarily benefited low- and moderate-income residents of the neighborhood.

B. Eligible Neighborhood Development Activities

Funds may be used by eligible neighborhood organizations to develop a project, or to carry out a project, with activities designed to achieve the following:

1. Create premanent jobs in the neighborhood;

2. Establish or expand businesses within the neighborhood;

3. Develop new housing, rehabilitate existing housing, or manage housing stock within the neighborhood;

4. Develop delivery mechanisms for essential services that have lasting benefits for the neighborhood, such as Fair Housing counseling services, child care centers, youth training or health services; or

5. Plan, promote, or finance voluntary neighborhood improvement efforts, such as establishing a neighborhood credit union, demolishing abandoned buildings, removing abandoned cars, and ongoing street and alley cleanup programs.

IV. Application Process

A. Application Requirements

1. There are three steps in the application submissed process:

a. Organizations must contact the HUD Office of Procurement and Contracts to verify that the applicant's neighborhood is located in a currently designated distressed area or a designated pocket of poverty under the Urban Development Action Grant (UDAG) Program. A description of the neighborhood boundaries is to be provided in the event that a neighborhood may be located in a pocket of poverty. The person to contact is: Mrs. Connie Southerland, Grant Specialist, Department of Housing and Urban Development, Office of Procurement and Contracts, Community Services Division (ACC–CS), 451 Seventh Street, SW., Room 5252, Washington, D.C. 20410, Telephone No. (202) 755–5662 (This is not a toll free number).

b. organizations in a UDAG designated area will be sent a "Request for Grant Application" (RFGA) package from the HUD Office of Procurement and Contracts. The RFGA contains the forms and other information regarding the administration of the demonstration, including OMB Circulars A–110 and A–122. This Notice of Fund Availability summarizes major provisions of the RFGA.

c. An original and three copies of an application must be submitted to the address stated above to initiate the application review process.

2. Each application must contain the following:

a. A transmittal letter, Table of Contents, and Standard Form SF–424.

b. Abstract.

c. Evidence that the applicant meets eligibility and other criteria including the following:

—Map of the neighborhood with census tract, block or enumeration district references;

—Copy of the State Charter or incorporation papers, by-laws and a statement of mission;

—Identification of the governing body members to indicate those residing or conducting business in the neighborhood and a statement of the percentage of the members of the organization who reside in and the percentage who conduct business in the neighborhood;

—Identification of prior and current neighborhood projects including those eligible as neighborhood development activities;

—Description of the means of accountability of the governing body members to the residents of its neighborhood, including method and frequency of selection, consultation process, representation of the demographics of the neighborhood i.e. tenants, homeowners, race, sex, ethnic composition, etc.

—Evidence of finanical accountability;

—Letter from the Chief Executive Officer of the local unit of government certifying that the proposed activities are not inconsistent with local housing and community development plans. In lieu of such certification, evidence shall be presented that the local government did not respond within 30 days of request for such a letter; and

—Signed assurances that the applicant will comply with standard certifications for Federal assistance programs.

d. Proposal narrative statement defining how local matching funds will be raised, what neighborhood development activities will be funded, and a strategy for achieving greater long-term private sector support.

e. Project management plan.

f. Project budget and budget narrative.

V. Selection Criteria for Award of Funds

Applications will be evaluated on the basis of the Factors for Award outlined below:

A. Neighborhood/Organizational Qualifications

1. Degree of economic distress within the neighborhood based on poverty and unemployment.

2. Extent to which the organization's board and membership is representative of businesses and households of the neighborhood such as diversity of the board to reflect the minority composition of the neighborhood.

3. Record of effectively implementing one or more of the eligible activities for the benefit of low- and modernate-income residents plus evidence of promoting fair housing activities if the applicant has previously sponsored proposals involving housing.

4. Evidence of financial accountability.

5. Evidence of capability and experience of organization staff and of the director.

6. Evidence of working relationship with local government.

B. Project Qualifications

1. Extent to which private funding sources have been realistically

identified, will be available for the project, and extent to which a realistic strategy has been developed to achieve greater long term private sector support.

2. Extent to which a project meets a demonstrated neighborhood need for the benefit of low- and moderate-income neighborhood residents. Special emphasis on economic development activities that can provide long term benefits are included when appropriate.

3. Probable effectiveness of the project in promoting objectives of equal employment opportunity and fair housing.

4. Quality of management plan and budget, including feasibility of project given the nature of the problem, the level and quality of staff, and the financial resources available.

C. Federal Matching Ratio

Extent to which an organization is able to provide voluntary contributions to a project, thus keeping the Federal matching ratio as low as possible. (See criteria under II for determining matching ratio).

VI. Reporting Requirements

The grantees will be required to submit quarterly performance and financial reports. These reports should inform HUD of any changes that may affect the outcome of the demonstration, such as changes in the governing body membership, staffing, working relationships with local government and private organizations, fund raising activities, volunteer efforts, the management plan and the budget. The quarterly reports are also to verify the amount of voluntary contributions from within the neighborhood as a basis for Federal disbursement of matching funds. Applications are to certify that none of the voluntary contributions originated through Federal funding sources.

In addition, the grantee will be required to submit a final report at the completion of the grant period. The final report must fully describe the successes and failures associated with the project, including the reasons for the successes and failures. It should also describe possible improvements in the methods used. the quarterly and final reports will be used for evaluation purposes, reports to the Congress on the demonstration, and a report on successful projects to be distributed to other neighborhood organizations.

VII. Environmental Reviews

For all proposed actions or activities that are not considered a categorical exclusion as set forth in 24 CFR 50.20, HUD will perform the environmental reviews and comply with other appropriate requirements of environmental statutes, executive orders and HUD standards listed in 24 CFR 50.4. The environmental review will be performed before award of a grant. Grantees will be expected to adhere to all assurances applicable to the environmental concerns as contained in the RFGA and grant agreements.

Authority: Sec. 123, Housing and Urban-Rural Recovery Act of 1983, (Pub. L. No. 98-181); sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: August 17, 1984.

Jack R. Stokvis,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 84-22352 Filed 8-22-84; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Public Lands; Initial Classification Decision

Correction

In FR Doc. 84-19354 appearing on page 29469 in the issue of Friday, July 20, 1984, make the following correction:

On page 29469, first column, in the land description, fourth line, remove the comma between "N½" and "SE¼."

BILLING CODE 1505-01-M

[INT-FES-84-24]

Sunnyside Combined Hydrocarbon Lease Conversion; Environmental Impact Statement

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability of the Final Environmental Impact Statement (FEIS).

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the BLM has prepared a FEIS for the proposed Sunnyside Combined Hydrocarbon Lease Conversion.

SUPPLEMENTARY INFORMATION: The BLM has prepared a FEIS on tar sand lease conversions in the Sunnyside area of east-central Utah. These lease conversions are proposed by five applicants—Amoco Production Company, Chevron USA Inc.-GNC Energy Corporation, Enercor, Mono Power Company, and Sabine Production Company. Each applicant has submitted a plan of operations for converting these leases. The EIS addresses the cumulative and collective impacts of the projects plus other interrelatred projects planned for development in the Sunnyside area during the analysis period.

FOR FURTHER INFORMATION, CONTACT: Robert Pizel, Project Leader, EIS Services, Bureau of Land Management, 555 Zang Street, First Floor East, Denver, Colorado 80228, Telephone (303) 234-6737

Copies of the FEIS will be available for inspection at the following locations:

—Bureau of Land Management, Public Affairs, Interior Building, 18th and C Streets, NW., Washington, DC 20240 (202) 343-6011

—Price River Resource Area, 900 North 7th East, Price, Utah 84501

—Bureau of Land Management, Utah State Office, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111

—Bureau of Land Management, Moab District Office, 125 West, 20 South, P.O. Box 970, Moab, Utah 84532.

A limited number of single copies of the FEIS can be obtained from the District Manager, Moab District Office or the State Director, Utah State Office, at the addresses listed above.

Dated: August 1, 1984.

J.A. Moorhouse,

Bureau of Land Management, Utah State Director, Acting.

[FR Doc. 84-22372 Filed 8-22-84; 8:45 am]

BILLING CODE 4310-DQ-M

Known Geothermal Resources Area; Dixie Valley, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Additions to and deletions from the Dixie Valley Known Geothermal Resources Area, Nevada.

SUMMARY: Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), the delegations of authority in 235 Departmental Manual 1.1 K, Bureau of Land Management, the following lands are hereby added to or deleted from the Dixie Valley Known Geothermal Resource Area, effective August 1, 1984.

NEVADA

Dixie Valley Known Geothermal Resources Area Mt. Diablo Meridian, Nevada

Lands Added to the KGRA.

Mount Diablo Meridian, Nevada

T. 22 N., R. 35 E.
Sec. 1;
Sec. 2;
Sec. 3;

Sec. 4;
Sec. 8;
Sec. 9;
Sec. 10;
Sec. 11;
Sec. 12.
T. 22 N., R. 36 E.
Sec. 5;
Sec. 6;
Sec. 7;
Sec. 8.
T. 23 N., R. 35 E.
Sec. 1;
Sec. 2;
Sec. 11;
Sec. 12;
Sec. 13;
Sec. 14;
Sec. 15;
Sec. 22;
Sec. 23;
Sec. 24;
Sec. 25;
Sec. 26;
Sec. 27;
Sec. 32;
Sec. 33;
Sec. 34;
Sec. 35;
Sec. 36.
T. 23 N., R. 36 E.
Sec. 3;
Sec. 4;
Sec. 8;
Sec. 9;
Sec. 10;
Sec. 15;
Sec. 16;
Sec. 19;
Sec. 20;
Sec. 21;
Sec. 22;
Sec. 28;
Sec. 29;
Sec. 30;
Sec. 31;
Sec. 32.
T. 24 N., R. 35 E.
Sec. 35;
Sec. 36.
T. 24 N., R. 36 E.
Sec. 1;
Sec. 2;
Sec. 16;
Sec. 17;
Sec. 24;
Sec. 30;
Sec. 31;
Sec. 32;
Sec. 33.
T. 24 N., R. 37 E.
Sec. 1;
Sec. 4;
Sec. 9;
Sec. 10;
Sec. 12;
Sec. 14;
Sec. 15;
Sec. 16;
Sec. 17;
Sec. 18;
Sec. 19;
Sec. 20;
Sec. 21;
Sec. 22;
Sec. 23;
Sec. 24;
Sec. 25;
Sec. 26;
Sec. 27;
Sec. 28;
Sec. 29;
Sec. 30;
Sec. 31;
Sec. 32;
Sec. 33;
Sec. 34;
Sec. 35;
Sec. 36.
T. 24 N., R. 38 E.
Sec. 6;
Sec. 7;
Sec. 18;
Sec. 19.
T. 25 N., R. 37 E.
Sec. 10;
Sec. 11;
Sec. 14;
Sec. 15;
Sec. 16;
Sec. 21;
Sec. 22;
Sec. 25;
Sec. 26;
Sec. 27;
Sec. 28;
Sec. 29;
Sec. 30;
Sec. 31;
Sec. 33;
Sec. 34;
Sec. 35.
T. 25 N., R. 38 E.
Sec. 3;
Sec. 4;
Sec. 9;
Sec. 10;
Sec. 17;
Sec. 20;
Sec. 23;
Sec. 24;
Sec. 25;
Sec. 26;
Sec. 29;
Sec. 32;
Sec. 33;
Sec. 34;
Sec. 35;
Sec. 36.
T. 25 N., R. 39 E.
Sec. 19;
Sec. 30;
Sec. 31.
T. 26 N., R. 38 E.
Sec. 22;
Sec. 23;
Sec. 24;
Sec. 25;
Sec. 26;
Sec. 30;
Sec. 31;
Sec. 34;
Sec. 35;
Sec. 36.

The above area aggregates 84,165.59 acres more or less.

Lands Deleted from the KGRA.

T. 22 N., R. 34 E.
Sec. 12;
Sec. 13;
Sec. 23;
Sec. 24;
Sec. 25;
Sec. 35;
Sec. 36.
T. 23 N., R. 37 E.
Sec. 15;
Sec. 22;
Sec. 23;
Sec. 27.
T. 23 N., R. 38 E.
Sec. 2;
Sec. 3;
Sec. 4;
Sec. 5;
Sec. 6;
Sec. 10;
Sec. 11;
Sec. 15;
Sec. 16.
T. 24 N., R. 38 E.
Sec. 14;
Sec. 15;
Sec. 16;
Sec. 17;
Sec. 20;
Sec. 21;
Sec. 22;
Sec. 27;
Sec. 28;
Sec. 29;
Sec. 32;
Sec. 33;
Sec. 34;
Sec. 35;
Sec. 36.

The above area aggregates 22,445.83 acres, more or less

Dated: August 13, 1984.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 84-22383 Filed 8-22-84; 8:45 am]

BILLING CODE 4310-HC-M

District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780 that a meeting of the Ely District Grazing Advisory Board will be held on Wednesday, September 26, 1984.

The meeting will convene a 9:30 a.m. in the Conference Room of the Ely District Office located on the Pioche Highway 1 mile south of Ely, Nevada.

The major agenda item will be the discussion of range improvement projects proposed for construction in FY 85.

Public comment time is scheduled for 11 a.m. The public is invited to attend this meeting and may, at the designated time, submit written or oral statements for the advisory groups' consideration.

Minutes of the meeting will be available for public inspection and

reproduction during regular office hours within 30 days following the meeting.

DATE: August 13, 1984.

ADDRESS: Comments and suggestions should be sent to: Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301.

FOR FURTHER INFORMATION CONTACT: Kathy Lindsey, 702–289–4865.

Dated: August 13, 1984.

Merrill L. DeSpain,

District Manager.

[FR Doc. 84–22371 Filed 8–22–84; 8:45 am]

BILLING CODE 4310–HC–M

Oregon; Burns District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Burns District Office; Advisory Council Meeting.

SUMMARY: In accordance with Pub. L. 92–463 this notice sets forth the schedule and proposed agenda of a meeting of the Burns District Advisory Council at the Harney County Courthouse in Burns, Oregon.

DATE: September 14, 1984—9:00 A.M. to 4:00 P.M.

FOR FURTHER INFORMATION CONTACT: Joshua L. Warburton, District Manager, Burns District, Bureau of Land Management, 74 South Alvord, Burns, Oregon 97720 Telephone (503) 573–5241.

SUPPLEMENTARY INFORMATION: The primary purpose of this meeting is to review the public comments received during the 90-day public comment period on the John Day Resource Management Plan-Environmental Impact Statement (RMP/EIS) Draft.

The meeting will also include discussion on the Wild Horse & Burro Program, the Grazing Sub-leasing issue and a briefing on Oregon's Wilderness Program. Persons interested in making an oral statement at this meeting, which is open to the public, must notify the District Manager, Burns District Office, 74 South Alvord, Burns, Oregon 97720, by September 7, 1974, Written statements must also be received by this date.

Summary minutes of the meeting will be available for public inspection and duplication within 30 days following the meeting.

Dated: August 10, 1984.

Joshua L. Warburton,

District Manager.

[FR Doc. 84–22381 Filed 8–22–84; 8:45 am]

BILLING CODE 4310–33–M

Richfield District Advisory Council; Meeting and Tour

AGENCY: Bureau of Land Management, Interior.

ACTION: Richfield District Advisory Council Meeting and Tour.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94–479 and 43 CFR Part 1780 that a tour of the Deep Creek Mountain and Fish Springs Range Wilderness Study areas (WSAs) will take place on September 27, 1984 followed by a Council meeting on the following day September 28, 1984. The tour will leave Delta, Utah from the Pendroy Plaza Motel, 527 East Topaz Boulevard at 8:30 a.m.

The Council meeting will be held at the Plaza Restaurant 540 East Topaz, Delta, Utah on September 28, 1984 at 8:00 a.m. with the following agenda.

1. Planning update on the House Range Resource Management Plan.
2. The grasshopper problem on the District.
3. Review of the Districts WSAs.
4. Arrange next meeting.

The field trip is open to the public. Those wishing to go on the field trip will need to provide their own transportation (four wheel drive vehicle required).

The meeting is also open to the public. Interested persons may make oral statements to the Council from 1:00 p.m. to 2:00 p.m. September 28, 1984, or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701 by September 24, 1984. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary of the Council meeting will be maintained in the District Office and will be available for public inspection and reproduction during the 30 days following the meeting.

Dated: August 15, 1984.

Donald L. Pendleton,

District Manager.

[FR Doc. 84–22379 Filed 8–22–84; 8:45 am]

BILLING CODE 4310–84–M

Sale of Public Land in El Dorado County, CA

The following described land has been examined and through the development of land use planning decisions based on public input, resource considerations, regulations and Bureau policies, it has been determined that the proposed sale of these parcels is consistent with the Federal Land Policy and Management Act (FLPMA) of October 21, 1976, (90 Stat. 2750; 43 U.S.C. 1713). Sale parcels will be offered for sale October 30, 1984, at no less than the appraised fair market value, using direct sale, modified competitive or competitive bid procedures. The BLM solicits and will accept bids on these lands; and may accept or reject any and all bids, or withdraw any land from sale at any time, if in the opinion of the Authorized Officer, consummation of the sale would not be in the best interest of the United States.

Serial No.	Legal description	Acres	Fair market value	Bidding procedure
CA 14323	T. 10 N., R. 9 E., MDM, Sec. 10, SW¼NW¼ (minus 1.25 acres for boundary line adjustment; see condition 8 for complete legal description).	+38.75	$48,000	Competitive.
CA 14722	T. 11 N., R. 10 E., MDM, Sec. 12, lot 29	±1.3	2,500	Direct sale.
CA 16024	T. 10 N., R. 11 E., MDM			
Parcel A	Sec. 20, lot 12	±.31	400	Modified competitive.
Parcel B	Sec. 29, lot 4	.06		Modified competitive.
	Sec. 30, lot 20	.55		
Total		±.61	900	Modified competitive.
Parcel C	Sec. 29, lot 5	±5.74	4,500	Modified competitive.
Parcel D	Sec. 29, lot 6	.30		
	Sec. 30, lot 21	3.48		
Total		±3.78	16,500	Modified competitive.
Parcel G	Sec. 30, lot 22	±2.83	7,500	Modified competitive.
CA 16025	T. 10 N., R. 12 E., MDM			
Parcel A	Sec. 20, lot 16	±2.5	13,000	Competitive.
Parcel B	Sec. 20, lot 17	±2.5	13,000	Competitive.
CA 16026	T. 13 N., R. 10 E., MDSM, Sec. 30, lot 14	±.16	300	Modified Competitive.
CA 16028	T. 10 N., R. 9 E., MDM, Sec. 10, E½NE¼SE¼SW¼NW¼.	±1.25	3,750	Direct sale.

Sale Terms and Conditions Are as Follows:

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. All bidders must be United States citizens; corporations must be

authorized to own real property in the State of California; political subdivisions of the State and State instrumentalities must be authorized to hold property. Proof of meeting these requirements shall accompany bids.

3. A reservation for an existing road right-of-way (CA 6038) will be incorporated into the patent for Parcel G of CA 16024.

4. CA 16024 will be sold using modified competitive bid procedure. It contains five parcels which, because of their size, shape, character, surrounding ownership pattern and lack of access will be offered to the adjoining landowners. These parcels have also been identified for possible acquisition for the proposed South Fork of the American River (SOFAR), Texas Hill Reservoir Project. Therefore, the designated bidders will be limited to those who can prove adjacent ownership and the SOFAR Management Authority.

5. CA 16026 is completely surrounded by two private parcels and has no legal access. Therefore the designated bidders will be limited to the adjacent owners.

6. CA 14722 will be offered in a direct sale as a boundary line adjustment to resolve an inadvertent occupancy trespass. The direct sale will permit a resolution that protects the equity investment in improvements of the adjoining landowner, Mr. Paul Mello.

7. CA 16028 will be offered in a direct sale as a boundary line adjustment to resolve an inadvertent occupancy trespass. The direct sale will permit a resolution that protects the equity investment in improvements of the adjoining landowner, Mr. John D. Long.

8. CA 14323 contains 38.75 acres and is located in an area zoned Residential Estate, 10-acre minimum. The county of El Dorado would still permit the subdivision of the parcel under a variance procedure which permits subdivisions to occur if the resultant parcels are generally within 90 percent of the requirement for that zone. Further information on the zoning should be addressed to El Dorado County. Complete legal description is as follows: N½SW¼NW¼ (20 ac.), SW¼SW¼NW¼ (10 ac.), W½NE¼SE¼SW¼NW¼ (1¼ ac.), W½SE¼SW¼NW¼ (5 ac.), SE¼SE¼SW¼NW¼ (2½ ac.); containing 38.75 acres more or less. The parcel is 1.25 acres short of 40 acres due to the boundary line adjustment sale of CA 16028.

9. CA 16025, Lot 16 and Lot 17 will contain a reservation for a buried EID water pipeline (CA 4032), which parallels Fort Jim Road.

Upon publication of this notice in the **Federal Register** as provided in 43 CFR 2711.1–2(d) (amended) the above lands will be segregated from appropriation under the mining laws but excepting the mineral leasing laws for a period of not to exceed 270 days, or until the lands are sold, whichever occurs first. The segregation effect may otherwise be terminated by the Authorized Officer by publication of a termination notice in the **Federal Register** prior to the expiration of the 270 day period.

The above described lands, other than the direct sales, will be separately offered for sale by sealed bids. The sealed bids for the competitive and modified competitive sales will be opened at 10:00 a.m. on October 30, 1984, at the Folsom Resource Area Office, Bureau of Land Management, 63 Natoma Street, Folsom, California 95630. Sealed bids shall be considered only if received at the above address prior to 10:00 a.m. on October 30, 1984. Each sealed bid shall be accompanied by certified check, postal money order, bank draft or cashier's check made payable to the Department of the Interior-BLM for not less than 10 percent or more than 30 percent of the bid. The sealed bid envelopes must be marked on the front lower left corner "Folsom Resource Area, October 1984, Land Sale, Case File Serial # ——." After opening all sealed bids, if two or more envelopes containing valid high bids of the same amount are received, the determination of which is to be considered the highest bid shall be by supplemental oral bids. The oral bidding, if needed, will be conducted by the authorized officer immediately following the opening of the sealed bids. The person declared to have entered the highest qualifying oral bid shall submit payment of not less than 10 percent or more than 30 percent as specified above, immediately following the close of the sale.

The successful bidder, whether such bid is a sealed or oral bid, shall submit the remainder of the full purchase price within 180 days of the sale date. Failure to submit the balance of the full bid within the above specified time limit shall result in cancellation of the sale and the deposit shall be forfeited. The next high bid will then be honored.

It has been determined that the lands are without known mineral values and a successful bid will constitute a simultaneous request for conveyance of the reserved mineral estate. As such, the successful high bidder will be required to deposit a $50.00 nonreturnable filing fee for conveyance of the mineral estate plus the 10–30% of the bid as mentioned at the sale.

Detailed information concerning the sale, including the land report and environmental assessment report are available for review at the Folsom Resource Area Office, 63 Natoma Street, Folsom, California 95630. For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the District Manager, Bakersfield District, Bureau of Land Management, 800 Truxtun Avenue, Room 311, Bakersfield, California 93301; (805) 861–4191. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination.

Deane K. Swickard,

Area Manager.

[FR Doc. 84–22382 Filed 8–22–84; 8:45 am]

BILLING CODE 4310–84–M

Sale of Public Lands in Custer, Saguache, and Yuma Counties, CO; Modification of Original Notice.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action. Modification of Procedures for Sale of Public Land in Custer, Saguache, and Yuma Counties, Colorado.

SUMMARY: The following described lands has been offered for sale on a continuing basis for at least 7 months; six parcels were offered to adjoining owners only, while four were open to the general public. This notice is to open up all parcels to public bid, and to modify sales procedures. All other terms and conditions of sale will not be changed.

Serial No.	Parcel	Legal description	Acreage	Minimum bid
		NEW MEXICO PRINCIPAL MERIDIAN, CO		
C36840	3	T. 43 N., R. 11 E., Sec. 11, NW¼SW¼	40.0	$8,000

Serial No.	Parcel	Legal description	Acreage	Minimum bid
C36840	5	T. 43 N., R. 10 E., Sec. 14, SE¼NW¼	40.0	4,000
C36840	8	T. 45 N., R. 9 E., Sec. 13, E½NE¼	80.0	12,000
C36840	10	T. 45 N., R. 10 E., Sec. 21, W½SW¼	80.0	24,000
C35464		T. 45 N., R. 12 E., Sec. 12, lot 2	22.4	31,000
		SIXTH PRINCIPAL MERIDIAN, CO		
C35463		T. 22 S., R. 73 W., Sec. 18, W½NE¼, NE¼NW¼	120.0	78,000
C35461		T. 22 S., R. 73 W., Sec. 8, NW¼SE¼	40.0	32,000
C35445		T. 5 S., R. 45 W., Sec. 27, lots 12 and 13	79.74	8,000
C35446		T. 5 S., R. 45 W., Sec. 14, lot 14	40.0	4,000
C35447		T. 5 S., R. 45 W., Sec. 32, SW¼NE¼	40.0	4,000

The above aggregates 582.14 acres.

Sale Procedures

Bidding will be by sealed bids only. No bids will be accepted for less than the minimum bid price identified for each parcel. Sealed bids will be accepted until 1 PM on October 3, 1984. Bid opening will be at 2 p.m. the same day. Any parcels not sold will continue to be offered in the same way on the first and third Wednesday of each month thereafter. Sealed bids will be accepted at the Canon City District Office, 3080 East Main, P.O. Box 311, Canon City, CO 81212. The sale will continue until it is cancelled or the parcel(s) is (are) sold. The previous method of "over-the-counter" sale for these parcels will remain in effect until 1 p.m. on September 17, 1984, after which all bids will be held for the October 3 sale date. The time period allowed for successful bidders to complete the purchase is extended from 30 to 180 days.

BLM may accept or reject any and all bid offers or withdraw any of the parcels from sale at any time if, in the opinion of the authorized officer consummation of the sale would not be fully consistent with existing Federal laws and regulations.

Further Information

A detailed sales prospectus, containing bidding procedures, payment requirements, and conditions of sale, will be available by request from the Canon City District Office.

Donnie R. Sparks,

District Manager.

[FR Doc. 84-22380 Filed 8-22-84; 8:45 am]

BILLING CODE 4310-JB-M

[C-17-84 thru C-20-84]

California; Filing of Plat of Survey

August 9, 1984

1. These supplemental plats of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

San Bernardino Meridian, Imperial County

T. 16 S., R. 13 E.
T. 16 S., R. 14 E.
T. 14 S., R. 13 E.

2. These supplemental plats of subdivision of original Tract 198, located in sections 17, 18, 19, and 20, Township 16 South, Range 13 East, San Bernardino Meridian, and a subdivision of original Tract 80, located in section 14, Township 14 South, Range 13 East, San Bernardino Meridian, California, were accepted July 11, 1984. The supplemental plats of original Tract 85, located in sections 26, 27, 34 and 35, Township 14 South, Range 13 East, San Bernardino Meridian, and a subdivision of original Tract 292, located in section 31, Township 16 South, Range 14 East, San Bernardino Meridian, California were accepted July 12, 1984.

3. These plats will immediately become the basic record for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

4. These supplemental plats were executed to meet certain administrative needs of the Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 84-22368 Filed 8-22-84; 8:45 am]

BILLING CODE 4310-40-M

[Group 649]

California; Filing of Plat of Survey

August 9, 1984.

1. These plats of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, Modoc County

T. 44 N., R. 16 E.
T. 45 N., R. 16 E.
T. 45 N., R. 17 E.
T. 46 N., R. 16 E.

2. These plats (4), representing dependent resurveys in Townships 44 and 45 North, Range 16 East, 45 North, 17 East, and 46 North, 16 East, Mount Diablo Meridian, accepted October 14, 1982, have been amended to provide for the cancellation of the fixed and limiting boundary of "Upper Lake," in accordance with the memorandum of the acting Director, Bureau of Land Management, dated July 10, 1984. See 9609.31(700), Group No. 649, California. This cancellation is effective July 23, 1984.

3. These plats will immediately become the Basic record for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

4. These plats were executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 84-22367 Filed 8-22-84; 8:45 am]

BILLING CODE 4310-40-M

Lifting of Suspensions of Approval of Small Acreage Oil and Gas Record Title Assignments

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: By Federal Register Notice dated March 21, 1984, (49 FR 10582) the

public was advised that the Bureau of Land Management had suspended approval of record title assignments of nonproducing noncompetitive Federal oil and gas leases of less than 640 acreas in the lower 48 States. This suspension also included processing record title assignments for competitive and noncompetitive lands of less than 2,560 acres in Alaska and record title assignments of an undivided interest where the average undivided interest holding in the lease is less than 10 percent. Notice is hereby given that effective August 16, 1984, the suspension imposed on March 21, 1984, is hereby lifted and the adjudicative processing of those pending record title assignments affected by the suspension will resume. By this notice, the public is requested to comment on appropriate qualification criteria for future approval of oil and gas lease assignments of small acreage.

EFFECTIVE DATE: August 16, 1984.

COMMENT DATE: Comments should be submitted by October 9, 1984. Comments received or postmarked after the above date may not be considered part of the decisionmaking process on the rulemaking promulgation.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.,

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mary Linda Ponticelli, (202) 653–2190.

SUPPLEMENTARY INFORMATION: During the suspension, the Bureau of Land Management reviewed the problems associated with fragmenting large leases into parcels of smaller undevelopable size and had determined that, in the future, closer scrutiny must be given to the qualification of assignees of small tracts as described above to promote the expeditious development of oil and gas resources. Among the problems associated with small acreage assignments that became apparent during the Bureau's review are: fraud in the marketing of such assignments and frustration of the Mineral Leasing Act's objective of orderly and expenditious development of oil and gas resources. The Bureau has concluded from this review that the practice of fragmenting large lease acreages into smaller parcels of undevelopable size is counterproductive to the intent of the Mineral Leasing Act of 1920 (30 U.S.C. 181 et seq.), which is to promote exploration and development of oil and gas resources on Federal lands.

Recognizing that the broad purpose of the Mineral Leasing Act is to provide incentives to explore new, unproven oil and gas areas through noncompetitive leasing, the Bureau of Land Management has further determined that the qualifications of an assignee must be viewed in light of whether that assignee is qualified to enhance the probability of exploration or production from small leases that are not presumptively productive. Examples of criteria for measuring an assignee's qualifications are: Prior involvement in exploration or accreditation (presentation of credentials). The Bureau of Land Management is presently considering the following two proposals as criteria evidencing the qualifications of assignees of small acreage leases:

(1) *Evidence of prior exploration and/or production.* An individual/firm could establish qualifications by either (a) presenting sales invoices, tax returns, tax notices, or corporation licenses filed with the Secretary of State of one of the 50 States or other evidence showing that the individual/firm had produced oil or gas, or (b) presenting invoices, contracts, etc. that showed that the individual/firm had drilled one or more oil/gas exploratory wells, and/or completed one or more seismic exploration plans.

(2) *Participation in the oil and gas industry.* Applicants could establish qualifications through presentation of credentials.

In order to assist the Bureau of Land Management its decisionmaking process of what criteria to adopt in determining whether or not an assignee is qualified to promote exploration proposals within the intent of the Mineral Leasing act of 1920, public comments regarding these two proposals or alternative suggestions are hereby requested in the form of written comments. Suggestions as to specific types of documentation that could be submitted to the Bureau of Land Management as evidence of an assignee's qualifications are also requested from the public.

Dated: August 16, 1984

Garrey E. Carruthers,

Assistant Secretary, Land and Minerals Management.

[FR Doc. 84–22424 Filed 8–22–84; 8:45 am]

BILLING CODE 4310–84–M

Realty Action, Sale of Public Land in Pitkin County, CO

SUMMARY: The following-described lands have been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1701, 1713) at the appraised fair market value of $5,000.

Parcel No.	Serial No.	Legal Description	Acres	Appraised value
301	C–38489	Township 10 South, Range 84 West, Section 7: Lots 38, 39, 40	0.45	$5,000

The land is being offered to the Pitkin County Commissioners by direct sale at the appraised fair market value. No other bids or bidders will be considered.

The land has not been used for and is not required for any Federal purpose. The location and physical characteristic of the parcels make them difficult and uneconomical to manage as public land. Disposal would best serve the public interest. The disposal would be consistent with the Bureau's planning recommendations as approved in the *Glenwood Springs Resource Management Plan*, January 1984.

All minerals beneath the parcel will also be offered for conveyance. These mineral interests being offered have no known mineral value. A bid on the parcel will also constitute application for conveyance of those mineral interests offered under the authority of Section 209(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719(b)). On the sale date, the successful bidders will be required to deposit an additional $50.00 nonrefundable filing fee and application for the conveyance offered minerals pursuant to 43 CFR 2720.1–2(c).

The patents issued as the result of the sale will be subject to all valid existing rights and reservations of record and will contain a reservation to the United States for a right-of-way for ditches and canals under the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945).

Sale Procedures

The designated bidder, the Pitkin County Commissioners, will be required to submit payment of at least 20 percent of the fair market value by cash, certified or cashier check, or money order to the BLM at 50629 Highway 6 and 24, Glenwood Springs, Colorado, on the 23rd day of October 1984. On this same date, the bidder will be required to

deposit an additional $50.00 nonrefundable filing fee and application for the conveyance offered minerals pursuant to 43 CFR 2720.1-2(c).

The balance of the appraised fair market value will be due within 30 days, payable in the same form at the same location. Failure to submit the remainder of the payment within 30 days of receipt of the decision notice accepting the bid deposit will result in cancellation of the sale offering and forfeiture of the deposit.

Further, Information and Public Comment: Additional information concerning this sale offering, including the planning documents and environmental assessment, is available for review in the Glenwood Springs Resource Area Office at 50629 Highway 6 and 24, P.O. Box 1009, Glenwood Springs, Colorado 81602.

For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the District Manager, Grand Junction District Office, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81501. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: August 7, 1984.

Wright Sheldon,

District Manager, Grand Junction District Office.

[FR Doc. 84-22515 Field 8-22-84; 8:45 am]

BILLING CODE 4310-JB-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

President's Task Force on International Private Enterprise; Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting sponsored by the President's Task Force on International Private Enterprise which will be held October 1-2, 1984, at the U.S. State Department, Room 1107.

This will be the seventh meeting of the Task Froce.

The meeting will be open to the public. The agenda includes an update on Task Force activities and a discussion of key issues. Both days will be devoted to a review of Task Force findings and proposed recommendations. Any interested person may attend or file statements with the Task Force in accordance with procedures established by the Task Force. Written statements should be filed prior to the meeting and should be available in twenty-five copies.

There will be an A.I.D. representative at the meeting. It is suggested that those desiring to attend, or in need of further information, contact Birge Watkins, Assistant Director, on (202) 944-3350 or by mail c/o The President's Task Force on International Private Enterprise, Agency for International Development, Washington, D.C. 20523.

Christian R. Holmes,

Executive Director, The President's Task Force on International Private Enterprise.

[FR Doc. 84 22366 Filed 8-22-84; 8:45 am]

BILLING CODE 6116-01-M

[Public Notice No. 1, Revised]

Statement of Organization, Functions, and Procedures; Information Guidance

In compliance with the Freedom of Information Act (5 U.S.C. 552), this notice provides information and guidance to the public regarding: The basic authorities and programs of AID; the organization and functions of the Agency's central and field organizations; the Agency's methods of operation; statements of policy, rules, and procedures; and the process by which the public may obtain information, make submittals or requests, or obtain decisions.

This notice is a revision of "AID's Public Notice No. 1," published in the **Federal Register** on January 13, 1983 (48 FR 1553-1559). It reflects the organization, basic functions, and methods of operation of AID as of July 2, 1984. Subsequent revisions of this statement will also be published in the **Federal Register**, as appropriate.

I. Creation and Authority of the Agency

The Agency for International Development (AID) carries out economic assistance programs designed to help the people of developing countries develop their human and economic resources, increase their productive capacities, and improve the quality of human life as well as promote economic and political stability in friendly countries.

The Foreign Assistance Act of 1961 (75 Stat. 424; 22 U.S.C. 2151, *et seq*), as amended, authorizes the President to exercise functions under that act through such agency or officer of the U.S. Government as he/she may direct. Executive Order 12163 of September 29, 1979, delegates to the Director of the International Development Cooperation Agency (IDCA) the authorities set forth in the Foreign Assistance Act of 1961, as amended, and in certain other acts, with certain limited exceptions. The Executive Order also directs that the Director of IDCA continue within that Agency AID.

IDCA Delegation of Authority No. 1 of October 1, 1979 (44 FR 57521), continued AID in existence as an agency within IDCA and delegates to the Administrator of AID the functions conferred upon the Director of IDCA by Executive Order 12163 and certain related Executive Orders, except as otherwise reserved or delegated.

AID functions under an Administrator, who also currently serves as the Acting Director of IDCA. The Administrator directs U.S. foreign and economic assistance operations in more than 60 countries.

II. Programs of the Agency

The Foreign Assistance Act of 1961, as amended (75 Stat. 424; 22 U.S.C. 2151 note), authorizes AID to administer—normally on a bilateral basis—two kinds of foreign assistance: development assistance and economic support funds.

In addition, AID, in cooperation with the Departments of Agriculture and State also carries out Pub. L. 480, the Agriculture Trade Development and Assistance Act of 1954, as amended (68 Stat. 454; 7 U.S.C. 1691 *et seq.*), which includes the sale of agricultural commodities on concessional terms (Title I), the donation of agricultural commodities (Title II), and the provisions of food under the Food for Development Program (Title III).

AID also conducts humanitarian relief activities in support of those who suffer from natural calamities such as earthquake, famine, flood, and drought. Programs are conducted, often in conjunction with those of other nations and private, charitable organizations, to quickly alleviate the effects of disaster and reduce human suffering.

AID emphasizes four major thrusts to achieve successful economic development: (1) Use of market forces to stimulate growth of market economies in developing countries and to interest U.S. companies investment in those countries; (2) policy dialogue to encourage those countries that receive U.S. assistance to adopt rational economic policies that foster economic

growth; (3) institution building that supports etablishment and growth of institutions such as schools, colleges, training organizations, and supportive government ministeries necessary for economic growth in developing countries; and (4) practical technology transfer to enable countries to produce their own resources.

AID's main objective is to help developing countries help themselves.

Specifically, AID administers programs under the Foreign Assistance Act within the following major categories of assistance:

A. Development Assistance

AID focuses its development assistance programs on critical problem areas in those functional sectors which affect the majority of the people in the developing countries. The areas of concentration are:

1. Agriculture, Rural Development and Nutrition

To alleviate starvation, hunger, and malnutrition in developing countries by increasing the food supply in order to achieve improvements in diets and by expanding employment opportunities for low-income families in both rural and urban areas to enable them to purchase the food they need.

2. Health

To lower infant and child mortality rates through primary health care programs in developing countries; reduce the incidence of serious communicable diseases; and assist developing countries to plan the allocation of financial and human resources in health so that poorer groups have better access to preventative and curative health services.

3. Population Planning

To address problems of rapid population growth and to extend voluntary family planning services to the village level through programs that provide or promote safe, effective, affordable, acceptable family planning services.

4. Education and Human Resource Development

To expand access to basic education through programs in health, nutrition, family planning, and agriculture. Specifically, AID supports low-cost primary education, particularly for the rural poor; the use of mass media and communications technology, such as radio; curricula revision, and teacher training, to increase the relevancy of formal education to meet basic human needs; and the development of informal education and training approaches for rural families and workers in agriculture, nutrition, health, and family planning.

5. Energy, Private and Voluntary Organizations, and Selected Development Activities

To support selected development activities that deal with a wide range of development concerns which do not fall within the above functional sectors; e.g., projects directed toward assisting developing countries with their national energy and natural resource problems and projects which provide for the transfer and adaptation of appropriate technology and lessen the problems of rapid urbanization, including employment and income problems. These activities place high priority on greater involvement of the private sector, of both the United States and less-developed countries, in development, including greater reliance on private and voluntary organizations.

6. Private Enterprise

Private enterprise is integrated into each of the functional program areas to assist, both directly and in collaboration with the U.S. private sector, those developing countries that want to support a private sector, market-oriented, developmental strategy. U.S. and developing country private sector resources can be an important supplement and complement to existing bilateral and multilateral aid programs; and private investment can make a vital contribution to development through job creation, increased productivity, transferred technology and management know-how, and the generation of additional and diversified products to meet internal demand and expand export capacity.

B. Economic Support Fund

The primary objective of The Economic Support Fund (ESF) is to support U.S. economic, political, and security interests and to advance U.S. foreign policy objectives. ESF provides resources that stem the spread of economic and political disruption and helps friends and allies in dealing with threats to their security and independence.

ESF is flexible economic assistance provided on a grant or loan basis and may be used, for example, to sustain economic activity and restore equilibrium, to address basic development needs, or to improve infrastructure. In administering ESF, consideration is given to policy guidance which underlies the provision of development assistance. This would include, for example, assisting devloping countries in building and maintaining social and economic institutions necessary to self-sustaining and equitable growth, providing opportunities to improve the quality of life of their people, and meeting basic human needs.

C. Specific Programs

1. Sahel Development

AID participates in a long-term program for the development of the Sahelian region of West Africa. The objectives of the Sahel Development Program are to promote food self-sufficiency and self-sustaining economic growth. The programis coordinated, planned, and designed by the Club du Sahel, comprised of eight Sahel states: Mali, Chad, Niger, Upper Volta, Senegal, Mauritania, Cape Verde, and the Gambia; the United States; and over 20 participating governments and international organizations.

2. American Schools and Hospitals Abroad

The American Schools and Hospitals Abroad Program provides grants to private U.S. nonprofit organizations sponsoring American schools and hospitals abroad. The purpose is to demonstrate American ideas and practices in education and medicine.

3. International Disaster Assistance

The President has designated the AID Administrator as Special Coordinator for International Disaster Assistance. In this role the Administrator may call upon the resources of any agency of the U.S. Government to provide emergency relief or technical assistance in disaster preparedness. Relief may also be channeled through U.S. voluntary agencies or international relief organizations in response to foreign disasters resulting from earthquakes, droughts and famines, epidemics, floods and storms, civil strife, power shortages, and accidents.

4. Housing Guaranty Program

AID's Housing Guaranty Program facilitates private financing for shelter for lower income families in developing countries by guaranteeing repayment to U.S. lenders for projects requested by these countries. AID seeks to finance innovative programs, such as squatter upgrading through the provisions of sewerage, potable water, electricity, and credit for home improvements; sites and services by the provision of a basic urbanized lot, with the family constructing its own dwelling units; and low-cost, expandable core housing units.

5. Food for Peace

In cooperation with the Department of Agriculture, AID participates in the sale of agricultural commodities on concessional terms under Title I of Pub. L. 480 to encourage economic development, assist in combating hunger and malnutrition, and for other purposes. Under Title II, AID administers the donation of agricultural commodities to meet famine or other urgent or extraordinary relief requirements, to combat malnutrition, to promote economic and community development, and for needy persons and nonprofit school lunch and preschool feeding programs outside the United States. AID also administers Title III, which provides that a portion of funds accruing from Title I sales be used for Food for Development Programs to improve the production, protection, and utilization of food to increase the well-being of the poor in the rural sector of the recipient country, and that funds so used are applied against that government's Title I repayment obligation (Pub. L. 480, Agricultural Trade Development and Assistance Act of 1954, as amended). AID supports the use of food aid in ways that promote rather than hinder the growth of food production and associated policy and program initiatives in the host government.

6. Science and Technology

In recognition of the higher priority that developing countries are placing on science and technology, AID is focusing on more innovative and collaborative approaches to the problems and processes of development research and technology transfer. This program includes both support of research to explore the potential uses of emerging technologies for development, and innovative approaches to strengthen the capacity of less developed countries to take advantage of these new technologies.

D. Special Provisions

1. Capital Technology

AID supports projects with the specific objective of broadening the range of technologies in use. This is accomplished by increasing local research and the flow of information on appropriate technologies; promoting local development, adaptation, and utilization of technologies appropriate to developing countries; and providing assistance which encourages the formulation of policies that broaden the range of technological options.

2. Women in Development

In recognition of the fact that women in developing countries play a significant role in economic production, family support, and the overall development process of the national economies of such countries, Congress requires that U.S. bilateral aid be administered so as to give particular attention to the programs, projects, and activities which tend to integrate women into the national economies of developing countries, thus improving their status and assisting the total development effort. AID implements this congressional mandate with leadership by the Office of Women in Development.

III. Organization, Functions, and Methods of Operations

A. General

AID consists of a central headquarters staff in the Washington, metropolitan area (AID/W) and a number of overseas missions and offices. The structure of the Agency headquarters includes: The Office of the Administrator which is supported by the Office of the Executive Secretary; a Board for International Food and Agricultural Development Support Staff; seven staff offices; six functional bureaus; and four geographic bureaus.

B. The Office of the Administrator (A/AID)

The Administrator plans, directs, and coordinates the operations of the Agency and is responsible, subject to the approval of the Director of IDCA and the President, for the formulation and execution of U.S. foreign economic assistance policies and programs. The Administrator supervises and directs the activities of all personnel of the Agency in the United States and overseas. In addition, the Administrator of AID serves as the President's Special Coordinator for International Disaster Assistance.

The *Office of the Executive Secretary (ES)* facilitates and expedites the decision-making process of AID. It serves as a channel of communication and coordination between the Office of the Administrator and the Agency's Senior Staff.

The *BIFAD Support Staff (BIFAD/S)*, in compliance with AID's statutory obligation, provides staff support to the Board for International Food and Agricultural Development (BIFAD) and its subcommittee as authorized by Section 298 of Title XII of the Foreign Assistance Act, as amended.

C. Staff Offices

The following staff offices report to the Office of the Administrator:

1. The *Office of the Inspector General (IG)* is the Agency's focal point for assuring the integrity of AID's operations. It is the central authority concerned with the quality, coverage, and coordination of the audit, inspection and investigation services of the Agency. In directing, monitoring, and reviewing these activities, the Inspector General emphasizes both the protective and constructive aspects of these services as a tool of management within a comprehensive Agency effort to attain improved management effectiveness. The Inspector General has full access to all phases of the Agency's operations in order to carry out a comprehensive plan of selected audits, investigations, and inspections, surveys and reviews to provide reasonable protection and constructive advice for Agency management. IG serves as Agency liaison with the Department of State to assure adequate security services are performed by that Department.

2. The *Office of Legislative Affairs (LEG)* has responsibility for the Agency's relations with the Congress, and is the central point of contact between the Agency and the Congress, including Congressional members and committees. The Office coordinates the preparation of AID's legislative program, including the preparation and submission of information relating to legislative authority and appropriations requests. The Office is also responsible for advising the Administrator and the Agency on the status of pending legislation of interest and on the history of pending legislation, including the concerns and views of members of the Congress on pending legislation and other matters of interest to AID.

3. The *Office of the General Counsel (GC)* provides all legal advice, counsel, and services to the Agency and its officials, both in the United States and abroad, and ensures that AID programs are administered in accordance with legislative authorities. The Office maintains legal staffs both at headquarters and at regional or country organizations overseas.

4. The *Office of U.S. Foreign Disaster Assistance (OFDA)* plans and implements overseas disaster preparedness, relief, and rehabilitation programs. It formulates U.S. foreign disaster assistance policy and coordinates disaster assistance activities of the Agency, the Department of State, and other elements of the U.S. Government. The Office maintains

contingency planning and preparedness for foreign disasters, mobilizes U.S. Government resources with those of voluntary agencies, international organizations, and other donors. It promotes and supports, in conjunction with U.S. Missions abroad, preparedness programs in disaster prone countries. The Office maintains disaster relief stockpiles overseas and directs a disaster coordination center in Washington, D.C.

5. The *Office of Equal Opportunity Programs (EOP)* is the central Agency office responsible for directing the policy and coordinating and monitoring the implementation of all Government laws, executive orders, policies, and regulations relating to the provision of equal opportunity for employees of, and applicants for employment with, AID and activities financed by it.

6. The *Office of the Science Advisor (SCI)* serves as the focal point for coordinating the more innovative and collaborative approaches to the problems and processes of development research, technology transfer, and related capacity-building programs and activities. The Office has a major responsibility for identifying scientific and technological needs and opportunities in developing countries and resources to meet those needs from U.S. and foreign public and private sources; for establishing effective mechanisms for involving foreign public and private sector sources in working with developing countries to realize these opportunites; for enhancing relationships of IDCA and AID with other U.S. public and private sector resources; and for ensuring effective linkage between U.S. scientific and technological capacities and the development programs in which the U.S. Government participates.

7. The *Office of Small and Disadvantaged Business Utilization (SDB)* administers the Agency's small and disadvantaged business utilization programs in accordance with governing legislation, including the recently approved Gray Amendment, the Small Business Act, as amended (Pub.L. 95–507); Section 123 of the International Development Cooperation Act of 1979, and Section 602 of the Foreign Assistance Act of 1961, as amended.

D. Functional Bureaus

1. The *Bureau for Program and Policy Coordination (PPC)* is responsible for the Agency's overall program policy formulation, planning, coordination, resource allocations, evaluation and development information utilization activities, and the program management information systems which support them. The Bureau develops economic assistance policies, provides guidance on long-range program planning, economic analysis, sector assistance strategies, and project analysis and design. It coordinates the formulation and revision of the Agency's program and budget and participates in the presentation of the Agency's program to the Congress. The Bureau reviews and monitors all country program strategies and project proposals and selectively reviews projects papers from other bureau and offices to ensure compliance with Agency policy guidance. It provides in-depth analyses of development problems and related issues and formulates the Agency's position on major U.S. development policies affecting the Agency's assistance programs in the developing countries.

The Bureau assures implementation of Title IX of the Foreign Assistance Act (FAA), which emphasizes the encouragement of democratic institutions and seeks to develop an Agency policy for the furtherance of human rights in the developing countries, in accordance with Sections 116 and 502B, and implements Sections 113 and 305 of the FAA relating to women in development. The Bureau provides leadership in the development of Agency policies and procedures for the integrated use of capital, technical, Public Law 480, and other assistance and for evaluation of progress toward program goals; incorporates these policies and procedures into Agency directives; reviews the policy aspects of all types of Agency projects to assure consistency with Agency objectives develops and coordinates Agency environmental policies; and serves as Secretariat for the Bilateral Assistance Subcommittee (BAS) of the Development Coordination Committee (DCC).

The Bureau carries out significant evaluations of Agency-supported projects which can introduce improved ideas and valuable experience into the Agency's program at key points. The Bureau exercises systems management responsibilities for the policy, planning, and program management systems, both automated and nonautomated, assigned to the Bureau; and provides central Agency statistical services.

The Bureau is also responsible for Agency policy and program coordination with other bilateral assistance donors, United Nations development organizations, and Multilateral Development Banks. In close collaboration with State, Treasury, and other interested USG agencies, the Bureau reviews programs, budgets, and staffing of the international development organizations, makes recommendations on the USG position regarding these matters, and provides guidance to the U.S. representatives to these organizations. Lastly, the Bureau is responsible for carrying out the USG lead agency responsibility for coordination and preparation of the U.S. position brought before the Development Assistance Committee, including the calculation of official Development Assistance and other measures of development cooperation.

2. The *Bureau for Science and Technology (S&T)* has primary responsibility for enhancing the Agency's capabilities to use science and technology to further economic and social progress in developing countries. To accomplish this, the Bureau provides professional leadership and technical support to Agency activities in the sectors of agriculture, nutrition, forestry, environment and natural resources, energy, rural and urban development, development administration, employment generation, education, health, and family planning. It also administers the Agency's International Training program. Within each of the above sectors, the Bureau:

a. Serves as the Agency's primary liaison with the scientific and technical communities of the United States and the developing and more developed countries.

b. Serves as the Agency's focal point for the development of those sectoral strategies which require significant science and technology inputs. The Bureau develops appropriate methodology to ensure that these strategies are responsive to the needs of developing countries.

c. Identifies, in collaboration with the geographic bureaus, field service needs which can be met more effectively and efficiently from a central source and arranges for these needs to be met.

d. Mobilizes resources to provide assistance needed and requested by the field offices and Less Developed Countries (LDCs), building upon the Bureau's liaison with U.S. universities, government agencies, and professional organizations.

e. Supplies the scientific and technical dimensions to the Agency's overall development assistance policy and to those sector assistance policies and strategies which govern the Agency.

The Bureau administers the Agency's central research and development program and coordinates centrally funded, regional, and country research and development activities. The Bureau ensures that new knowledge and methods are disseminated within the

Agency and are utilized in the Agency's field projects.

The Bureau serves as the Agency's focal point for technical coordination with the United Nations (U.N.) specialized agencies and other international organizations. The Bureau also coordinates the Agency's operational relationships with: (a) The Board for International Food and Agricultural Development (BIFAD) and its subcommittee in the management and implementation of programs/activities authorized under Section 298 of Title XII of the Foreign Assistance Act, as amended, and (b) the U.S. university community generally.

3. The *Bureau for Food for Peace and Voluntary Assistance (FVA)* has central Agency responsibility for encouraging and strengthening the effective participation of nongovernmental organizations in support of AID's developmental and humanitarian objectives; performs designated Agency responsibilities for the Food for Peace Program; and administers the American Schools and Hospitals Abroad Program.

In the area of private and voluntary cooperation, the Bureau creates and explores approaches to enlarge the role of volunteerism in the development process; maintains liaison with the American Council on Foreign Aid, the Advisory Committee on Overseas Cooperative Development and the U.S. cooperatives engaged in overseas cooperative development, and with the community of voluntary agencies generally; and provides staff support to the Advisory Committee on Voluntary Foreign Aid.

4. The *Bureau for Management (M)* provides centralized services in the areas of financial management, personnel management, information resources management, management operations, contract management, and commodity management. It establishes and monitors Agency policies, regulations, and procedures in all of these areas.

The Bureau provides advice and assistance to Agency management on the financial implications of legislation, plans, programs, policies, procedures, operating activities, and audit and evaluation findings. The Bureau administers and coordinates such financial management activities as accounting, operating expense and workforce budgets, internal financial management control, advice and assistance to overseas missions regarding financial policies, practices and procedures, and preparation and interpretation of financial and related statistical reports. The Bureau also administers the Agency's workforce resources management program.

The Bureau has central responsibility for personnel administration. The Bureau develops policies, standards, and guidelines for operation of overseas and domestic personnel systems; operates centralized personnel recruitment, assignment, evaluation, and employee training programs; and conducts a full range of personnel operations for the Agency. Additionally, the Bureau is responsible for the administration of the Agency's labor relations program (Executive Orders 11491 and 11636).

The Bureau assists Agency management in the development, implementation, and evaluation of management policies and practices; provides or arranges for management consulting services to the headquarters and overseas organizations; and overseas administration of the programs for organization and functional alignment, directives, committee management (Pub. L. 92–463), management improvement, and systems coordination.

The Bureau provides leadership and coordination to the development and administration of the Agency's automated data information systems; provides leadership and guidance on all phases of the use of automatic data processing technology; reviews, recommends, and monitors the Agency-wide use of management consulting firms, contracts, or Participating Agency Service Agreements (PASAs) for automated data information systems; and provides leadership and policy guidance to the Agency's data management systems.

The Bureau develops policies, standards, and guidelines for, and oversees the development, operation, and management of worldwide administrative and logistical support systems; counsels and assists senior Agency personnel on all phases of administrative and logistical support services; acts as the Agency coordinator for overseas combined administrative support services, for all aspects of foreign affairs administrative support (FAAS), and joint nonappropriated fund activities; and provides a wide range of administrative and logistical services for AID.

The Bureau directs the development and maintenance of policies, procedures, standards, and regulations governing direct contracting and AID-financed borrower/grantee contracting; directs centralized contracting services; encourages the participation of U.S. small business in services, contracting, and export supply activities of the Agency; and developed and maintains the Agency's procurement regulations.

The Bureau provides leadership and coordination to the development and administration of the Agency's policies and procedures for commodity management; serves as the principal advisor on the commodity management aspects of the economic assistance programs; administers commodity import programs and provides support for the implememtation of the commodity and transportation elements of other programs financed by the Agency; implements requirements for commodity marking and labeling; and provides support for the transportation element of all Agency programs and for programs financed by Titled II, Pub. L. 480, and the world food programs.

5. The *Bureau of Private Enterprise (PRE)* has responsibility for developing a closer and more effective partnership between the Agency and the U.S. private sector and for facilitating the participation of the U.S. private sector not only in AID-financed transactions, but in privately financed projects and activities which can accelerate the development process overseas.

The Bureau also administers the Agency's Housing Guaranty Program and serves as Agency liaison with IDCA's Trade and Development Program (TDP) and Overseas Private Investment Cooperation (OPIC).

6. The *Bureau for External Affairs (XA)* has broad responsibility for the Agency's diverse external programs for communicating with the American public, private U.S. communities, other donor nations, and the developing economies concerning the purpose and role of the U.S. economic assistance program and its place in international efforts to foster stability and economic growth and development.

E. Geographic Bureaus

There are four Geographic Bureaus: Africa, Asia, Latin America and the Caribbean, and Near East.

These Bureaus are the principal AID line offices with responsibility for the planning, formulation, and management of U.S. economic development and/or supporting assistance programs in their respective areas overseas. Their programs are administered within delegated authorities and in accordance with policies and standards established by the Administrator.

Each Geographic Bureau is headed by an Assistant Administrator who:

1. Directs and supervises the activities of the Bureau and its overseas missions and offices.

2. Directs the formulation of U.S. economic assistance programs; approves programs and projects within the limits of authorities delegated by the Administrator; and authorizes the execution of economic assistance agreements with Bureau countries and regional organizations.

3. Exercises policy control within the region over the housing guaranty programs which are administered by the Office of Housing and Urban Programs within the Bureau for Private Enterprise.

4. Submits, through the Bureau for Program and Policy Coordination for the Administrator's approval, an annual budget of proposed Bureau activities and assists in presenting the Bureau's program and budget to the Congress.

5. Approves and directs the allocation of available resources among bureau offices and oveseas missions.

6. Assures necessary liaison with other Agency offices, the Department of State, other U.S. bilateral, and multilateral agencies and officials of recipient countries; and represents the Agency at country consortia or consultative group meetings.

7. Oversees the implementation of Bureau programs and projects; monitors performance under loan and grant agreements, contracts, and other operating agreements; and takes or recommends any required remedial action.

8. Represents the Agency before the press and the public, as required.

F. Overseas Missions and Offices

1. AID's country organizations are located in countries where the Agency is carrying out bilateral economic assistance programs. Such organizations report to the Geographic Bureau and include the following:

a. *Missions* are currently located in 48 countries for which the Agency's program is major, continuing, and usually involves multiple types of aid in several sectors. Each mission is headed by a Mission Director who has been delegated program planning, implementation, and representation authorities.

b. *Offices* are currently located in 17 countries for which the Agency's program is moderate, declining, or has limited objectives. Each office is usually headed by an Agency Representative who has been delegated program planning, implementation, and representation authorities.

c. *Sections of Embassy* are currently located in six countries for which the Agency program is small or is being phased out. The Agency program planning and implementation authorities are delegated to the chief U.S. diplomatic representative in the country.

2. *Offices for Multicountry Programs* (seven offices) administer the Agency's overseas program activities which involve more than one country. These offices may also perform "country organization" reponsibilities for assigned countries and report directly to the Geographic Bureaus.

3. *Offices for Multicountry Services* (four offices) provide services to other overseas organizations, primarily the Agency's country organizations and Multicountry Program Offices. (The Excess Property Field Offices report to the Bureau for Management; all others report to the Geographic Bureaus.)

4. *Development Assistance Coordination and Representation Offices* (six offices) maintain liaison with various international organizations and represent U.S. and the Agency's interest in development assistance matters. Such offices may be only partially staffed by Agency personnel and may be headed by employees of other U.S. Government agencies.

5. *Audit and Investigations/ Inspections Offices* (seven offices) are maintained by the Office of the Inspector General at overseas locations to carry out a comprehensive program of selected audits, investigations, inspections, surveys, reviews, and security services for the Agency.

IV. Statements of General Policy, Rules, and Procedures

The statement of AID policy and the nature and requirements of formal and informal procedures, which are currently available to the public, are contained in the published regulations and other publications of the Agency as listed below. To the extent applicable, these also contain descriptions of forms available or specify the places at which forms may be obtained, and give instructions as to the scope and content of papers, reports, or examinations involved in the transaction of business with AID.

The following Agency regulations are codified in Chapter II of Title 22 of the Code of Federal Regulations.

Subject

No. 1. Rules and Procedures Applicable to Commodity Transactions Financed by AID.

No. 2. Overseas Shipments of Supplies by Voluntary Nonprofit Relief Agencies.

No. 3. Registration of Agencies for Voluntary Foreign Aid.

No. 5. Payments to and on behalf of Participants in Nonmilitary Economic Development Training Programs.

No. 8. Suppliers of Commodities and Commodity-Related Services Ineligible for AID Financing.

No. 9. Nondiscrimination in Federally Assisted Programs of AID Effectuation of Title VI of the Civil Rights Act of 1964.

No. 11. Transfer of Food Commodities for Use in Disaster Relief and Economic Development, and Other Assistance (Pub. L. 480, Title II).

No. 12. Public Information.

No. 13. Collection of Civil Claims by AID.

No. 14. Advisory Committee Management.

No. 15. Regulations for Implementation of Privacy Act of 1974.

No. 16. Environmental Procedures.

No. 17. Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

No. 18. Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance.

No. 20. General Provisions.

No. 21. Employment.

No. 22. Miscellaneous Provisions.

No. 23. Administrative Enforcement Procedures of Post-Employment Restrictions.

The procurement regulations for AID are codified in Chapter 7 of Title 48 (AIDAR) and Chapter 7 of Title 41 (AIDFPR) of the Code of Federal Regulations. In addition, the following other AID publications contain procedures available to the public.

1. AID's Country Contracting Procedures, including:

a. AID's Handbook 11—Country Contracting (formerly Capital Projects Guidelines).

b. Environmental Assessments Guidelines Manual.

c. Information Packet for Architect-Engineer Firms.

2. AID-Financed Export Opportunities.

3. AID's Procurement Information Bulletins.

4. AID's Small Business Memos.

5. AID's Importer Lists.

6. U.S. Small Supplier Lists.

Copies of the above listed Agency regulations and other publications are available for public inspection and copying through the Bureau for External Affair's Office of Public Inquiries, AID, Washington, D.C. 20523. In addition, publications listed under No. 2 through No. 6 above are available from the Office of Small and Disadvantaged Business Utilization, AID, Washington, D.C. 20523, and at Department of Commerce field offices located in principal cities of the United States. The Agency's procurement regulations are

also for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C 20402.

V. Information, Submittals, and Requests for Decisions

A. Information

AID Regulations Nos. 12, 14, and 15 (22 CFR Parts 212, 214, 215, respectively) specify the Agency's policy and procedures for public access to Agency records.

B. Submittals, Requests, or Decisions

Members of the public doing business, or wishing to do business, with AID may make their submittals or requests, or obtain decisions at the cognizant bureau or office described in Section III above, in accordance with provisions of AID regulation or other publication which govern the action or process.

In case of uncertainty by a member of the public as to the appropriate bureau or office, or as to the methods of applying for or obtaining AID action, application should be made to the Director, Office of Public Inquiries, Bureau for External Affairs, AID, Room 2738, 21st Street and Virginia Avenue, NW., Washington, D.C. 20523.

C. Effective date

This notice shall be effective July 2, 1984.

R.T. Rollis, Jr.,

Assistant to the Administrator for Management.

[FR Doc. 84-22364 Filed 8-22-84; 8:45 am]

BILLING CODE 6116-01-M

Housing Guaranty Program; Morocco; Investment Opportunity

The Agency for International Development (A.I.D.) has authorized guaranties of loans to the Government of Morocco (Borrower) as part of A.I.D. overall development assistance program. The proceeds of these loans, amounting to 4.8 Million Dollars ($4,800.000), will be used to finance shelter projects for low income families residing in Morocco. The following address of Borrower and loan amount indicate a new project that is ready to receive financing and for which the Borrower is requesting proposals from U.S. lenders or investment bankers:

Mococco, Project: 608–HG–002—$4,800,000, Monsieur Le Directeur du Tresor et des Finances Exterieures, Attention: Mr. Mohamed Tazi, Ministere des Finances, Rabat, Morocco, Telex No. TRESORFI 328 47 M, Telephone: 63520

By this notice of investment opportunity, the Borrower is soliciting alternative bids for both fixed rate and variable rate loans from U.S. lenders or investment bankers, including the option of a three year grace period on interest payments. Maturity of loans may be up to 30 years with grace period on up to 10 years on repayment of principal. Prepayment options may be submitted but are not required.

The deadline for receipt of bids is September 11, 1984, 5:00 p.m. New York time. Information copies of bids should be sent simultaneously to PRE/H, A.I.D., Washington, D.C. 20523, Telex 892703.

Selection of investment bankers and/or lenders and the terms of the loans are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D. The lenders and A.I.D. shall enter into a Contract of Guaranty, covering the loans. Disbursement under the loans will be subject to certain conditions required of the Borrower by A.I.D. as set forth in implementation agreements between A.I.D. and the Borrower.

The full repayment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (a) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share captial is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U. S. citizens.

To be eligilble for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniviersary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established from time to time by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from:

Director, Office of Housing and Urban Programs, Agency for International Development, Room 625, SA–12, Washington, D.C. 20523, Telephone: (202) 632–9637

Dated: August 20, 1984.

Francis J. Conway,

Acting Deputy Director, Office of Housing and Urban Programas

[FR Doc. 84-22555 Filed 8-22-84; 8:45 am]

BILLING CODE 4710-02-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell (202) 275–7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 35–7340.

Type of clearance: Revision
Bureau/office: Office of Transportation Analysis
Title of form: Transmittal Form, ICC Waybill Sample computerized system and manual system
OMB form No.: 3120–0065
Agency form No.: OPAD–1 and OPAD–2
Frequency: monthly/quarterly
Respondents: Railroads reporting waybill data
Number. of respondents: 75
Total burden hours.: 450

James H. Bayne,

Secretary.

[FR Doc. 84-22359 Filed 8-22-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30543]

Railroad Services; Nittany and Bald Eagle Railroad Company and North Shore Railroad Company; Exemption From 49 U.S.C. 11343

On August 7, 1984, the Nittany and Bald Eagle Railroad Company (N&BE) and the North Shore Railroad Company (NS), filed a notice of exemption under 49 CFR 1180.2(d) (1) and (2) and 1180.4(g). The N&BE and NS are two newly organized short line railroads which will be operated and commonly controlled by Richard D. Robey under contract to the SEDA–COG Joint Rail Authority which acquired the two

branch lines from Consolidated Rail Corporation on or about August 1, 1984.

This acquisition of control of N&BE and NS by Richard D. Robey is exempt under 49 CFR 1180.2(d) (1) and (2). Both branch lines have been authorized to be abandoned by Consolidated Rail Corporation. The lines of N&BE and NS do not connect with each other. The acquisition is not part of a series of anticipated transactions that could connect the railroad lines. The transaction involves no class I carriers.

Any employee affected by the acquisition of control shall be protected pursuant to *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979). This will satisfy the statutory requirements of 49 U.S.C. 10505(g)(2). A request by the Railway Labor Executives' Association, filed August 13, 1984 for oral hearing on this issue is, accordingly, not necessary.

Decided: August 16, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-22358 Filed 8-22-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-3; Sub-41]

Missouri Pacific Railroad Co.; Abandonment in Smith County, TX; Findings

The Commission has found that the public convenience and necessity permit Missouri Pacific Railroad Company to abandon and discontinue service over a portion of its railroad line known as the Tyler Subdivision, from milespost 27.0 at Swan, TX, to the end of the line at milepost 30.1 at Thedford, TX, a distance of about 3.2 miles in Smith County, TX. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

James H. Bayne,

Secretary.

[FR Doc. 84-22361 Filed 8-22-84; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55; Sub-110]

Seaboard System Railroad, Inc. Abandonment; in Beaufort County, SC; Findings

The Commission has issued a certificate authorizing Seaboard System Railroad, Inc. to abandon its lines of railroad from Yemassee (milepost AMJ–443.26) to Port Royal (milepost AMJ–468.31), and the Lobeco Spur from Coosaw (milepost AMJ–472.95) to Lobeco (milepost SH–470.00), a total distance of 28 miles in Beaufort County, SC. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower lefthand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27(b).

James H. Bayne,

Secretary.

[FR Doc. 84-22360 Filed 8-22-84; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW, Washington, DC. 20506:

Date: September 5–6, 1984.
Time: 9:00 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review Challenge Grant applications from Four-Year and Two-Year Colleges.

Date: September 6–7, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications submitted to the Basic Research Program, Division of Research Programs, for projects beginning after January 1, 1985.

Date: September 10–11, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications submitted to the Humanities, Science, and Technology Program, Division of Research Programs, for projects beginning after January 1, 1985.

Date: September 13–14, 1985.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications submitted to the Basic Research Program: History and Social Sciences Panel, Division of Research Programs, for projects beginning after January 1, 1985.

The proposed meetings are for the purpose of review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a 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 these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the

Humanities, Washington, D.C. 20506, or call (202) 786–0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 84–22447 Filed 8–22–84; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Section 208 Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) has published and issued the periodic report to Congress on abnormal occurrences (NUREG–0090, Vol. 7, No. 1).

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event which the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination, based on criteria published in the Federal Register (42 FR 10950) on February 24, 1977, that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and byproduct materials are abnormal occurrences.

This report to Congress is for the first calendar quarter of 1984. The report identifies the occurrences or events that the Commission determined to be significant and reportable; the remedial actions that were undertaken are also described. During the report period, there were three abnormal occurrences at the nuclear power plants licensed by the NRC to operate. The first involved an inoperable containment spray system; the second involved a through wall crack in a vent header inside a BWR containment torus; and the third involved a serious degradation of a reactor depressurization system. There were two abnormal occurrences for the other NRC licensees. The first involved an overexposure to a member of the public; and the second involved a therapeutic medical misadministration. There was one abnormal occurrence reported by the Agreement states; the event involved an overexposure of a radiographer and assistant.

The report also contains information updating some previously reported abnormal occurrences.

Interested persons may review the report at the NRC's Public Document Room, 1717 H Street, NW, Washington, DC or at any of the nuclear power plant Local Public Document Rooms throughout the country.

Copies or microfiche of NUREG–0090, Vol. 7, No. 1 (or any of the previous reports in this series), may be purchased by calling (301) 492–9530 or by writing to the Publication Services Section, Document Management Branch, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A year's subscription to the NUREG–0090 series publication, which consists of four issues, is also available. Documents may be purchased by check, money order, Visa, MasterCard, or charged to a GPO Deposit Account.

Copies of the report may also be purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

Dated at Washington, DC, this 17th day of August 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84–22429 Filed 8–22–84; 8:45am]

BILLING CODE 7590–01–M

Consumers Power Co.; Environmental Assessment and Finding of no Significant Impact

[Docket No. 50–255]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of relief from the requirements of Section XI of the ASME Boiler and Pressure Vessel Code as allowed by 10 CFR 50.55a to Consumers Power Company (the licensee), for the Palisades Plant, located in Van Buren County, Michigan.

Environmental Assessment

Identification of Proposed Action

The proposed action would provide relief from examination requirements which have been determined by the licensee to be impractical to perform at the Palisades Plant. The proposed relief is in response to the licensee's request for relief dated November 12, 1980 as supplemented by letter dated November 16, 1982.

The Need for the Proposed Action

The proposed relief is needed because the examination requirements of Section XI of the ASME Boiler and Pressure Vessel Code have been determined to be impractical to perform on the components described in the licensee's request.

Environmental Impacts of the Proposed Action

The proposed relief will provide alternate examinations such that there is adequate assurance of the structural integrity of the components described in the licensee's request. Consequently, the probability of an accident has not been increased and the post-accident radiological releases will not be greater than previously determined nor does the proposed relief otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed relief.

With regard to potential non-radiological impacts, the proposed relief involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed relief.

Alternative Use of Resources

This action involves no use of resources not previously considered in the Final Environmental Statement for the Palisades Plant.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Findings of no Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed relief.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for relief dated November 12, 1980 and supplement dated November 16, 1982, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006.

Dated at Bethesda, Maryland, this 20th day of August 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-22432 Filed 8-22-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

GPU Nuclear Corp. and Jersey Central Power and Light Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.48(c)(4) to GPU Nuclear Corporation and Jersey Central Power and Light Company (the licensees) for the Oyster Creek Nuclear Generating Station located in Ocean County, New Jersey.

Environmental Assessment

Identification of Proposed Action

The exemption would grant the licensees a schedular deferment from the provisions of Appendix R, Section III.G.2, fire protection of the equipment used for safe shutdown by means of separation and barriers, from the current cycle 10 refueling outage to the cycle 11 refueling outage. The exemption is responsive to the licensees' application for exemption dated July 11, 1984.

The Need for the Proposed Action.

Appendix R, Section III.G.2 requires a licensee authorized to operate a nuclear power reactor to provide fire protection for equipment used for safe shutdown by means of separation and barriers. The schedular requirements of 10 CFR 50.48(c)(4) call for the implementation of modifications before startup after the earliest of the following events commencing 180 days after Commission approval:

(1) The first refueling outage;

(2) Another planned outage that lasts for at least 60 days; or

(3) An unplanned outage that lasts for at least 120 days.

In a submittal dated July 11, 1984, the licensees requested that the implementation schedule for the proposed fire protection modification at Oyster Creek be extended until the end of the cycle 11 refueling outage scheduled for the Fall of 1985.

The level of modification work associated with the current outage does not permit significant additional work to be added to the outage work scope without delaying restart of the plant. It should be noted that the extension of the present outage has been caused by additional work scope which was developed during the outage and thus does not represent an opportunity to add still more work. Some of the additional work scope was in response to NRC requirements, such as post-accident sampling and masonry block wall modifications which GPUN had earlier proposed to defer. The licensees plan to resume the engineering and procurement activities on a schedule consistent with installation of this modification during the Cycle 11 refueling outage.

Environmental Impacts of the Proposed Action

By using reasonable interim compensatory measures and/or procedures the proposed exemption will provide a degree of fire protection such that there is no significant increase in the risk of fires at this facility. Consequently, the probability of fires has not been increased and the post-fire radiological releases will not be greater than previously determined nor does the proposed exemption otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential non-radiological impacts, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

Alternative Use of Resources

This action involves no use of resources not previously considered in the Final Environmental Statement dated December 1974 for the Oyster Creek Nuclear Generating Station.

Agencies and Persons Consulted

The NRC staff reviewed the licensees' request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for the exemption dated July 11, 1984, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Oyster Creek Local Public Document Room, 101 Washington Street, Toms River, New Jersey 08753.

Dated at Bethesda, Maryland, this 20th day of August 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-22431 Filed 8-22-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-416]

Mississippi Power & Light Co., et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a partial exemption from the requirements of Appendices A and J to 10 CFR Part 50 to the Mississippi Power and Light Company, Middle South Energy, Inc., and South Mississippi Electric Power Association (the licensee) for the Grand Gulf Nuclear Station, Unit 1, located at the licensee's site in Claiborne County, Mississippi.

Environmental Assessment

Identification of Proposed Action

The exemptions would (a) eliminate the full pressure test required after normal door opening by paragraph III.D.2(b)(ii) of Appendix J and substitute a seal leakage test when the reactor is in a shutdown for refueling mode, and (b) grant delays in implementing design changes to the Division 1, 2 and 3 diesel generators to bring them into compliance with GDC-17 of Appendix A. These design changes involve the following: (1) The emergency override of the test mode for the Division 3 diesel engine, (2) the second level of undervoltage protection for the Division 3 diesel engine and (3) the generator ground overcurrent trip function for the Division 1 and 2 diesel generators. The NRC is also considering an exemption to Appendix J to relax the acceptance criterion for Type B and C leakage testing in paragraph III.B.3.(a) and III.C.3.

The proposed exemptions are in accordance with the licensee's requests dated July 28, 1984, as supplemented by letters dated August 2 and 7, 1984.

The Need for the Proposed Action

The proposed exemptions are required to (a) provide the licensee with greater plant availability over the lifetime of the plant and (b) allow the licensee to begin ascension to full power while awaiting delivery of components to modify the protective systems on the diesel generators.

Environmental Impacts of the Proposed Action

The proposed exemption grants the substitution of an airlock seal test for an airlock pressure test while the reactor is in a shutdown or refueling mode. With respect to this exemption from Appendix J, the increment of environmental impact is related solely to the potential increased probability of containment leakage during an accident. This could lead to higher offsite and control room doses. However, this potential increase is very small, due to the added seal leakage tests and the protection against excessive leakage afforded by the other tests required by Appendix J.

With respect to the exemption under consideration relating to relaxation of the acceptance criterion for Type B and C leakage testing, the potential increase in risk would be very small. This would be due to the compensatory features which could be provided and to the protection against excessive leakages afforded by the other tests required by Appendix J.

With respect to the exemption from GDC 17, the increment of environmental impact is related primarily to the increased probability of the Division 3 (HPCS) diesel generator failing on demand due to the lack of a second level of undervoltage protection or an emergency test mode override and to the increased probability of the Division 1 and 2 (Standby) diesel generators tripping on generator ground overcurrent during accident conditions.

To facilitate this environmental assessment, all accident and transient events analyzed in Chapter 15 of the FSAR can be divided into two general categories. One category of events includes those events which have been addressed in a previous risk assessment study of Grand Gulf (RSSMAP) [1]. These events are the most significant in terms of the radiological consequences and include, generally, accidents involving loss of coolant and certain transients which may lead to degraded decay heat removal capability. External events are not included in the RSSMAP study. However, external events, such as earthquakes, could cause core melt only by initiating a sequence of events of the type considered in the study. More detailed treatments of the risk from severe core damage events than those given by the Grand Gulf RSSMAP would not change the conclusions, in our judgment. The second category of events includes the non-RSSMAP events which are predicted to result in some radiological consequences, such as fuel handling accidents, offgas system failure, etc. These events result in consequences significantly below those predicted in the RSSMAP events; however, they are treated here because of their inclusion in the FSAR Chapter 15 events.

A review of the dominant contributors for the accident sequences, in the RSSMAP study above, indicates that the unavailability of the Division 1, 2 or 3 diesel generators represents only a partial contribution to the total core melt frequency for these sequences. Because the missing specific features of the diesel generator control systems are only one of the many possible contributors to diesel generator unavailability, it can be concluded that the change in core melt frequency due to diesel generator failure based on the absence of these additional protection features would be extremely small.

For the non-RSSMAP events, Division 1, 2 and 3 diesel generators are not required to mitigate the consequences. Thus, there can be no significant impact on the environment.

With respect to non-radiological effluents, such as toxic or hazardous gas, the Division 1, 2 and 3 diesel generators play no role in mitigating the consequences of events leading to non-radiological effluent releases. The same applies to the other non-radiological hazards, e.g., noise. For these reasons, the proposed exemptions are considered to have no environmental impact in the area of non-radiological hazards, effluent releases or any other aspect.

In summary, the Commission concludes that there are no significant radiological or non-radiological environmental impacts associated with these proposed exemptions.

Alternative to the Proposed Action

Because we have concluded that there is no measurable environmental impact associated with the proposed exemptions, any alternatives to these exemptions will have either no environmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemptions. This would not reduce environmental impacts of plant operations and would result in reduced operational flexibility and unwarranted delays in power ascension.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement Relating to Operation of Grand Gulf Station, Units 1 and 2," dated September 1981.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's requests that support the proposed exemptions. The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemptions.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the requests for the exemptions dated July 28, 1984, as supplemented by letters dated August 2 and 7, 1984, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Hinds Jr. College, George M. McLendon Library, Raymond, Mississippi 39154.

Dated at Bethesda, Maryland, this 16th day of August 1984.

For the Nuclear Regulatory Commission

Darrell G. Eisenhut,

Director Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-22430 Filed 8-22-84; 8:45 am]

BILLING CODE 7590-01-M

[1] NUREG/CR-1659, "Reactor Safety Study Methodology Application Program: Grand Gulf #1 BWR Power Plant," October, 1981.

Advisory Committee on Reactor Safeguards Subcommittee on Quality and Quality Assurance During Design and Construction; Meeting

The ACRS Subcommittee on Quality and Quality Assurance During Design and Construction will hold a meeting on September 11, 1984, Room 1167 at 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for subject meeting will be as follows:

Tuesday, September 11, 1984—8:30 a.m. until the conclusion of business

The Subcommittee will discuss the quantity and qualifications of quality assurance and quality control personel at nuclear power plants during

construction. The use of designated representatives in QC practices will be considered. The Subcommittee also expects to review the public comments on NUREG–1055, "Improving Quality and the Assurance of Quality in the Design and Construction of Nuclear Power Plants."

Oral statements may be presented by members of the public with concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee members will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other invited persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Richard Major (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EDT. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: August 20, 1984.

Thomas G. McCreless,

Assistant Executive Director for Technical Activities.

[FR Doc. 84–22423 Filed 8–22–44; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Metal Components; Meeting

The ACRS Subcommittee on Metal Components will hold a meeting on September 14, 1984, Room 1167, 1717 H Street NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Friday, September 14, 1984–8:30 a.m. until the conclusion of business

The Subcommittee will review the status of BWR pipe crack matters, aging of metal components and other related matter.

Oral statements may be presented by members of the public with concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff members as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Elpidio Igne (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EDT. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: August 20, 1984.

Thomas G. McCreless,

Assistant Executive Director for Technical Activities.

[FR Doc. 84–22428 Filed 8–22–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–10/237/249]

Commonwealth Edison Co. (Dresden Nuclear Power Station, Units 1, 2, and 3); Exemption

I

Commonwealth Edison Company (the licensee) is holder of Facility Operating Licenses Nos. DPR–2, and DPR–25 which authorize operation of the Dresden Nuclear Power Station, Units Nos. 1, and 3; and Provisional Operating License No. DPR–19 which authorizes the operation of Dresden Nuclear Power Station Unit 2 (the facilities) at power levels not in excess of 700 megawatts thermal for Unit 1 and not in excess of 2527 megawatts thermal for Unit 2 and Unit 3. The facilities are boiling water reactors (BWRs) located at the licensee's site in Morris, Illinois. These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

10 CFR 50.54(q) requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards of 10 CFR Part 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F.1 of Appendix E requires each licensee to conduct a full-scale emergency preparedness exercise at least annually, to include the full or small scale participation of State and local governments within the plume exposure pathway Emergency Planning Zone (EPZ).

By letters dated April 5, and 26, 1984, the licensee requested that an exemption be granted from the offsite government participation requirements of Section IV.F.1.a of Appendix E, for the exercise which was held on June 5, 1984 at the Dresden Nuclear Power Station. The licensee bases this request for exemption on the previous successful participation of Grundy, Kendall, and Will Counties in the 1983 exercise at the Dresden Station; the successful participation of LaSalle County in the 1983 exercise at the LaSalle County Station; and the successful participation of the State of Illinois in the Byron Station exercise in November 1983. The licensee asserts that all major elements in the governmental emergency plans at Dresden were performed satisfactorily in 1983, and that another exercise involving these agencies at Dresden is not needed until 1985. In addition, the licensee pionts to a recent FEMA determination (FEMA Region V All-State Letter, ASL 71–83, dated December 27, 1983) that the State of Illinois and the Counties of Grundy, Kendall, LaSalle, and Will are eligible to exercise biennially.

The NRC staff has reviewed the 1983 exercises and the recent FEMA determination and agrees that a full-scale exercise involving State and local governments at the Dresden Nuclear Power Station is not necessary. The staff determined that these agencies demonstrated a capability to respond

effectively to nuclear power station emergency conditions. Moreover, the staff notes that the State of Illinois is fully participating at the Quad Cities exercise in August 1984.

Based on the above, the staff has concluded that non-participation by State and local government agencies in the June 5, 1984 emergency preparedness exercise for the Dresden Nuclear Power Station did not adversely affect the overall state of emergency preparedness at the Dresden Site and that the requested exemption from the requirements of 10 CFR 50, Appendix E, Section IV.F.1.a should be granted.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption requested by the licensee's letters of April 5, and April 26, 1984, is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. The Commission hereby grants to the licensee an exemption from the requirements that State and local government agencies participate in the emergency preparedness exercise held at the Dresden Nuclear Power Station during June 1984.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the exemption will have no significant impact on the environment (August 16, 1984, 49 FR 32818).

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 14th day of August 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-22433 Filed 8-22-84; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Information Collection for OMB Review

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice of proposed extension of BRI 49-389, "Application for Guaranteed Minimum Annuity" for annuitants.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (Title 44, U.S.C., Chapter 35), this notice announces a proposed extension of a form that collects information from the public. BRI 49-389, "Application for Guaranteed Minimum Annuity" for annuitants, was developed by the Office of Personnel Management, Civil Service Retirement System (OPM/CSRS), to determine annuitants' eligibility for the minimum annuity. This form is sent to collect information annuitants about whether they are receiving money from any other Federal retirement or compensation program. For copies of this proposal call John P. Weld, Agency Clearance Officer, on (202) 632-7720.

ADDRESSES: Send or deliver comments within ten working days from the date of publication to:

John P. Weld, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW, Room 6410, Washington, D.C. 20415

and

Katie Lewin, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, NW, Washington, D.C. 20503

FOR FURTHER INFORMATION CONTACT: James L. Bryson, (202) 632-5472.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 84-22344 Filed 8-22-84; 8:45 am]

BILLING CODE 6325-01-M

Proposed Information Collection for OMB Review

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice of proposed extension of BRI 49-389A, "Application for Guaranteed Minimum Annuity" for survivor annuitants and dependent children.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (Title 44, U.S.C. Chapter 35), this notice announces a proposed extension of a form that collects information from the public. BRI 49-389A, "Application for Guaranteed Minimum Annuity" for survivor annuitants and dependent children, was developed by the Office of Personnel Management, Civil Service Retirement System (OPM/CSRS), to determine annuitants' eligibility for the minimum annuity. This form is sent to collect information from annuitants about whether they are receiving money from any other Federal retirement or compensation program. For copies of this proposal call John P. Weld, Agency Clearance Officer, on (202) 632-7720.

ADDRESSES: Send or deliver comments within ten working days from the date of publication to:

John P. Weld, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW, Room 6410, Washington, D.C. 20415

Katie Lewin, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, NW, Washington, D.C. 20503

FOR FURTHER INFORMATION CONTACT: James L. Bryson, (202) 632-5472.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 84-22345 Filed 8-22-84; 8:45 am]

BILLING CODE 6325-01-M

POSTAL SERVICE

Privacy Act of 1974; Systems of Records

AGENCY: U.S. Postal Service.

ACTION: Notice of proposed routine uses for existing system of records.

SUMMARY: The purpose of this document is to provide information for public comment concerning the Postal Service's proposal to add two routine uses to system USPS 050.020, Finance Records—Payroll System.

DATE: Any interested party may submit written comments regarding the proposed new routine uses. Comments on this notice must be received on or before September 24, 1984.

ADDRESS: Comments may be mailed to Records Officer, U.S. Postal Service, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260-5010, or delivered to Room 8121 at the above address between 8:15 a.m. and 4:45 p.m. Comments received may be inspected in Room 8121 between 8:15 a.m. and 4:45 p.m.

FOR FURTHER INFORMATION CONTACT: Martha J. Smith, Records Office, (202) 245-5568.

SUPPLEMENTARY INFORMATION: The Postal Service proposes to assist the Department of Defense (DOD) in its two-part effort, as follows:

Part 1—In support of the Government's initiative under the Debt Collection Act of 1982, the Postal Service proposes to assist the DOD in its efforts to identify current postal employees who have separated from military service and are indebted to the DOD and, if necessary, to assist DOD in collecting the over-due debts from those employees. Upon request, on a semiannual basis, the Postal Service will provide to the DOD a computer tape of its employees with name and social

security account number. The DOD will match this tape against its debtor files in the Defense Manpower Data Center Data Base for the purpose of identifying those persons who have separated from military service while indebted to DOD for reenlistment bonus, travel/transportation advances, etc. The DOD will return the uncopied computer tape to the Postal Service immediately after the match has been run. The DOD will provide to the Postal Service a tape of the matched employees and the Postal Service will then provide the home addresses of those employees. Disclosures made under this part are for the limited purpose of enabling DOD to identify indebted postal employees; to notify them of their indebtedness to the United States; and to take subsequent action to collect the debts.

Part 2—The Postal Service plans to assist DOD in its efforts to meet its Congressional reporting requirements under its Federal Sector Reserve Screening Program. This will involve screening current Postal Service employees for military reserve status and identifying those employees in positions critical to Postal Service operations who may not be subject to reserve callup as a result. For this purpose, upon request, on an annual basis, the Postal Service will provide to DOD a computer tape of its current employees by name, social security account number and salary for comparison with DOD's Ready Reservists file. Upon completion of the comparison process, DOD will return the uncopied computer tape to the Postal Service and, in addition, will provide to the Postal Service a tape of Postal Service employees with a military mobilization obligation.

System 050.020 last appeared in 49 FR 24835 dated June 15, 1984. Publication of this notice is in accordance with the Privacy Act Implementation guidelines issued by the Office of Management and Budget (47 FR 28966).

Accordingly, the Postal Service is proposing to add two new routine uses to system USPS 050.020, Finance Records—Payroll System, as follows:

USPA 050.020

SYSTEM NAME:

Finance Records—Payroll System 050.020.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

32. To provide to the Department of Defense (DOD), upon request, on a semiannual basis, the names, social security account numbers and home addresses of current postal employees for the purposes of identifying those employees who are indebted to the United States under programs administered by the Secretary, DOD, and for taking subsequent actions to collect those debts.

33. To provide to the Department of Defense (DOD), upon request, on an annual basis, the names, social security account numbers, and salaries of current postal employees for the purposes of updating DOD's listings of Ready Reservists and reporting reserve status information to the Postal Service and the Congress.

* * * * *

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 84-22414 Filed 8-22-84; 8:45 am]

BILLING CODE 7710-12-M

RAILROAD RETIREMENT BOARD

Privacy Act of 1974; Proposed Changes to System of Records

AGENCY: Railroad Retirement Board.

ACTION: Notice of proposed changes to a system of records.

SUMMARY: The purposes of this document are: (1) To give notice of two proposed routine uses to one of the RRB's systems of records (RRB-22, Railroad Retirement, Survivor, and Pensioner Benefit System); (2) to give notice of two additional categories of records in the same system; and (3) to give notice of several language changes in two existing routine uses and in the category of individuals covered in the same system.

DATES: The new routine uses that are proposed shall be effective as proposed without further notice 30 calendar days from the date of this publication unless comments are received before this date which would result in a contrary determination. The proposed additions to the categories of records shall be effective 60 calendar days from the date of this publication unless OMB approves the RRB request for a waiver of the 60-day advanced notice requirement for new or altered system reports, in which case the proposed additions to the categories of records will become effective as of the date the waiver is granted.

ADDRESS: Send comments to Beatrice Ezerski, Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: LeRoy Blommaert, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, Telephone 312-751-4548.

SUPPLEMENTARY INFORMATION:

Part I: Proposed routine uses

Proposed routine use "gg" to system of records RRB-22 would permit the RRB to furnish identifying and certain other, mainly benefit, information about annuitants to certain private insurance companies for administering group life insurance and medical insurance plans negotiated between certain participating railroad employers and railway labor organizations. The terms of these plans provide that continued benefits or special benefits for retired workers depend upon the relationship of their annuity filing date to their last day of service. Verification of this and other information can be provided only by the RRB. The RRB has determined that furnishing such information would be in the best interests of the annuitants and that the purpose for which the information would be used—to pay benefits—is compatible with the purposes for which the information was obtained. The RRB has long maintained that the payment of benefits under another benefit system represents a compatible use.

Proposed routine use "hh" would enable the RRB to furnish to the Internal Revenue Service for tax administration purposes, effective for payments made after December 31, 1983, beneficiary identifying information, address, amounts of benefits paid and repaid, beneficiary withholding instructions, and amounts withheld by the RRB for tax purposes. The 1983 amendments to the Social Security Act (Pub. L. 98-21) amended the Internal Revenue Code of 1954 to provide that the tier 1 component of railroad retirement benefits is includable as taxable income, effective January 1, 1984, under the same formula as Social Security benefits. In addition, the Railroad Retirement Solvency Act of 1983 (Pub. L. 98-76) amended the Internal Revenue Code to provide that tier 2 and vested dual benefits payable under the Railroad Retirement Act are fully taxable as income under the rules for private pensions effective the same date. Accordingly, the RRB must report the above information to the IRS. (Supplemental annuities payable under the Railroad Retirement Act, which had been under the rules for private pensions before January 1, 1984, continue to be so taxable. However, effective January 1, 1984, they are to be combined with tier 2 and vested dual benefits for determining the amount to

be withheld in the absence of instructions from the annuitants.)

Part II: Categories of Records

The RRB proposed to add two new categories of records to its system of records RRB–22 (Railroad Retirement, Survivor, and Pensioner Benefit System). These categories are (1) citizenship status and legal residency status (for annuitants living outside the United States) and (2) tax withholding information (instructions of annuitants regarding number of exemptions claimed and additional amounts to be withheld, as well as actual amounts withheld for tax purposes.) In the first instance, the RRB needs to know the citizenship status and legal residency status for annuitants living outside the United States because both of these factors affect whether their benefits are subject to taxation under the Internal Revenue Code. Residents of certain countries, if they are not U.S. citizens, are not subject to taxation because of tax treaties signed with the United States. In the second instance, the RRB must collect and maintain withholding information in order to comply with Pub. L. 98–76 and also, for certain non-resident aliens, with Pub. L. 98–21, as well.

On August 17, 1984, the RRB filed an altered system report for this system with the Speaker of the House of Representatives, the President of the Senate, and the Office of Management and Budget. This was done to comply with Section 3 of the Privacy Act of 1974 and OMB Circular No. A–108, Transmittal Memorandum No. 1, dated September 30, 1975, and Transmittal Memorandum No. 3, dated May 17, 1976.

Part III: Language Changes in Routine Uses and Categories of Individuals

The RRB is making language changes in two routine uses, "e" and "i," to clarify the purposes for which the information would be used. No substantive changes are involved. Also, the RRB is amending the categories of individuals covered by the system to reflect that the category of dependents of applicants includes "divorced spouses."

Part IV: Previous Federal Register Publication

System of records RRB–22, Railroad Retirement, Survivor, and Pensioner Benefit System, was last published in its entirety on December 4, 1980, at 45 FR 80392–394.

Dated: August 17, 1984.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

RRB–22

SYSTEM NAME:

Railroad Retirement, Survivor, and Pensioner Benefit System—RRB

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This section is revised to read as follows:

Applicants for retirement and survivor benefits, their dependents (spouses, divorced spouses, children, parents, grandchildren), individuals who filed for lump-sum death benefits and/or residual payments.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

This section is revised to read as follows:

Information pertaining to the payment or denial of an individual's claim for benefits under the Railroad Retirement Act: name, address, social security number, claim number, proofs of age, marriage, relationship, military service, creditable earnings and service months (including military service), entitlement to benefits under the Social Security Act, programs administered by the Veterans Administration, or other benefit systems, rates, effective dates, medical reports, correspondence and telephone inquiries to and about the beneficiary, suspension and termination dates, health insurance effective date, option, premium rate and deduction, direct deposit data, employer pension information, citizenship status and legal residency status (for annuitants living outside the United States), and tax withholding information (instructions of annuitants regarding number of exemptions claimed and additional amounts to be withheld, as well as actual amounts withheld for tax purposes).

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Paragraphs "e" and "i" are revised to read as follows:

e. Beneficiary identifying information, address, check rates, number and date may be released to the Department of the Treasury to control for reclamation and return of outstanding benefit payments, to issue benefit payments, act on reports of non-receipt, to insure delivery of payments to correct address of the beneficiary or representative payee or to the proper financial organization, and to investigate alleged forgery, theft or unlawful negotiation of railroad retirement benefit checks or improper diversion of payments directed to a financial organization.

* * * * *

i. Beneficiary identifying information, entitlement, benefit rates, medical evidence and related evaluatory data, and months paid may be furnished to the Veterans Administration for the purpose of assisting that agency in determining eligibility for benefits or verifying continued entitlement to and the correct amount of benefits payable under programs which it administers.

* * * * *

Paragraphs "gg" and "hh" are added to read as follows:

gg. Certain identifying information about annuitants, such as name, SSA number, RRB claim number, and date of birth, as well as address, year and month last worked for a railroad, last railroad occupation, application filing date, annuity beginning date, identity of last railroad employer, total months of railroad service, sex, disability onset date, disability freeze onset date, and cause and effective date of annuity termination may be furnished to insurance companies for administering group life and medical insurance plans negotiated between certain participating railroad employers and railway labor organizations.

hh. For payments made after December 31, 1983, beneficiary identifying information, address, amounts of benefits paid and repaid, beneficiary withholding instructions, and amounts withheld by the RRB for tax purposes may be furnished to the Internal Revenue Service for tax administration purposes.

* * * * *

[FR Doc. 84–22365 Filed 8–22–84; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 23398, 70–7008]

National Fuel Gas Co. and Seneca Resources Corp.; Proposed Issuance and Sale of Secured Short-Term Notes to Banks by Subsidiary, Guarantee by Holding Company, and Extension of Maturity

August 16, 1984.

National Fuel Gas Company ("National"), 30 Rockefeller Plaza, Suite 4545, New York, NY 10112, a registered

holding company, and its wholly owned subsidiary, Seneca Resources Corporation ("Seneca"), 10 Lafayette Square, Buffalo, New York 14203, have proposed transactions subject to Sections 6(a), 7 and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45, 49(d) and 50(a)(2) promulgated thereunder.

Pursuant to prior orders of this Commission (HCAR No. 22864 dated February 28, 1983 and HCAR No. 23162 dated December 9, 1984), Seneca has the authority to issue and sell short-term notes to Republic Bank Houston, N.A. ("RepublicBank") and Citibank, N.A. ("Citibank") in an aggregate principal amount of up to $103,500,000 outstanding at any one time pursuant to a line of credit of $103,500,000 with each bank. Repayment of the outstanding amounts is guaranteed by National. Seneca now seeks authorization to increase its available lines of credit with the two banks by $6,125,000 each and proposes to borrow up to an aggregate principal amount of up to $109,625,000 outstanding at any one time under said lines of credit from September 28, 1984 to September 27, 1985. National again proposes to guarantee repayment of all amounts borrowed by Seneca under its lines of credit. Seneca intends to use the proceeds to refund existing short-term notes that will mature on September 30, 1984 and to utilize the additional borrowings for proposed capital expenditures in its exploration and development program.

Seneca will issue and sell two separate, secured master notes to RepublicBank pursuant to a Credit Agreement ("Credit Agreement") and two separate, secured master notes to Citibank pursuant to a credit arrangement ("Credit Arrangement"). One master note to each bank will be made for the benefit of the joint ventures ("Joint Ventures") Seneca's Houston Division is engaged in and the other master note to each bank will be used to finance Seneca's other day to day operations.

RepublicBank and Citibank have indicated their preliminary intentions to advance a maximum principal amount to Seneca of up to $62,312,500 and $57,312,500, respectively, under the master notes and related agreements. The notes will bear interest at the prime rate of interest at RepublicBank and at the base rate of interest at Citibank, as each may fluctuate from time to time or, at Seneca's option at an alternate rate ("Alternate Rate"). The Alternate Rate will be determined by each of the banks in their sole discretion and offered to Seneca at certain times. Seneca will have the option to either borrow or reborrow all, or a portion of the funds from RepublicBank at the prime rate or at its Alternate Rate and from Citibank at the base rate or at its Alternate Rate. If Seneca chooses to borrow under an Alternate Rate, it is expected that such rate will remain fixed during the chosen term. In the past, Seneca has taken advantage of the Alternate Rate option under its credit facilities to reduce its cost of borrowings.

Interest on all borrowings under the RepublicBank notes will be payable (i) quarterly, (ii) at the expiration of any Alternate Rate period, (iii) upon prepayment, or (iv) at final maturity of the RepublicBank notes. Because of volatile short-term markets in recent years, the Credit Agreement will contain an interest recapture provision if the prime rate or Alternate Rate should exceed the maximum lawful rate imposed by state or federal law.

Interest on the Citibank notes will be payable at final maturity of the notes and as follows: (1) For borrowings at the base rate, interest is payable upon the earlier of: (a) The end of each calendar quarter; (b) prepayment; or (c) selection of the Alternate Rate option; (2) For borrowings at the Alternate Rate, interest is payable at the end of each option period chosen; and (3) Any management fee accrued is payable at the end of each calendar quarter.

All borrowings outstanding at the prime and base rates will be prepayable in whole or in part at any time without penalty or premium. Because the Alternate Rates will be determined by available market instruments such as Certificates of Deposit, if an Alternate Rate is chosen, the borrowings outstanding at each Alternate Rate will not be prepayable, or will be prepayable at the option of the lending Bank only upon the payment of an additional amount to compensate such Bank for any actual expenses or losses incurred becauseof the prepayments. Since Alternate Rate borrowings may not be prepayable, Seneca will not utilize them if they would result in an effective cost of borrowing greater than the effective cost of funds at the prime rate or base rate.

When borrowings are made at the prime and base rates there will be no commitment fees, commissions or required compensating balances. As a result, Seneca's effective cost of borrowing under the RepublicBank credit facility will be the prime rate at RepublicBank (13.00% as of July 30, 1984) or the Alternate Rate quoted by RepublicBank from time to time. Citibank will charge a management fee on all borrowings outstanding at the Alternate Rate of .50%. The effective cost of borrowing for Seneca under the Citibank credit facility will be equal to the base rate at Citibank (13.00% as of July 30, 1984) or the Alternate Rate adjusted by the management fee (12.78% in effect on July 6, 1984, for a 30-day period). Seneca, however, will be obligated to pay the reasonable fees and expenses of counsel for RepublicBank and Citibank in connection with the preparation of documentation and all transactions pursuant thereto.

The RepublicBank Notes and the Citibank Notes evidencing the borrowings of Seneca and the Joint Ventures are currently secured by a portion of Seneca's interest in oil and gas properties located in Texas and Louisiana and a portion of Seneca's hardwood timber acreage located in Pennsylvania. Seneca's borrowings are secured because the amount of unsecured debt the National Fuel Gas Consolidated System ("System") may have outstanding at any one time is limited to 25% of the System's capitalization (see HCAR No. 22670 dated October 15, 1982). Seneca's borrowings are being made on this secured basis so that the borrowing capacity of other System companies will not be impaired.

The proposal and any amendments there are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by September 10, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the proposal, as filed or as it may be amended, may be authorized.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-22440 Filed 8-22-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14102; 812-5878]

Sequoyah Financial Corp. and Charles T. Carlisle, Jr., on Behalf of Sequoyah-IV, Ltd.; Application for Exemption

August 17, 1984.

Notice is hereby given that Sequoyah Financial Corporation ("SFC"), and Charles T. Carlisle, Jr. ("Carlisle"), 1900 Plaza Tower, Knoxville, Tennessee 37929, the prospective general partners of Sequoyah-TV, Ltd. ("Partnership"), a limited partnership to be formed under the Uniform Limited Partnership Act of Tennessee (collectively SFC and Carlisle may be referred to as the "General Partners" and, together with the Partnership, collectively referred to hereinafter as "Applicants"), filed an application on June 25, 1984, and an amendment thereto on July 10, 1984, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), for an order exempting the Partnership from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable statutory provisions.

Applicants state that the Partnership is designed as a vehicle for equity investment in government-assisted rental housing in accordance with the policies and objectives of Title IX of the Housing and Urban Development Act of 1968 ("Title IX"). Applicants further state that the Partnership will operate as a "two-tier" entity, i.e., the Partnership, as a limited partner, will invest in two other limited partnerships ("Local Limited Partnerships") which are the beneficial owners of existing government-assisted projects for individuals and families of low and moderate income in the cities of Chattanooga and Memphis, Tennessee (the "Apartment Complexes"). These investments are represented to be consistent with the purposes and criteria set forth in the last paragraph of Investment Company Act Release No. 8456 (August 9, 1974), a release which sets forth the views of the Commission regarding the applicability of the Act to two-tier real estate limited partnerships. Applicants state that the Partnership will be organized as a limited partnership because that form of organization is the only one that provides investors with both liability limited to their capital investments as well as the ability to claim on their individual tax return the deductions, losses, credits, and other tax items that originate from the Partnership's interest in the Local Limited Partnerships.

Applicants state that the Partnership will be controlled by the General Partners, and the limited partners, consistent with their limited liability status, will not be entitled to participate in the control of the business of the Partnership. Limited partners owning a majority of Partnership interests will, however, have the right to amend the partnership agreement, dissolve the Partnership, and approve the sale of (i) the Partnership's interest in a Local Limited Partnership, or (ii) all or substantially all of the assets of the Partnership or refinancing of the Apartment Complexes' mortgages. A 75% majority in interest of the limited partners may remove any or all of the General Partners for just cause and elect a replacement therefor. Any amendment to the partnership agreement, however, that would allow the limited partners to take part in the control of the Partnership's business or otherwise jeopardize their limited liability is prohibited under the terms of the partnership agreement.

It is further represented that the Partnership will receive an opinion of counsel to the effect that the Partnership's liability in respect of the Local Limited Partnerships will be limited to the Partnership's capital contributions to the Local Limited Partnerships. Applicants represent, in addition, that under the partnership agreement, each limited partner is entitled to review all books and records of the Partnership at any and all reasonable times.

Through its investment in the Local Limited Partnerships, the Partnership intends to realize (i) a potential increase in its equity in the Apartment Complexes through amortization of the Apartment Complexes' mortgage indebtedness, (ii) cash flow from operations, (iii) potential appreciation increases in the value of the Apartment Complexes, (iv) cash distributions from sale or refinancing of the Apartment Complexes, and (v) certain tax benefits. Although the Partnership's direct control over the management of the Apartment Complexes is represented to be limited, the Partnership's ownership of interests in the Local Limited Partnerships shall, in an economic sense, it is argued, be tantamount to beneficial ownership of the Apartment Complexes themselves. The Partnership's interests in the Local Limited Partnerships have no substantial value other than the pro rata share they represent of the value of the Apartment Complexes and related assets. The Local Limited Partnerships will not generate a substantial amount of income or expense other than as directly related to the development, ownership and operation of the Apartment Complexes.

In reliance upon Rule 506 under section 4(2) of the Securities Act of 1933, the Partnership will offer $5,328,750 of limited partnership interest in 84 units of $62,500 each and one special limited partner unit of $78,750 ("Units"). Subscriptions for half units may be accepted at the sole discretion of the Partnership, the Managing General Partner and Sequoyah Equities Corporation, a Tennessee corporation, and accordingly, the Partnership's securities could be held by more than 100 persons. Prudential-Bache Securities Inc. will act as selling agent for the offering of Units.

Without conceding that the Partnership is an investment company as defined in the Act, Applicants request that the Partnership be exempted from all the provisions of the Act pursuant to section 6(c). In support of this request, Applicants assert that such exemption is both necessary and appropriate in the public interest and consistent with the protection of investors and the purposes and policies underlying the Act.

It is asserted that the Partnership is not an "investment company" under the Act; that it will be in the business of investing in and being the beneficial owner of Apartment Complexes which are not securities and that the limited partnership interests it will own should not constitute "investment securites" within the meaning of section 3(a)(3) of the Act. It is stated that the interests in the Local Limited Partnerships, by their nature, are not readily marketable and will have no value apart from the value of the Apartment Complexes owned by the Local Limited Partnerships. No separate market is alleged to exist for such interests and their sale could involve severe adverse tax consequences. To treat such interests as "investment securities" within the ambit of the Act, Applicants state, would be to ignore the economic realities of the two-tier Partnership structure as utilized by the Partnership and the Partnership's participation in the development, ownership, and operation of government-assisted housing.

Applicants assert, in addition, that investment in low and moderate income housing in accordance with the national policy expressed in Title IX is not economically suitable for private investors without the tax and organizational advantages of the limited partnership structure. That form of

organization provides the only means of bringing private equity capital into government-assisted housing, particularly because public investors typically consider investment in low and moderate income housing programs as involving greater risk than real estate investment generally. Applicants state that the limited partnership form insulates each limited partner from personal liability and limits financial risk incurred by the limited partner to the amount of capital he has invested in the program, while also allowing the limited partner to claim on his individual tax return his proportionate share of the income and losses from the investment.

Applicants assert that despite the advantages it affords investors in government-assisted housing, the limited partnership form of organization is incompatible with fundamental provisions of the Act, such as those providing for "shareholder democracy" and prescribed levels of asset coverage. It is asserted that such provisions are inapposite to the limited partnership legal form and the mortgage financing and other federal, state and local government-assisted programs developed for low and moderate income housing, and that, therefore, an exemption from these basic provisions is necessary. Applicants contend that it is appropriate that such exemption be granted so as not to discourage use of the two-tier limited partnership entity. To do so, Applicants assert, would frustrate the public policy embodied in the housing laws.

Applicants concede that the substantial fees and other forms of compensation that will be paid to the General Partners and their affiliates will not have been arrived at through arm's length negotiations. They represent, however, that the terms of all such compensation will be fair and not less favorable to the Partnership than would be the case if such terms had been negotiated with independent third parties. Further, Applicants believe that such compensation meets all applicable guidelines necessary to permit the Units to be offered and sold in the various states which prescribe such guidelines, including, without limitation, the statement of policy adopted by the North American Securities Administrators Association, Inc. with respect to real estate programs.

Applicants further state that interests in the Partnership will be sold only to relatively sophisticated investors who must meet specified suitability standards which the Partnership believes are consistent with the securities laws of all states where the Units will be sold, and these investors will receive extensive reports concerning the Partnership's business and operations.

Applicants further state that, although the interests of the General Partners and its affiliates may conflict in various ways with the interests of limited partners, limited partners are adequately protected through disclosure in the private placement memorandum for the offering designed to eliminate or significantly reduce such conflicts of interests. Further protection for the interests of limited partners is provided, Applicants assert, by the numerous provisions of the partnership agreement designed to prevent overreaching by the General Partners and to assure fair dealing by them vis-a-vis the limited partners.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 11, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-22434 Filed 8-22-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21253; SR-NYSE-84-28]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1

August 17, 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 July 20, 1984, the New York Stock Exchange, Inc. ("NYSE"), Eleven Wall Street, New York, New York 10005, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The rule change establishes procedures for granting higher position limits for accounts held by a registered options specialist. Currently, the NYSE can approve the opening and carrying of options positions in excess of the established limit for any account upon the submission of a written request to the Exchange and a finding of highly unusual circumstances that would warrant the higher limit. The present procedure applies to all accounts, not just those of specialists. Under the proposed rule change, higher limits may be established for a specialist's transactions whenever the specialist reasonably anticipate that he may exceed the established limits in the performance of his function of assisting in the maintenance of a fair and orderly market and after consultation and approval of the Exchange with the concurrence of a floor official.[1] The proposed procedure will eliminate the need for the specialist to submit a detailed written statement justifying the higher limit and thus will enable the NYSE to respond on short notice to a specialist's request to exceed the position limit in order to maintain a fair and orderly market. Nevertheless, the NYSE will continue to ensure, upon reviewing a specialist's request, that current market conditions justify a higher limit before granting its approval. Further, NYSE intends to grant such higher limits only when it is necessary for the specialist to maintain a fair and orderly market and all other alternatives have been explored.[2]

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-NYSE-84-28.

Copies of the submission, all subsequent amendments, all written

[1] The Market Surveillance Services Division will review the specialist's request on behalf of the Exchange.

[2] Amendment No. 1 to the proposed rule change submitted on August 13, 1984 amends the text of the proposed rule change to clearly indicate that an options specialist must obtain the prior approval of the Exchange before exceeding the established limit.

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 5th 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.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6, and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that insofar as the proposal would alter the NYSE rule, it is substantially the same as American Stock Exchange, Inc. ("Amex") Rule 904.05, which is applicable to Amex's option specialists, and Pacific Stock Exchange, Inc. ("PSE") Rule VI, Section 5, Commentary .04, which is applicable to PSE option market-makers. In light of the fact that adoption of this policy by the NYSE will allow its option specialists to accommodate order flow in the same manner as option specialists and market-makers at other exchanges, accelerated approval is appropriate.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, granted.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-22436 Filed 8-22-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21249; File No. SR-PCC-84-10]

Self-Regulatory Commission; Pacific Clearing Corp.; Filing and Immediate Effectiveness of Proposed Rule Change

August 16, 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 August 2, 1984, the Pacific Clearing Corporation ("PCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change amends PCC's Schedule of Rates and Charges to include fees for trade comparison, trade collection, and trade clearance services that PCC is providing through its MuniComparision System ("MCS").[1] PCC states that the new fees are intended to permit PCC to charge its members for MCS services. PCC further states that the proposal is consistent with Section 17A(b)(3)(b) of the Act in that the proposal will provide for the equitable allocation of fees among PCC's members.[2]

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, NW., Washington, D.C. 20549. Reference should be made to File No. SR-PCC-84-10.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying 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. 84-22441 Filed 8-22-84; 8:45 am]

BILLING CODE 8010-01-M

[1] PCC is but one of several clearing agencies participating in a national municipal securities comparison system. *See* Securities Exchange Act Release No. 21120 (July 6, 1984), 49 FR 28490 (July 12, 1984), which authorized PCC and Midwest Clearing Corporation ("MCC") to link their automated municipal securities comparision systems to National Securities Clearing Corporation's ("NSCC") Municipal Bond Processing System. *See also* Securities Exchange Act Release No. 20976 (May 18, 1984), 49 FR 22426 (May 29, 1984), which permanently approved implementation of NSCC's Municipal Bond Processing System, including its Municipal Bond Comparision Only Program. In addition to PCC and MCC, the Commission authorized the Depository Trust Company ("DTC") to implement a dealer-trade-data-linkage service and to connect that service with NSCC's comparison system. *See* Securities Exchange Act Release No. 21164 (July 23, 1984), 49 FR 30267 (July 27, 1984).

[2] The new fees are as follows: Municipal Bond Comparison.

Trade Comparison: $.30 per bond side.

Trade Correction (in addition to comparison charges): $.25 per advisory submitted; $.25 per side for each trade deletion; $.25 per side for supplemental input (as-of, withhold, demand as-of, demand withhold); $.35 per demand advisory.

Trade Clearance: $.25 per item for receive/deliver instructions.

[Release No. 21255; SR-PSE-84-16]

Self-Regulatory Commission; Pacific Stock Exchange, Inc.; Filing and Immediate Effectiveness of Proposed Rule Change

August 17, 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 August 10, 1984, the Pacific Stock Exchange, Inc. ("PSE") filed with the Securities and Exchange Commission the proposed rule change described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. PSE previously solicited comments but received none.

Prior to December 1, 1984, the PSE will relocate to San Francisco, California. In this connection, the proposed rule change establishes Options Trading Floor Phone Service Charges to PSE floor members for the new telephone systems that will be installed on the new options trading floor upon relocation. PSE will be charged for the instruments and support equipment, the number of telephone lines installed, the cost of installation. In turn, PSE will assess all floor members a portion of these costs. In addition to these PSE imposed fees, all floor members will be

assessed monthly usage and maintenance charges directly by the company providing telephone service.

Floor members may elect to purchase their telephone equipment; PSE will bill these members only for support equipment and installation. Installation charges will not be assessed for telephone systems installed prior to the opening day of the new options floor.

By imposing the fee schedule described herein on its floor members, PSE anticipates recovering a majority of the costs it will incur in connection with providing new telephone systems to members on the new options trading floor. In its filing, PSE indicates that it has designed the fee schedule so as to avoid collecting from current members that amount which represents the purchase price of the equipment at the end of the fixed rate, fixed buy-out lease, under which the telephone systems are to be obtained. PSE further states that it believes the proposed rule change is consistent with section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among the PSE's members and issuers and other persons using its facilities.

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, NW., Washington, DC 20549. Reference should be made to File No. SR-PSE-84-16.

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, DC. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the Pacific Stock Exchange, Inc.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-22438 Filed 8-22-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21254; SR-Phlx-84-15]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

August 17, 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 August 8, 1984, the Philadelphia Stock Exchange, Inc. ("Phlx") 1900 Market Street, Philadelphia, PA 19103, filed with the Securities and Exchange Commission the proposed rule change described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The rule change would conform Phlx Rule 1049 (Communications to Customers) to recent SEC amendments to Rule 134a under the Securities Act of 1933 relating to the content of written options material disseminated to the public.[1] The purpose of the rule change is to allow offerors of option products to include certain explanatory information in advertisements for those products and permit a fuller explication of the nature of newly developed options products. Specifically, the rule change would eliminate the previous requirement that written materials disseminated to the public contain a legend indicating the name and address of a person from whom an Options Clearing Corporation prospectus can be obtained. Since the options disclosure document(s), not the Options Clearing Corporation prospectus, advises potential customers of the risks and uses of listed options, it is unnecessary to indicate the name and address of a person from whom a prospectus can be obtained. The rule change would also permit the identification of certain specific securities, namely, those exempt from registration under the 1933 Act; options on such exempt securities; index options (including the component securities of the index); and foreign currency options.

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 Phlx.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the proposed rule change conforms Phlx Rule 1049 with recent amendments to Rule 134a under the Securities Act of 1933, which were published in the **Federal Register** for comment, considered and approved by the Commission.[2]

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 84-22437 Filed 8-22-84; 8:45 am]

BILLING CODE 8010-01-M

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[1] *See* Securities Act Release No. 33-6518, March 22, 1984.

[2] A substantially similar rule change proposal filed by the American Stock Exchange, Inc. ("Amex") was approved by the Commission on June 15, 1984. *See* File No. SR-AMEX-84-16, Securities Exchange Act Release No. 21058.

DEPARTMENT OF STATE

[Public Notice CM-8/760]

Advisory Committee on International Intellectual Property; Meeting

The International Copyright Panel of the Department of State's Advisory

Committee on International Intellectual Property will meet in open session on Wednesday, September 12, 1984, in Room 1105 in the Department of State. The meeting will begin at 9:30 AM and will conclude by 1:00 PM.

The meeting will be open to the general public. The following topics will be discussed:

1. Consideration of U.S. Adherence to the Berne Convention for the Protection of Literary and Artistic Works.

2. Recent Developments to Suppress International Copyright Piracy.

3. UNESCO/WIPO International Copyright Meetings—Past and Upcoming.

4. Miscellaneous—Brussels Satellite Convention, etc.

The public attending may, as time permits and subject to the instructions of the Chairperson, participate in the discussions or may submit their views in writing to the chairperson prior to, or at the meeting, for later consideration by the Committee.

Members of the public who plan to attend the meeting will be admitted up to the limits of the conference room's capacity. Access to the Department of State is controlled, so members of the general public who plan to attend the meeting are requested to provide their name, affiliation, and address to Mrs. Bobbi Tinsley, Office of Business Practices, Department of State, telephone (202) 632–1486, prior to September 12, 1984. All attendees to the meeting should use the *Main Entrance* (2201 C Street, NW) of the Department of State.

Dated: August 14, 1984.

Harvey J. Winter,

Executive Secretary.

[FR Doc. 84–22377 Filed 8–22–84; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Computer Matching Program; Federal Railroad Administration's Title VII Beneficiaries to Pennsylvania Department of Labor and Industry's Master Wage Record File

AGENCY: U.S. Department of Transportation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. Department of Transportation's (DOT) Office of Inspector General (OIG) is conducting a computer match in connection with an audit entitled "Title VII Option II Railroad Retirement Benefits." The match is to ensure that individuals who are receiving Title VII benefits and have outside employment, are reporting the outside employment to the Rairoad Retirement Board for proper offsets against their Title VII benefits. This evaluation is necessary to assess the operations and integrity of the Title VII Option II Railroad Retirement Benefits Program.

A copy of the DOT OIG computer matching program follows below. Copies of this report have been sent to Office of Management and Budget (OMB) and both Houses of Congress as requested in OMB Computer Matching Guidelines.

FOR FURTHER INFORMATION CONTACT: John W. Lainhart IV (202) 426–9776.

Issued in Washington, D.C. on August 13, 1984.

Jon H. Seymour,

Deputy Assistant Secretary for Administration.

Authority for and Purpose of the Program

The legal authority under which this match is being conducted is the Inspector General Act of 1978 (Pub. L. 95–452). The purpose of this match is to ensure that individuals who are receiving Title VII benefits and have outside employment, are reporting the outside employment to the Railroad Retirement Board (RRB). This match is part of an audit to assess the operations and integrity of the Title VII Option II Railroad Retirement Benefits Program.

Description of the Matching Program

This matching program will match a system of records for the RRB in Chicago to an employment file from the Pennsylvania Department of Labor and Industry. The RRB file contains the names of individuals receiving Title VII Option II benefits from the RRB. The Department of Labor and Industry's file contains the wage records of individuals.

Files to be used in this matching program are: 1. RRB40—Regional Rail Reorganization Act Title VII Benefits System—49 FR 27865–66(7684).

2. Pennsylvania Department of Labor and Industry's Master Wage Record File.

The objective of this computer match is to identify Title VII Option II recipients who received substantial benefits and at the same time were actively employed at some job other than at Conrail. Once identified by computer match, additional verification will be made to ensure the accuracy of the data in the file and whether other exceptions are involved. If overpayments were received by claimants, a determination will be made as to what should be refunded to the Title VII program.

Procedures of Matching Program

Step 1. Acquisition of Data Files. The RRB will provide the DOT/OIG with computer data files containing the Title VII Option II recipients and their voucher payment file containing payment data to Title VII Recipients. All files will be safeguarded in accordance with the National Bureau of Standards' *FIPS 41 and 31.* The information will be acquired, controlled, and used in compliance with the Privacy Act of 1974 and OMB Matching Guidelines.

Step 2. Computer Processing. The DOT/OIG will refine these data files and put them in a format suitable for matching with the Pennsylvania Department of Labor and Industry's Master Wage Record File. This formatted data will be hand-carried to the Pennsylvania Department of Labor and Industry for matching with the Master Wage Record File. Results of the match will be returned by DOT/OIG personnel.

Step 3. Validate Employment History. The DOT/OIG will determine whether claimants correctly reflected the extent of outside employment through submission of monthly claims forms. The RRB and outside employers will be contacted to verify these claims.

Step 4. Reconciliation with RRB. The DOT/OIG will recommend that the RRB give an explanation for overpayments to Title VII recipients or refund money to the Federal Railroad Administration (FRA).

Date of Matching Program

The computer match will be done after all routine use notices are published in accordance with OMB Matching Guidelines. The match program should be run in Fiscal Year 1984. The employment validation and reconciliation will commence immediately after the match is completed.

Disclosure of Records

The RRB Title VII Option II file will be used by the DOT/OIG after publication of a new routine use notice in the **Federal Register.** After the computer match the file will be returned or electronically erased to prevent further access of the data. The results of the match will be transferred from the Pennsylvania Department of Labor and Industry to the DOT/OIG. The DOT/OIG will disclose the results to the RRB and FRA.

Efforts Taken to Protect Against Unauthorized Access to or Disclose of Personal Records

Steps will be taken to ensure the accuracy and privacy of all personal information involved in the match. Computer tapes will be locked-up and listings stored in appropriate secure places. Disclosures of individuals will only be made after verification of employment data and Title VII recipient data. The RRB and FRA will be notified after the DOT/OIG has taken all necessary action to ensure the accuracy of the computer match.

[FR Doc. 84-22442 Filed 8-22-84; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD 84-063]

Lower Mississippi River Waterway Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Request for Applications.

SUMMARY: The U.S. Coast Guard is seeking applications for appointment to membership on the Lower Mississippi River Waterway Safety Advisory Committee. This Advisory Committee was established under the authority of the Federal Advisory Committee Act (Pub. L. 92-463) and consults with, advises and provides recommendations to the Commander, Eighth Coast Guard District on areas of maritime safety on the Lower Mississippi River. The Committee was established on 15 April 1983 for a term of two years unless sooner terminated or extended.

The Coast Guard will make recommendations to the Secretary from all applications on file as of 15 December 1984. The members chosen will include a balanced representation insofar as practical from the following groups: (1) Pilot associations, (2) representatives of owners and operators of vessels (deep draft, fishing, and towboats), (3) professional marines, (4) recreational boaters, (5) environmentalists, (6) port authorities, (7) federal & state officials with responsibility for vessel and port safety.

Since its establishment, the Advisory Committee has met four times. The Committee has four scheduled meetings a year, with the provision for additional meetings on an as needed basis.

The appointments made during 1985 will expire two years from the date of appointment.

DATES: Requests for applications should be received no later than 15 November 1984. The applications must be completed and returned to the Coast Guard no later than 15 December 1984.

ADDRESSES: Persons interested in applying should write to Commander, Eighth Coast Guard District (mps), Rm. 1341, Hale Boogs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130.

FOR FURTHER INFORMATION CONTACT: Commander R.A. Brunell, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander Eighth Coast Guard District, Rm. 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130 (504) 589-6901.

Dated: August 20, 1984.

W.H. Stewart,

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

[FR Doc. 84-22417 Filed 8-22-84; 8:45 am]

BILLING CODE 4910-14-M

Research and Special Programs Administration

List of Excepted Thermal Protection Systems for Tank Cars

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Announcement of current list of excepted thermal protection systems for DOT Specification 105, 111, 112 and 114 tank cars.

SUMMARY: This notice announces the current list of thermal protection systems which may be used without further test verification on DOT Specification 105, 111, 112 and 114 tank cars to satisfy thermal protection retrofit requirements published under Docket HM-144, Docket HM-174 and HM-175. The current list of 20 thermal protection systems includes the 11 systems previously announced and adds systems 12 through 20.

ADDRESS: The current list of excepted systems and the test results upon which the list is based are available for public review during the hours 8:30 a.m.-5:00 p.m., Monday through Friday in the Dockets Branch, Room 8426, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-3148).

FOR FURTHER INFORMATION CONTACT: Alfred Brooks, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, 202-426-2748.

SUPPLEMENTARY INFORMATION: The thermal protection systems listed herein do not require further test verification under § 179.105-4 (d) and (e), Title 49, Code of Federal Regulations (49 CFR), because they have been shown to meet those requirements by tests conducted at the Federal Railroad Administration's Transportation Test Center in Pueblo, Colorado. In addition, systems 16, 17, 18, 19 and 20 listed herein meet the requirements of § 179.105-7(c)(2) and 179.105-7(d)(2). Systems 1 through 4 were listed in the preamble of Docket HM-144, Amdt. No. 179-9, which imposed certain retrofit requirements on the use of DOT Specification 112 and 114 tank cars (42 FR 46306, September 15, 1977). An editorial document correcting the manufacturer's name in system 1 and correcting the name of a component material in system 3 was published on January 16, 1978 (43 FR 2180). Systems 5 through 7 were listed in a notice published November 2, 1978 (43 FR 51112). Systems 8 through 10 were listed in a notice published on July 2, 1979 (44 FR 38693). System 11 was listed in a notice published on May 5, 1980 (45 FR 29655). Systems 12 through 20 are new and have not been previously published.

This list of thermal protection systems remains open for additional entries. Systems that may be submitted to the Federal Railroad Administration in the future and which are shown to meet the test specifications in 49 CFR 197.105-4 will also be excepted from the test verification requirements and added to this list. The current list follows:

List of Excepted Thermal Protection Systems for DOT Specification 105, 111, 112 and 114 Tank Cars

1. One inch minimum thickness Deltaboard (12 pounds per cubic foot, 15 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer, (Deltaboard), Rock Wool Manufacturing Company, Leeds, Alabama.

2. The tank car external surface is prepared by sandblasting to remove all existing paint, primer, grease and loose material. Two mils (dry) of "Thermolag Primer-351" to the clean surface. One hundred sixty-five mils (dry) of "Thermolag 330-1 Subliming Compound" is next applied to the primed surface. Five mils (dry) of "Thermolag Topcoat 350" is applied to the subliming coating. Manufacturer, TSI-Inc., St. Louis, Missouri.

3. The tank car external surface is prepared by sandblasting to remove all existing paint, primer, oil, grease and loose material. Three mils (dry) of primer (Military Standard MIL-P-5219B) are applied to the clean surface. Chicken wire (1" hexagonal, 22-gauge) is next attached to the primed surface. One hundred eighty mils (dry) of Chartek 59 thermal coating is then applied. Three mils (dry) of a topcoat (AMERCOAT

383) is then applied. Topcoat manufacturer, Ameron, Brea, California. Manufacturer (Chartek 59), Avco, Lowell, Massachusetts.

4. The tank car external surface is prepared by sandblasting to remove all existing paint, primer, grease and loose material. Seven-tenths mil (dry) of primer (a 2:1 ratio by volume of 513–003 base component and 9110×350 activator component) is applied to the clean surface. Two hundred thirty-five mils (dry) of thermal shield coating (a nominal 5:1 ratio by volume of 821×359 base component and 9110×407 activator component) is next applied to the primed surface. Two mils (dry) of topcoat (a 2:1 ratio by volume of 821×317 base component and 9110×376 activator component) is applied to the thermal shield material. Manufacturer, De Sota, Inc., Des Plaines, Illinois.

5. One inch minimum thickness of Kaowool Blanket B (minimum density of 4.5 pounds per cubic foot) encased in an all-gauge steel jacket. Manufacturer (Kaowool Blanket B), Babcock & Wilcox, Augusta, Georgia.

6. Sixty-five one hundredths inch minimum thickness Fiberfrax tank car insulation (minimum density of 4.5 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer (Fiberfrax), Carborundum Company, Niagara Falls, New York.

7. One inch minimum thickness of HILBLOK 1212 (minimum density of 12.5 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer (HILBLOK 1212), Holmes Insulations Limited, Toronto, Ontario, Canada.

8. One and one-half inches minimum thickness of Tank Wrap Insulation (minimum density of 6 pounds per cubic foot) compressed to a 1 inch thickness and encased in a 11-gauge steel jacket. Manufacturer (Tank Wrap Insulation), Forty-Eight Insulations, Inc., Aurora, Illinois.

9. Six-tenths inch minimum thickness of Cerawool Blanket (minimum density of 4 pounds per cubic foot) and 0.4 inches minimum thickness of air encased in an 11-gauge steel jacket. Manufacturer (Cerawool Blanket), Johns-Mansville, Denver, Colorado.

10. Fifty-two one hundredths inch minimum thickness of Kaowool Blanket B (minimum density of 4.8 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer (Kaowool Blanket B), Babcock and Wilcox Refractories Division.

11. One inch minimum thickness of "Thermafiber Tank Car Fireproofing" (minimum density of 7 pounds per cubic foot) encased in an 11-gauge steel jacket. Manufacturer, United States Gypsum Company, Chicago, Illinois.

12. Two inches minimum thickness of fiberglass encased in an eleven gauge steel jacket with 0.004 inches minimum dry film thickness of "Thermo-Lag 351–3 Primer" applied to the steel jacket and 0.125 inches minimum dry film thickness of "Thermo-Lag 330–3 Subliming Coating" applied over the primer and 0.005 inches minimum thickness of "Thermo-Lag 350–3 Topcoat" applied over the coating. Manufacturer, TSI–Inc., St. Louis, Missouri.

13. Two inches minimum thickness of polyurethane encased in an eleven gauge steel jacket with 0.004 inches minimum dry film thickness of "Thermo-Lag 351–3 Primer "applied to steel jacket and 0.125 inches minimum dry film thickness of "Thermo-Lag 330–3 Subliming Coating" applied over the primer and 0.005 inches minimum thickness of "Thermo-Lag 350–3 Topcoat" applied over the coating. Manufacturer, TSI-Inc., St. Louis, Missouri.

14. Two inches minimum thickness of fiberglass encased in an eleven gauge steel jacket with 0.004 inches minimum dry film thickness of "Thermo-Lag 351–3 Primer" applied to the steel jacket and 0.135 inches minimum dry film thickness of "Thermo-Lag 330–3 Subliming Coating" applied over the primer and 0.005 inches minimum thickness of "Thermo-Lag 350–3 Topcoat" applied over the coating. Manufacturer, TSI-Inc., St. Louis, Missouri.

15. Two inches minimum thickness of polyurethane encased in an eleven guage steel jacket with 0.004 inches minimum dry film thickness of "Thermo-Lag 351–3 Primer" applied to the steel jacket and 0.135 inches minimum dry film thickness of "Thermo-Lag 330–30 Subliming Coating" applied over the primer and 0.005 inches minimum thickness of "Thermo-Lag 350–3 Topcoat" applied over the coating. Manufacturer, TSI-Inc., St. Louis, Missouri.

16. Two inches minimum thickness of fiberglass encased in an eleven guage steel jacket with 0.004 inches minimum dry film thickness of "Thermo-Lag 351–3 Primer" applied to the steel jacket, and 0.188 inches minimum dry film thickness of "Thermo-Lag 330–3 Subliming Coating" applied over the primer, and 0.005 inches minimum dry film thickness of "Thermo-Lag 350–3 Topcoat" applied over the coating. Manufacturer, TSI-Inc., St. Louis, Missouri.

17. Two inches minimum thickness of polyurethane encased in an eleven guage steel jacket with 0.004 inches minimum dry film thickness of "Thermo-Lag 351–3 Primer" applied to the steel jacket, and 0.188 inches minimum dry film thickness of "Thermo-Lag 330–3 Subliming Coating" applied over the primer, and 0.005 inches minimum dry film thickness of "Thermo-Lag 350–3 Topcoat" applied over the coating. Manufacturer, TSI-Inc., St. Louis, Missouri.

18. Two inches minimum thickness of polyurethane foam insulation encased in an 11 gauge steel jacket. The external jacket surface is blasted to the requirements of Steel Structures Painting Council Surface Preparation Specification Number six. A minimum dry film thickness of 0.002 inches of polyamide cured epoxy primer. (Military Standard MIL–P–52192B, Mobil 13–R–56, or equivalent) is applied to the clean surface. A minimum dry film thickness of 0.210 inches of Chartex 59 fireproofing is then applied to the cured primer surface. Manufacturer, AVCO, Inc., Lowell, Massachusetts.

19. Two inches minimum thickness of fiber glass insulation encased in an 11 gauge steel jacket. The external jacket surface is blasted to the requirements of Steel Structures Painting Council Surface Preparation Specification Number six. A minimum dry film thickness of 0.002 inches of polyamide cured epoxy primer. (Military Standard MIL–P–52192B. Mobil 13–R–56, or equivalent) is applied to the clean surface. A minimum dry film thickness of 0.180 inches of Chartex 59 fireproofing is then applied to the cured primer surface. Manufacturer, AVCO, Inc., Lowell, Massachusetts.

20. One inch minimum thickness of "Thermafiber Tank Car Fireproofing" (minimum density of 7 pounds per cubic foot) with a foil scrim polyethylene facing; and 4 inches minimum thickness, compressed to 3 inches, of fiberglass; encased in an 11 gauge steel jacket. The Thermafiber is to be placed adjacent to the tank car tank surface and the fiberglass is to be placed adjacent to the jacket surface. Manufacturer, United States Gypsum Company, Chicago, Illinois.

Authority: 49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A. to Part 1, paragraph (a)(4) of App. A to Part 106.

Issued in Washington D.C., on August 17, 1984.

Joseph T. Horning,

Acting Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 84–22396 Filed 8–22–84; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Customs Service

Importation of Tuna and Tuna Products From the Solomon Islands

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice is to advise that under the Fishery Conservation and Management Act of 1976 ("the Act"), the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs has certified to the Secretary of the Treasury that a U.S. fishing vessel, while fishing in waters beyond any foreign nation's territoral sea, to the extent that such sea is recognized by the U.S., was seized by the Solomon Islands as a consequence of a claim of jurisdiction which is not recognized by the U.S. Pursuant to section 205(b) of the Act, the Secretary of the Treasury has determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from the Solomon Islands is prohibited until the Department of State notifies the Secretary of the Treasury that the reasons for this prohibition no longer prevail.

EFFECTIVE DATE: This prohibition is effective as to tuna and tuna products from the Solomon Islands imported on or after August 23, 1984. Such importation shall not be entered for consumption or withdrawn from warehouse for consumption on or after that date.

FOR FURTHER INFORMATION CONTACT: Harrison C. Feese, Entry, Operations, and Trade Control Branch, Duty Assessment Division, Office of Trade Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202–566–8651).

SUPPLEMENTARY INFORMATION:

Background

Section 205(a)(4)(C) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), provides that the Secretary of State shall certify to the Secretary of the Treasury any determination that a fishing vessel of the U.S., while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the U.S., has been seized by a foreign nation as a consequence of a claim of jurisdiction not recognized by the U.S. The responsibility for this certification was delegated to the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs by Department of State Delegation of Authority No. 138 of April 29, 1977.

Pursuant to section 205(b) of the Act, upon receiving this certification, the Secretary of the Treasury is required to take such action as may be necessary and appropriate to prohibit the importation of all fish and fish products from the fishery involved.

Section 205(c) of the Act provides that if the Secretary of State finds that the reasons for the import prohibition under section 205 no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove the import prohibition.

On June 25, 1984, the JEANETTE DIANA, a fishing vessel of the U.S., was seized by authorities of the government of the Solomon Islands approximately 40 miles off the coast of the Solomon Islands for fishing for tuna without the authorization required by Solomon Island law. The Solomon Islands claims jurisdiction over tuna within 200 miles of its coast. The U.S. does not recognize this jurisdiction.

Pursuant to section 205(a) of the Act, on July 30, 1984, the Assistant Secretary of State certified the seizure of this vessel as meeting the requirements of section 205(a)(4)(C) of the Act.

Determination

Under the authority of section 205(b) and (c) of the Fishery Conservation and Management Act of 1976, the Secretary of the Treasury has determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from the Solomon Islands (the "country of origin") is prohibited until the Department of State notifies the Secretary of the Treasury that the reasons for this prohibition no longer prevail. Tuna and tuna products processed in the Solomon Islands to any extent, will be considered tuna or tuna products from the Solomon Islands. At this time, this prohibition does not extend to in-bound shipments to and through the U.S.

Drafting Information

The principal author of this document was Glen E. Vereb, Regulations Control Branch, Office of Regulations and Rulings, Customs Headquarters. However, personnel from other Customs offices participated in its development.

Dated: August 16, 1984.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 84–22413 Filed 8–22–84; 8:45 am]

BILLING CODE 4820–02–M

VETERANS ADMINISTRATION

Advisory Committee on Readjustment Problems of Vietnam Veterans; Meeting

The Veterans Administration gives notice under Pub. L. 92–463 that a meeting of the Advisory Committee on the Readjustment Problems of Vietnam Veterans will be held in Room 119, VA Central Office, 810 Vermont Avenue, NW, Washington, DC, on September 19, 1984. This meeting will begin at 9:00 a.m. and conclude at 4:30 p.m. The following day, September 20, 1984, a second meeting of this Committee will begin at 8:00 a.m. and adjourn 4:30 p.m. This meeting will be held at the American Legion Building located at 1608 K Street, NW, Washington, DC 20006. The meeting will be held on the 7th floor.

Both meetings will be open to the public to the seating capacity of the respective rooms. Anyone having questions concerning these meetings may contact Mr. Edward Lord, Assistant Director for Administration and Development, Readjustment Counseling Service, Veterans Administration Central Office, at phone number 202/389–5410.

Dated: August 17, 1984.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 84–22394 Filed 8–22–84; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 165
Thursday, August 23, 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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Federal Deposit Insurance Corporation	1
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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 12:50 p.m. on Sunday, August 19, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Girod Trust Company, San Juan, Puerto Rico, which was closed by the Puerto Rico Secretary of the Treasury on Thursday, August 16, 1984; (2) accept the bid for the transaction submitted by Citibank, N.A., New York (Manhattan), New York; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 20, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 84-22568 Filed 8-21-84; 3:57 pm]

BILLING CODE 6714-01-M

2

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 49, page 32836, Date of publication—August 16, 1984.

PLACE: Board Room, 6th Floor, 1700 G St., NW., Washington D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202-377-6677).

CHANGES IN THE MEETING: The meeting previously scheduled for Thursday, August 23, 1984, at 10:00 a.m., has been changed to Monday, August 27, 1984, at 9:00 a.m.

John F. Ghizzoni,

Assistant Secretary.

No. 94, August 21, 1984.

[FR Doc. 84-22571 Filed 8-21-84; 4:00 pm]

BILLING CODE 6720-01-M

3

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m.—August 29, 1984.

PLACE: Hearing Room One—1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Docket No. 84-2: Amendment of Certain Regulations Governing Common Carriers by Water in the Domestic Offshore Commerce of the United States—Consideration of the record.
2. Proposed Interim Rule and Request for Comments Concerning Open-Ended Authority in Agreements.

Portions Closed to the public:

1. Agreements Nos. 202-005600-050, 202-003103-075, 202-008190-015, and 202-000014-053: Modification of Various Conference Agreements Concerning Independent Action on Rates.
2. Agreement No. 207-010618: Stolt Tankers Limited Joint Service.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 84-22553 Filed 8-21-84; 2:25 pm]

BILLING CODE 6730-01-M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, August 22, 1984.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Part Open, Part Closed (Pursuant to 5 U.S.C. § 552(b)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. In open meeting, Secretary of Labor, MSHA, on behalf of Paul S. Sedgmer, Jr., *et al.* v. Consolidation Coal Company, Docket No. LAKE 82-105-D. (Petition for Discretionary Review.)
2. In closed meeting, Disciplinary Proceeding (Getz Coal Sales, Inc.), Docket No. D-84-1.

It was determined by a majority vote of Commissioners that a portion of the above mentioned meeting be closed.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653-5632.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 84-22529 Filed 8-21-84; 12:16 pm]

BILLING CODE 6735-01-M

federal register

Thursday
August 23, 1984

Part II

Department of Health and Human Services

Office of Human Development Services

FY 1985 Coordinated Discretionary Funds Program; Availability of Funds and Request for Preapplications; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Announcement No. HDS-85-1]

FY 1985 Coordinated Discretionary Funds Program; Availability of Funds and Request for Preapplications

AGENCY: Office of Human Development Services, HHS.

ACTION: Announcement of availability of funds and request for preapplications under the Office of Human Development Services' Coordinated Discretionary Funds Program.

SUMMARY: The Office of Human Development Services (HDS) announces the beginning of its Coordinated Discretionary Funds Program for Fiscal Year 1985.

Funding for grants and cooperative agreements is authorized by legislation governing the HDS discretionary program and programs of its constitutent administrations—the Administration for Children, Youth and Families (ACYF), the Administration on Developmental Disabilities (ADD), the Administration on Aging (AoA), the Administration for Native American (ANA), the Office of Program Development (OPD), the Office of Policy and Legislation (OPL), and the President's Committee on Mental Retardation (PCMR).

Please note that a separate program announcement will be published for *Indian child welfare programs*. This coordinated announcement on grant funds available from the Bureau of Indian Affairs (BIA) and HDS is to address child welfare, youth without homes and runaway projects. Preapplications may be submitted under either announcement.

This program announcement consists of four parts. Part I provides background information, discusses the purpose of the HDS discretionary program, lists funding authorities, and briefly describes the application process. Part II describes the programmatic priorities under which projects of the type described above will be funded. Part III describes in detail the application process. Part IV provides guidenace on how to prepare and submit a preapplication. The one form necessary to submit a preapplication is published as part of this announcement.

For Fiscal year 1985, preapplications must describe projects which involve one of the following activities:

1. *Demonstrations of National Relevance*—Projects to test and demonstrate new mechanisms or systems for planning, managing and delivering human services promptly, effectively and efficiently. Such mechanisms and systems must have the clear potential for reshaping a specific element of social service delivery or policy at the national, regional, or Tribal level. HDS will not consider under this priority area applications for projects which replicate previous demonstrations, which provide services already available in other parts of the country, or for demonstrations of merely local significance.

2. *Basic Knowledge and Data Development*—Projects which expand the boundaries of current knowledge in the field of human services for specific HDS target groups, or which analyze existing data to provide new insights into solving human problems. This includes basic research.

3. *Evaluation and Management Systems*—Projects of practical impact to improve the planning and management of human services agencies or to determine whether human services programs are being operated efficiently and effectively by nonprofit service providers, community organizations, State, local, or Tribal human services agencies.

4. *Knowledge Transfer*—Projects which implement the use of new knowledge and techniques in the human services by agencies or organizations. Such projects may involve training to facilitate the transfer of innovative techniques from one area of the country to another or one tribe to another. Projects proposed under this priority area *must* propose the effective implementation in the applicant's area of techniques of methods that have been demonstrated somewhere else. It is the intent of HDS in this prioity area to provide seed funds to human service organizations that wish to implement a recently tested service delivery or management technology.

5. *Gerontological Training*—Projects to increase the quality and quantity of gernotological education.

6. *Child Welfare Services Training*—Projects to expand and improve education and training for the delivery and management of child welfare services programs.

7. *Small Business Innovation Research (SBIR)*—The purpose of this priority area is to invite applications from small businesses for projects which involve the administration of human services programs.

DATE. The closing date for receipt of preapplications is October 17, 1984.

FOR FURTHER INFORMATION CONTACT: HDS/Division of Research and Demonstration, 200 Independence Avenue, SW., Washington, D.C. 20201, telephone: (800) 372-3344.

Part I: Background Information

A. Scope of This Announcement

By this announcement, the Office of Human Development Services solicits preapplicationa for research, demonstration, training (including child welfare and gerontology) and evaluation projects to be funded in the third and fourth quarters of FY 1985 and the first and second quarters of FY 1986. To receive consideration for funding, all preapplications must describe projects that contribute to meeting the priorities of HDS programs for the elderly; Native Americans; the developmentally disabled; and children, youth and families, as described in this announcement. Except for the specified areas for which applications may also be submitted to the forthcoming coordinated BIA/HDS announcement on Indian child welfare, this is the only HDS announcement to be issued for these priority areas. HDS may publish additional program specific announcements in FY 1985 that incorporate individual program priorities. A subsequent announcement may be published amending priorities in Priority Areas 1.4, 2.5, and 2.10 (Child Abuse and Neglect) if changes are required as a result of additional comments received during the comment period stated in the **Federal Register** on July 20, 1984 (49 FR 29463).

B. Discretionary Program Purpose

The HDS Coordinated Discretionary Fund Program is based on the principle that the well-being of the public is the responsibility of individuals, families and the communities in which they live. Social service needs are best defined and addressed through institutions and organizations at the level closest to the problem—State, Tribal and local governments, public agencies, businesses, private voluntary organizations, and families. The role of the Federal government in addressing social problems is:

- To adopt and implement national policies or programs aimed at promoting economic growth and prosperity, thereby strengthening the capacity of individuals to achieve or maintain self-sufficiency and the capacity of the family to care for all its members;
- To address those social service needs that require inter-State or national attention for effective resolution;
- To provide national leadership in:

(a) The development of effective methods of addressing social service needs; and,

(b) The development of State, Tribal and local capacity to appropriately address social needs;

• To foster the efficient and effective use of available resources through improved social service management; and

• To target Federal budgetary support for services to that portion of the population in the greatest need of assistance and protection.

The purpose of the Coordinated Discretionary Funds Program is to provide funding for projects that implement this principle.

HDS is primarily interested in providing short-term funds for projects of immediate impact or which can become self sustaining in a short period of time. The HDS Coordinated Discretionary Funds Program is not intended to provide funds for ongoing social services or to serve as a supplemental source of funds for local activities which need operating subsidies.

Therefore, consideration will be given to preapplications that describe projects of finite duration which measurably improve the social, economic or physical well-being of HDS populations, or enhance the resources or techniques available to service providers. HDS will support projects which extend the current boundaries of knowledge but which are easily replicable in other parts of the country. Every preapplication must include a dissemination plan to provide for the effective transfer of findings to appropriate audiences on a national scale.

C. Statutory Authorities

The individual statutory authorities under which grants and cooperative agreements will be awarded through the HDS Coordinated Discretionary Funds Program are as follows:

• Head Start: Head Start Act, Subchapter B of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35 (42 U.S.C. 2921 et seq.);

• Child Welfare Services: Adoption Assistance and Child Welfare Act of 1980, Pub. L. 96–272 (42 U.S.C. 626): Section 426 of the Social Security Act, as amended, including the Child Welfare Services Training Grants Program;

• Runaway Youth Program: Runaway and Homeless Youth Act, as amended, Pub. L. 96–509 (42 U.S.C. 5701);

• Child Abuse: Child Abuse Prevention and Treatment Act, as amended, Pub. L. 93–247, as amended (42 U.S.C. 5101 et seq.);

• Adoption Opportunities: Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, as amended, Pub. L. 95–266 (42 U.S.C. 5111);

• Native Americans: Native American Programs Act of 1974, as amended, Pub. L. 93–644 (42 U.S.C. 2991 et seq.);

• Small Business Innovation Development Act of 1982, Pub. L. 97–219, amended Section 9 of the Small Business Act, 15 U.S.C. 638;

• Development Disabilities Special Projects: Section 145 of the Developmental Disabilities Assistance and Bill of Rights Act, as amended, Pub. L. 95–602 (42 U.S.C. 6000 et seq.);

• Social Services Research and Demonstrations: Section 1110 of the Social Security Act, as amended; and

• Training, Research and Discretionary Projects and Programs: Title IV of the Older Americans Act, as amended, Pub. L. 89–73 (42 U.S.C. 3031–3036).

D. FY 1985 Process

As in previous years, the FY 1985 Coordinated Discretionary Funds Program will be administered through a two-stage preapplication and full proposal process.

HDS has chosen to accept preapplications, rather than require full applications at the beginning of the process, because this allows a wider range of organizations to apply. Full applications must meet more stringent requirements, and therefore represent a significant investment of resources on the part of the applicant organization.

A preapplication, on the other hand, consists of a ten-page, double-spaced narrative describing the project the applicant proposes to conduct. This permits applicants with relatively few resources to compete for HDS funds with much larger organizations. Through this approach, HDS has provided funds for innovative projects which otherwise might not have been able to compete successfully.

Detailed screening requirements for preapplications are listed and explained below in Part III, Section F.1. Only preapplications that meet *ALL* screening requirements will be given further consideration. *Organizations which submit nonconforming preapplications will not be afforded the opportunity to correct deficiencies or to resubmit.*

Upon receipt for preapplications by HDS, the preapplications will be screened to assure that all requirements have been met. Preapplications which pass this screening will be reviewed jointly by Federal staff and non-Federal experts against the criteria established for review of preapplications, listed in Part III, Section G.2. Based on the results of this review and on other factors, HDS Executive Staff will choose approximately 500 preapplications to begin stage 2 of the Coordinated Discretionary process.

These 500 preapplicants will be invited to submit full applications for a further review and possible funding. These full applications will be reviewed against the more stringent criteria listed in Part III, Section G.3. HDS anticipates that, subject to the availability of funds, approximately 150 to 200 grants and cooperative agreements will be made in the third and fourth quarters of FY 1985 and the first and second quarters of FY 1986.

Part II: Program Priorities

In setting the priorities contained in this announcement, HDS made provisions for State, local and community participation. National organizations, States, local agencies and experts in the field proposed research, demonstration, and evaluation issues which should be addressed by the HDS Coordinated Discretionary Funds Program. As a result of those recommendations, as well as a review of recent discretionary program activities and consideration of HDS goals, HDS has established the following priority areas for funding in FY 1985 and the first two quarters of FY 1986

Priority Area 1: Demonstrations of National Relevance

1.01 Community Based Care and Services
- 1.01.A Consumer Directed Preventive Services
- 1.01.B Commuity Based Living Arrangements for the Developmentally Disabled
- 1.01.C Transition from School Life to Community Living for the Developmentally Disabled
- 1.01.D Support for Families Providing Care to the Developmentally Disabled at Home

1.02 Employee Support
- 1.02.A Employee Assistance Programs
- 1.02.B Support for Dependent Care and Caregivers

1.03 Permanency Planning
- 1.03.A Interagency Recruitment of Specialized Foster Family Homes
- 1.03.B Service Systems Response to the Needs of Emancipated or Near Emancipated Youth
- 1.03.C Parent Aide and Respite Care Programs

1.04 Child Abuse and Neglect
- 1.04.A Coordination and Handling of Reported Cases of Child Sexual Abuse by Child Protective Services, Law Enforcement Agencies and the Justice System
- 1.04.B Physical and Sexual Abuse Diagnosis and Treatment for Runaway Youth and Youth without Homes

1.04.C Recruitment of Volunteers to Serve as Court Appointed Special Advocates to Work within the Court System
1.04.D Use of Clinicians for Child Abuse and Neglect Treatment
1.05 Runaway Youth
1.05.A Programs for Chronic Runaway Youth
1.05.B Runaway and Homeless Youth Shelters and Crisis Hotline Linkages to Programs of Missing Children
1.05.C Community Alternative for Youth without Homes
1.06 Recruiting Private Sector Volunteers
1.07 Indian Families
1.07.A Intergenerational Pilot Programs for Indian Elders/Indian Children
1.07.B Adapting Approaches for Resolving Chemical Dependency Problems in Native American Environments
1.08 Head Start
1.08.A Handicapped Children
1.08.B Private and Voluntary Health Sector Network
1.08.C Mental Health Services
1.09 Strengthening the Family by Promoting Continued Parental Responsibility after Divorce
1.10 Alzheimer's Disease Support Network

Priority Area 2: Basic Knowledge and Data Development

2.01 Special Populations
1.01.A Information on Minority Elderly
2.01.B Strengthening Tribal Governments to Foster Self-government and Economic Development
2.02 Future Housing Needs of the Elderly
2.03 Implementation of the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96-272)
2.04 Analysis of Factors Contributing to the Failure of Family Based Child Welfare Services
2.05 Suicide Prevention in Runaway Youth Centers

Priority Area 3: Evaluation and Management Systems

3.01 Evaluation as a Management Tool
3.02 Management Systems
3.03 Employment: Job Match and Job Placement Systems

Priority Area 4: Knowledge Transfer

4.01 Implementation of Voucher Systems
4.02 Social and Economic Development
4.03 Primary Caregiving
4.04 Legal Services for the Elderly
4.04.A Elderly Abuse
4.04.B Capacity Building in Legal Services for the Elderly
4.05 Special Aging Populations
4.05.A Resource Materials for Indian Tribes
4.05.B Needs of Minority Elderly
4.06 Housing for the Elderly
4.06.A Collaborative Community Planning and Housing for the Elderly
4.06.B Outreach and Supportive Services for the Elderly
4.06.C Housing Options for the Elderly
4.07 Management Improvements
4.07.A State Licensing Programs for Child Welfare
4.07.B Preplacement Preventive Services
4.08 Employment
4.08.A Youth Employment
4.08.B Employment and the Elderly
4.09 Special Needs Adoption
4.09.A Training for Community Services in Special Needs Adoption
4.09.B Grants to States to Increase the Number of Adoptive Placements of Special Needs Children
5.09.C Increasing Special Needs Adoption through the Media
4.10 Strengthening Families
4.11 Child Abuse and Neglect
4.11.A Education of School-Aged Children To Prevent Child Sexual Abuse
4.11.B Public Awareness Materials on Child Sexual Abuse for Parents and Service Providers
4.11.C Training to Enhance Multidisciplinary Support in Services for Abused and Neglected Children
4.12 Minority Volunteer Network for Child Welfare Services
4.13 Technologies in Nutrition

Priority Area 5: Gerontological Training

5.01 Career Preparation for Employment in Aging
5.02 Continuing Education and Training in Aging
5.03 Allied Professions in Aging
5.03.A Allied Professions Gerontology Fellows Program
5.03.B Continuing Education for Allied Professions
5.04 Minority Training and Development in Gerontology
5.04.A Faculty Development and Exchange Program in Gerontology
5.04.B Multidisciplinary Development in Gerontological Training

Priority Area 6: Child Welfare Services Training

6.01 Child Welfare Practitioner Training
6.02 Leadership Training for Child Welfare Executives
6.03 State Training Assistance
6.04 Child Welfare Traineeship Projects
6.05 Indian Child Welfare Training Projects
6.05.A Indian Practitioner Training for Child Welfare
6.05.B Indian Leadership Training for Child Welfare Executives
6.05.C Indian Tribal-State Training Assistance Projects
6.05.D Indian Child Welfare Traineeship Projects

Priority Area 7: Small Business Innovation Research (SBIR)

A description of HDS's specific interests under each of these priority areas is contained below.

Priority Area 1: Demonstrations of National Relevance

Demonstration projects with national relevance enhance the scope and quality of services provided by human service agencies by testing and demonstrating new mechanisms or systems for planning, providing and delivering services promptly, effectively and efficiently. The demonstrations must be based upon prior research or significant experience related directly to the needs of the Nation at large, although perhaps tested at community-wide, Tribal-wide or State-wide sites.

A demonstration project should develop an example of a practice or procedure upon which continuing activities or programs can be built. A project must show a new solution to a problem that other organizations or agencies can adapt to their own use. HDS will not consider as a demonstration a project which simply replicates an ongoing activity.

1.01 Community Based Care and Services

The development and promotion of community living alternatives has been a major policy issue for HHS during the last decade. While community based care is preferable to institutionalized care—and should be facilitated for all affected populations—there has been a marked increase in the use of nursing homes, ICFs–MR and other residential services. HDS program offices have developed many approaches to community services which are now in operation across the country. However, recent studies show that institutional care is often used unnecessarily, reducing individual independence and often leading to guardianship.

Community services, if used constructively in conjunction with a person's own resources, and with sufficient forethought in planning for future needs, can assure the aging, disabled, or handicapped individual a range of protective, health and social services that will prevent premature institutional placement or inappropriate guardianship. However, services have historically been concentrated on those living in the community and on the severely dependent in institutions or living under legal guardianship. At present, there are few middle options when totally independent living is no longer possible and the prospect of institutionalization and/or adjudication of legal rights approaches. Because the present transition between relative independence and institutionalization is too often abrupt and traumatic, a middle range of consumer-directed services that can prolong relative independence in the community, postpone institutionalization and prevent guardianship needs to be developed.

1.01.A Consumer-Directed Preventive Services. HDS seeks to reduce inappropriate care by encouraging consumers or their representative groups to develop life service plans that assure consumer choice in future arrangements for

delivery and financing of social and protective services. *The focus of consumer-directed service plans should be preventive by encouraging the elderly or families with developmentally disabled dependents to specify future protective care needs well in advance of life changes.* These models would assure that institutional care or adjudicated guardianship is used only as a last resort and that effective use is made of both public and the individual's resources to ensure the availability of community services when needed. The results of this priority should be models of consumer-directed life service plans.

Projects which develop ways to coordinate consumer life planning for social services with private financing mechanisms (such as asset or home equity conversion) are encouraged. These models should operate within existing structures rather than within structures created solely for this purpose. HDS recognizes that service organizations usually avoid the handling of a client's financial activities. However, this reluctance must be balanced against a concern for the prevention of adjudication. Organizations with a strong community base, such as church affiliates, fraternal groups, foundations or other nonprofit service agencies are encouraged to apply.

Proposed demonstrations of consumer-directed services should:

1. Identify alternative methods for developing and promoting consumer-directed service plans. Materials and information need to be developed to motivate individuals and organizations to participate in consumer-directed service plans, and to support planning for future service needs and for the financing of those services through several resources, including the individual's assets;

2. Identify the characteristics of organizations capable of promoting and implementing service plans;

3. Describe consumer attitudes concerning life-term services and financial planning;

4. Identify alternative personal financial arrangements available to support a consumer services plan including pre-paid membership, long-term care insurance, home equity conversion, or monthly service fees;

5. Explore the role of organizations responsible for implementing the plan when the client becomes incapable of directing the plan alone; and

6. Describe how relationships with existing community services organizations and parent groups can help to secure services under the plan.

HDS will also support models which demonstrate *self-supporting alternatives to public protective services and guardianship.* Entrepreneurial projects which involve private corporations are strongly encouraged, in particular those with the potential for commercial applications similar to insurance.

1.01.B Community Based Living Arrangements for the Developmentally Diabled. The movement of developmentally disabled individuals from institutions to living in the community has led to a variety of concerns, one of which is the increased demand for a variety of community based living arragnements.

Current trends in deinstitutionalization and preferences of the developmentally disabled and their families have increased demand for a variety of *community based living arrangements.* Experience indicates that a number of factors, such as staff attitudes, policies, characteristics of the residents, and matching of clients with facilities, affect resident asjustment, level of activity, and integration into the community.

HDS will support projects which provide documentation of and more information about *effective approaches to the management and operation of the range of community based living arrangements for the developmentally disabled* such as family care, group homes, intermediate care facilities and natural family settings. Research on the management of community residential facilities has shown problems involving staffing patterns, live-in and shift-staff, funding, resident training and adaptation, cost, type and quality of services, etc. States and localities, public and private agencies, and organizations concerned with the developmentally disabled need reliable evidence about the problems and about creative approaches to establishing and operating successful alternative living arrangements.

1.01.C Transition from School Life to Community Living for the Developmentally Disabled. Approximately 1,120,000 developmentally disabled children and young adults are enrolled in special education programs in the public schools where special education services are made available to them by law. In the next few years, about 90,000 of these developmentally disabled students will be leaving school annually and seeking adult services. In many States and local communities these developmentally disabled persons will confront limited services and a complex, diffuse and uncoordinated service delivery system.

According to the HHS Inspector General's 1984 report on the transition of developmentally disabled young adults from school to adult services, most States have only recently recognized the issue. Some program models are available that describe specific *methods to improve the link between high school and adult services.* However, there is a need to replicate and disseminate information about those programs that have proved promising and to develop alternative approaches to the problems that undermine a successful transition from school to adult live. HDS will support demonstrations which promote a successful transition, as well as dissemination of information about established effective programs.

1.01.D Support for Families Providing Care to the Developmentally Disabled at Home. The natural family is the primary care provider for developmentally disabled individuals in the community. In spite of the value and cost effectiveness of the natural support system of the family, Federal and State policies and practices continue to discriminate in services and funding available to families to support their developmentally disabled members at home. For example, funding policies discriminate against natural families by making services available in greater measure to those who are either institutionalized or who are living in supervised residential settings subsidized by public monies. This policy may cause some families to prematurely or inappropriately institutionalize their developmentally disabled family member.

HDS will support demonstrations of *ways in which policies can be formulated and/or services made available to strengthen the capacity of families to care for their developmentally disabled relative at home* and thereby encourage integration into the community. This can include projects that demonstrate the use of both cash and in-kind family support services which typically include information and referral, diagnosis and evaluation, respite care (including voluntary respite care in the home), parent training, recreation and transportation. The expected result in a series of models by which States may implement systems to support home care.

1.02 Employee Support

1.02.A Employee Assistance Programs. When developmentally disabled persons are working, they face many difficult adjustment problems

related to basic coping as well as employment skills. Inadequate resolution of such problems can often mean the end of the employment for the individual. This outcome negates all of the efforts at training and placement that preceded employment.

Employee Assistance Programs (EAP) have proven very effective in helping employees with substance abuse and other psychological difficulties. Often, participating in an EAP is made a condition of employment for the troubled employee and is thus a significant motivator. HDS will support demonstrations which utilize, in an employment setting, trained EAP-type staff who provide guidance and other assistance to developmentally disabled employees to *promote favorable job adjustment, retention, change, and mobility.*

1.02.B Support for Dependent Care and Caregivers. The Federal tax code provides a number of benefits to companies that contribute to dependent care programs for their employees. In practice, most corporations that offer this benefit to their employees have focused their programs on child care. There is a need to explore how the provisions of the tax code can be used to extend corporate programs of employee benefits for dependent care to the care of other dependents such as eldely parents or adult handicapped children. HDS will support applications that apply these tax code provisions to a system of flexible benefits for employees that covers dependent care not only for children, but also for the aged and the handicapped.

Expected results of projects include the development of models for both large corporations and small businesses to initiate and maintain systems to support dependent care as a fringe benefit. Tax code provisions to be explored include accelerated cost recovery and investment tax credits for capital expenses; amortization of "start-up" and "investigator" expenses; targeted jobs tax credits; and tax deductions for charitable expenses and business expenses.

HDS is particularly interested in projects which *demonstrate the viability of providing dependent care for children, the aged and the handicapped as a fringe benefit.* Applications should propose cost-benefit analyses which compare the expenses of such programs to the benefits they provide in terms of increased worker productivity and reduced absenteeism. Project funds are not intended to replace existing programs or fringe benefits. Significant employer cooperation and contributions will be expected.

HDS will also support *demonstrations by employers to test and evaluate the use of innovative approaches,* such as flexible leave and work schedules, shared work, home-based work, extended leave for caregivers, or flexible benefit plans, for caregivers. Projects should assist caregivers who, because of responsibilities within the home, can not work full time or traditional schedules. The expected results are new approaches for employers to enable primary caregivers to discharge their caregiving responsibilities and still be able to sustain their financial independence by gaining or maintaining employment. It is expected that the preapplication demonstrate significant management and financial support from the private sector.

1.03 Permanency Planning *

The Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96–272) places primary emphasis on reduction of unnecessary use of foster care, reunification of children in foster care with their own families (in those cases where it is possible) and provisions for adoption of children who cannot be returned to their own families. A continuing need exists to provide permanency for children who are separated from their families, to increase the adoption of special needs children (particularly minority and handicapped children), and to reduce the length of time children are in temporary out-of-home placements.

1.03.A Interagency Recruitment of Specialized Foster Family Homes. The purpose of this priority is to demonstrate the efficacy of joint activities by child welfare and developmental disabilities (DD) or mental retardation (MR) agencies in the recruitment of specialized foster parents for special needs and developmentally disabled children. There is a need to *develop coordinated approaches between child welfare and DD/MR agencies* to maximize available resources at the State and local levels.

The characteristics of children in need of foster family care have changed. The current service population is composed of older children, sibling groups, children with handicapping conditions and ethnic minorities. Because the placement resources for these children are limited, most State child welfare agencies find it difficult to launch and maintain ongoing foster parent recruitment programs specifically to serve special needs children.

The results should be model recruitment approaches; materials designed to meet the needs of a broader service population; and, model cooperative agreements between departments of social services and mental health agencies at State and local levels.

1.03.B Service Systems Response to the Needs of Emancipated or Near Emancipated Youth. Youth without homes, both those who have been formally emancipated and those who have not, have a number of needs that might go unmet because their age sometimes makes it difficult to qualify for services through various service systems. For example, many youth without homes are unemployed but do not qualify for unemployment because they are too young. Child welfare agencies will often not respond to youth without homes in their late teens because they are too old. There is a need to *design model systems to reach these youth* with counseling about early emancipation papers, available job programs, how to finish high school, how to get assistance in finding housing, transitional living arragements, appropriate interim placement and guadianship and independent living. HDS will support demonstration projects which address these issues.

1.03.C Parent Aide and Respite Care Programs. HDS intends to support *efforts to increase the use of volunteers and paraprofessionals as supplemental support for families who are child protective clients* and thus help prevent unnecessary placement of children in foster care. The parent aide and respite care programs can also serve to reduce worker burnout and staff turnover in child protective service agencies; to increase the capacity of child protective service workers by allowing them to apply their skills to treatment and case management; and to increase community awareness and involvement with child protective services.

1.04 Child Abuse and Neglect *

Child abuse and neglect continues to be a serious national problem. It is projected that over 1.5 million children will be subjects of reports of abuse and neglect in 1985. Awareness of child maltreatment has vastly increased the number of reports and has turned the attention of human service planners to the necessity for improved prevention, protection and treatment. HDS will support a wide range of research, demonstration and service

* Also see the forthcoming BIA/HDS coordinated Indian Child Welfare announcement.

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improvements in this area. Emphasis will be placed on assisting public and private agencies to incorporate service improvements for preventing and treating child abuse and neglect and for assuring protections for children who have been endangered either in their own homes or in out-of-home placements. HDS will support projects which address specific issues in the areas of prevention, protection and treatment.

1.04.A Coordination and Handling of Reported Cases of Child Sexual Abuse by Child Protective Services, Law Enforcement Agencies and the Justice System. Reports of child sexual abuse are made to child protective service agencies, law enforcement agencies, prosecutors and courts. Responsibility for acting on these reports varies among communities and among the agencies involved. Criteria for decisions, including disposition of cases, varies extensively.

As a result there is an imperative need to coordinate the involvement of the various agencies, clarify roles and responsibilities and develop guidelines for decisions.

The purpose of this activity is to *develop ways to coordinate child protective services, law enforcement agencies and the justice system,* and apply knowledge gained from previous demonstration projects in managing and treating child sexual abuse cases. Products of the projects, such as guidelines for interagency agreements, agency roles, and decision making, must be useful to the field of practice.

1.04.B Physical and Sexual Abuse Diagnosis and Treatment for Runaway Youth and Youth Without Homes. The purpose of this priority is to *improve the capability of runaway and homeless youth shelters to identify* and treat or appropriately refer for treatment *adolescents who have been physically or sexually abused.* Runaway youth shelter data reflect an increase in the number of adolescents who run away to escape maltreatment. Runaway shelter staff need to develop counseling/diagnostic skills so that they may adequately identify maltreatment and assume appropriate responsibility for crisis intervention and for referrals to child protective services, law enforcement, mental health and medical services.

HDS will support program development in shelters to achieve this. In collaboration with these efforts, *HDS will support related research* which will collect, analyze and document data from those developmental projects and thus achieve a secondary objective of increasing understanding of the types of adolescent maltreatment identified by runaway shelters. The research effort will also profile victims and their families and identify the crisis intervention and referral services which appear to best address their needs.

The information developed will be used to educate youth service providers and shelter staff on identification and effective treatment of maltreated runaway and youth without homes. The new information may also offer better insights into reasons for teen prostitution and lead to the planning and implementation of more effective intervention efforts.

1.04.C Recruitment of Volunteers to Serve as Court Appointed Special Advocates to Work within the Court System. HDS will support projects through *seed grants in new locations to assist local, voluntary community organizations or coalitions of organizations to recruit, train and use volunteers as Court Appointed Special Advocates (CASAs) or Guardians ad litem to determine and recommend to juvenile court judges which course of action is in the best interest of the child, based on the volunteer's independent investigation.* A CASA volunteer insures that every child has a permanent placement plan at the time of the judicial disposition and monitors the plan to make sure that it is adhered to. CASAs serve as independent advocates for abused, neglected or dependent children, as well as children who are in legal custody of a public agency and who have been placed in foster care.

Preapplicants must show that the court desires to support the project and must also demonstrate the capacity to develop and implement appropriate training and to coordinate the program under the auspices of the court. Preapplicants must show that efforts will be made to enlist volunteers who represent the racial or ethnic characteristics of the child population being served. Preapplicants must also show their willingness to work in partnership with the National CASA Association and the state task forces on permanency for children set up by the National Council of Juvenile and Family Court Judges with funding from the Office of Juvenile Justice and Delinquency Prevention. These grants will not exceed $20,000.

1.04.D Use of Clinicians for Child Abuse and Neglect Treatment. The purpose of this priority is to demonstrate the use of performance-based contracting to procure clinical services for the victims of child abuse and neglect.

Currently, standard purchase of Service (POS) contracts with nonprofit organizations are the predominant method of procuring clinical services. Earlier research studies have identified several problems related to POS contracting, such as the lack of public agency control, inadequate monitoring of the contract agency, overly-broad discretion for the contract agency to select the type of client they will serve, and conflict of goals between the public agency and the contract agency.

HDS will support demonstrations to increase productivity and efficiency in use of POS resources by use of *performance contracting* with individual private practitioners rather than with other public or nonprofit agencies. The individual practitioner would be assigned specific cases, various forms of incentives could be designed for effective outcomes and greater quality control could be maintained.

Models must address preplacement prevention, reunification or related therapy as part of a larger treatment plan within a public child protective agency. Incentive provisions and quality control methods could include innovative fee plus incentive features, special monitoring and progress review activities for quality control, analysis of expected outcomes relative to costs and duration, etc. Evaluation of project effectiveness would include comparing clients not served by private clinicians against costs and outcomes with fully loaded costs of public provision of services or alternative POS arrangements against outcomes. The *results should be able to provide local agencies with alternative approaches they could use for types of cases for which private clinicians are the preferred approach,* the quality control and management approaches most effective and the type of fiscal incentive methods that seem most able to assure desired outcomes at the preferred level of quality.

1.05 Runaway Youth*

Serious difficulties are often encountered by adolescents and their families which lead to runaway behavior and family instability. Data on runaway youth and youth without homes indicate that younger runaways evidence problems focused primarily on child-parent conflict, while older youth (aged 16 to 18) present a range of more severe problems, such as substance abuse, juvenile delinquency, lack of health care, unemployment, prostitution, and lack of independent living skills. Community organizations and governmental agencies—including runaway shelters—which attempt to help these youth are often constrained

by existing structures and procedures into a fragmented approach which limits their effectiveness and the scope of problems they can manage.

To address these problems, HDS will fund projects intended to coordinate services for dealing with chronic runaway behavior, create linkages between homeless youth shelters and missing children programs, and create new alternatives for dealing with youths without homes. The intent of this priority area is not to fund basic shelter programs. It is to fund projects—proposed by organizations providing shelters or other youth services—that demonstrate decisive community support for the effective linkage or integration of the various programs dealing with runaway, homeless or missing children at the local level. This includes the coordination of efforts among geographically separate localities.

1.05.A Programs for Chronic Runaway Youth. The purpose of this priority area is to *develop and test coordinated programs, involving runaway youth shelters, juvenile courts and social service agencies,* for *dealing with chronic runaway behavior* in youth in foster care, institutional placements or their own homes. Youth who repeatedly run away pose special problems for these agencies. More information is needed about the cause of this behavior so that shelters, courts and agencies can collaborate in developing effective responses. In the process of planning for and testing new program approaches, internal project evaluations should provide new knowledge about these youth, their needs, and their environments. Where possible, applicants should work with such existing networks as runaway and homeless youth centers and national, State and local hotlines. Applications with private sector involvement will receive priority consideration.

1.05.B Runaway and Homeless Youth Shelters and Crisis Hotline Linkages to Programs of Missing Children. The problem of missing children is related to that of runaway youth. With the establishment of the Department of Justice's Missing Children's Center in the Office of Juvenile Justice and Delinquency Prevention and its national hotline, a new information, investigation and referral system is being established at both the national and community level. HDS will fund demonstration projects that provide new and *innovative approaches to planning and implementing community based linkages and cooperative effort between youth service providers, local law enforcement, and juvenile court systems in response to the issue of missing children in their community.* Where possible, applicants should work with such existing networks as runaway and homeless youth centers and national, State and local hotlines. Private sector involvement will receive priority consideration.

1.05.C Community Alternatives for Youth Without Homes. An ever increasing number of youth have left home, been forced out by their families or run away. Some show up at runaway houses, in the child welfare system or the juvenile justice system, but many do not. These youth without homes are likely to need food, shelter, guidance and protection, which some receive through the efforts of police, churches, or other community based organizations. However, those who do not receive help may fall victim to persons and groups who exploit them.

Local agencies often lack the authority to enforce protective custody. Securing adequate resources to return troubled youth to their families is difficult, even when appropriate. Proper care of the youth requires assurances that the family is willing and capable of providing care or that the community has suitable alternatives to family care when needed.

HDS will support projects that demonstrate the use of volunteers to work with local youth shelters, child welfare agencies, and the police to facilitate family reunification or other appropriate living arrangements for youth without homes. Coordinating mechanisms, joint planning and communications networking should be demonstrated to assist *existing* community organizations to develop volunteers in serving as youth mentors, family counselors and to exchange information needed by family reunification of alternative care when needed. A major component of these demonstrations should be the development of a national communications network to coordinate *existing* voluntary agency capability with the public and private organizations that work with youth without homes. Projects should demonstrate the efficacy of volunteers in assuring protection for youth without homes during periods of transition to permanent care arrangements.

The network should provide for dealing with both interstate and intrastate problems of these youth. This volunteer youth network would work in cooperation with youth-related voluntary activities, including the newly established *volunteer network of court appointed special advocates* (CASA) for troubled youth under court supervision. Projects will demonstate and develop self-sufficient models for replication.

The San Diego State University Foundation is providing funds for this demonstration. Other foundations are invited to participate.

1.06 Recruiting Private-Sector Volunteers

Social services agencies often turn to corporations for resources to address a variety of service related needs. Proposals are solicited which *demonstrate models that can be used by social service agencies to maximize the impact of corporate contributions.* Models should include new approaches to public/private collaboration using volunteers to improve the delivery of social services. It has been demonstrated that planned and systematic use of business expertise can be more effective than a financial contribution only. Increasingly, corporate contributions are in the form of human resources such as loaned personnel, paid released time for employees, corporate retiree volunteer programs, group projects and community involvement teams. Finally, as corporations begin to refine their contribution policies and objectives, social service agency practices should include initiatives which inform and educate the corporate sector about the needs of HDS populations.

1.07 Indian Families

1.07.A Intergenerational Pilot Programs for Indian Elders/Indian Children. Proposals are solicited which *demonstrate the advantages of utilizing an intergenerational approach in programs and activities which,* in turn, *promote good health and cultural enrichment for Indian Elders and Indian children.*

The elders in American Indian societies have traditionally held a respected place in the extended family and the entire community, responsible for decision-making and the transmission of history, language and cultural values.

Today, in spite of the socio-economic changes, acculturation of the young and changing lifestyles which have resulted in the physical and psychological isolation of the elders within their own communities, elders continue to play an important role in the Indian community as conveyers of knowledge, wisdom and cultural values. This continuing role is evident by the participation of elders in current programs and activities, such as:

serving as foster grandparents, volunteers, and classroom aides; and visiting schools and Head Start centers to provide cultural enrichment.

In addtion to those HDS programs where these activities are already occurring, HDS encourages the development and demonstration of intergenerational programs of national significance, such as demonstrating the potential and effectiveness of having elders work with younger tribal members on the prevention of health problems such as alcohol abuse, including fetal alcohol syndrome and adolescent suicide.

1.07.B Adapting Approaches for Resolving Chemical Dependency Problems in Native American Environments. Families within Native American communities have a widespread problem of chemical dependency. Whether alcohol related, or other drug abuse, these social problems have the effect of disruption and dislocation of Native Americans' family life.

HDS will support projects to *demonstrate that, utilizing known anti-drug dependency techniques through coordinated services to Native American families, substantial improvements may be achieved for the individuals within the family setting.* Areas to be addressed include parenting, child abuse and neglect, renaways, school drop-outs, and battered family members. Consequent problems of shelter, placement, training and employment may be included. Applicants must describe both the techniques to be adapted and the basis upon which problems identified are specified.

1.08 Head Start

An expanded challenge for Head Start is developing a working relationship with other human services agencies as facilitator, catalyst and mobilizer of resources within the communities which Head Start now serves. Under this priority area, HDS will focus on using the Head Start experience to enrich and strengthen families with handicapped preschool children who have not had the benefits of Head Start enrollment and the enhancement of health and mental health services under Head Start.

1.08.A Handicapped Children. Head Start programs are required to reserve ten percent of their enrollment capacity to serve handicapped preschool children. Although national statistics demonstrate that a slightly larger percentage of current enrollment is defined as handicapped, HDS is concerned that assistance be given to the families of developmentally disabled children to identify programs which will serve their families, and that Head Start services be made available to handicapped children who can use them as part of the Head Start recruitment and enrollment of children with developmental disabilities (DD). HDA intends to support demonstrations of Head Start *linkage and coordination with programs for families with handicapped infants and preschool children,* with the objective of extending Head Start services to more handicapped children and developing joint planning and coordinated program resources for better meeting their needs. Proposed projects should conclusively demonstrate community support for the proposed linkages or integration.

1.08.B Private and Voluntary Health Sector Networks. Head Start health services advocacy activities have focused on networking with private and voluntary health sector organizations in support of health services for Head Start children. Over the last two years, these activities have led to increased participation by private and voluntary sector health professionals in such activities as:

1. Participation on local Head Start program Health Advisory Committees;
2. Development of health education programs for Head Start children, staff and parents; and
3. Provision of needed direct health services to Head Start children.

HDS is soliciting preapplications which propose to *demonstrate how private and voluntary health sector networks can be used to increase the delivery of required Head Start health services at the local grantee level.* Where possible, demonstration projects should produce outcome measures which will be reflected in the Head Start Bureau Program Information Report (PIR). The projects should also provide models which can be replicated through existing private and voluntary health sector networks.

1.08.C Mental Health Services. The objective of mental health services in the Head Start program is to improved the emotional, cognitive and social development of the children participating in the Head Start program. HDS is soliciting preapplications for *demonstration projects, with strong dissemination components, that enhance mental health services to children in Head Start programs.* Particular attention will be given to preapplications that address the planning and implementation activities in mental health programs, the training of staff and the utilization of other community mental health resources. These proposed projects should include new and innovative activities or approaches, such as family therapy, which can be replicated by other Head Start programs.

1.09 Strengthening Families by Promoting Continued Parental Responsibility After Divorce

HDS is interested in demonstration efforts concerning the support of children of families of divorce and the support of children who have been abandoned as a result of divorce. Projects should *demonstrate new ways to assure that parents resume the responsibility for support of their children in cases where that support has demonstrably broken down.*

Many factors influence the ability and willingness of parents to care for their children after divorce, including the employment (or lack thereof) of both the custodial and non-custodial parent; the terms of the divorce decree; the interpersonal relationships between the divorced parents and between the parents and the children; and the level of involvement of both parents with the children. The willingness of the non-custodial parent to pay child support may be influenced by that parent's ability to exercise visitation rights and by the influence of that parent on decisions affecting the welfare of the children.

HDS envisions a project or series of projects that would rely on data supplied by the Social Security Administration's Office of Child Support Enforcement (OCSE). The data would be used to identify those situations where intervention is necessary to assure that responsibilities for support are met.

Upon identification, the family situation in toto would be reviewed by an interdisciplinary team, perhaps composed of counselors, employment and training specialists, psychologists, and officers of family and civil courts. Once the problems affecting the ability and willingness of the parents to support their children have been identified, a program of services—mediation or arbitration of visitation and custody issues, personal and financial counseling, or other appropriate services would be developed and delivered.

HDS will give favorable consideration to applications which show commitment on the part of family courts to back the recommendations and decisions of the interdisciplinary team, and to applications which receive the support of State agencies involved in child support enforcement.

In cases of abuse, neglect or abandonment, children are often placed in foster care until permanent care is

available. HDS seeks approaches to locating and requiring able parents to make support payments to child welfare agencies while arrangements are being made for permanent care of the children. HDS is particularly interested in the impact of child support on permanency planning for children in foster care. Reunification of the child with one parent or the other is the preferred outcome.

Applicants may propose separate projects involving children of divorce who still live with one of their parents or children living in foster care, or they may combine these as a general child support project.

1.10 Alzheimer's Disease Support Network

Projects are requested that provide *new approaches for strengthening community supports to older persons with Alzheimer's disease or related neurological disorders.* The purpose of projects under this section is to expand the knowledge and understanding of persons who provide services directly to older persons suffering from this disease and their families and to increase the availability and commitment of qualified persons to provide quality care to older persons with Alzheimer's or related disorders. These projects may demonstrate new service delivery models, create public awareness programs, provide assistance to family caregivers, or evaluate the effectiveness of various service delivery systems which provide services to older persons with Alzheimer's disease and related disorders.

Applicants may propose projects that develop professional, non-professional, and volunteer skills in comprehensive screening, counseling, treatment, or dissemination of information about this disease. Projects should focus on preparing new personnel or improving the skills of personnel already working with older persons with Alzheimer's or related diseases in hospitals, nursing homes, day care or respite services, or providing in-home services. Persons may be trained to assume a leadership role in the development of family support groups or emphasis may be placed upon educating family caregivers, or other informal resources.

Priority Area 2: Basic Knowledge and Data Development

There are still areas for which additional information is needed on the major problems addressed by HDS programs. The knowledge base needs to be expanded to answer basic questions before demonstrations or further action can be taken to address specific problems or to make improvements in the service delivery system.

There is also a need for secondary analysis of existing data to produce new insights to add to the basic knowledge pool in human services.

2.01 Special Populations

2.01.A Information on Minority Elderly. New information on the status and problems encountered by minority elderly persons is needed to support State and local program planning.

Proposals are solicited to acquire and develop nationally relevant, empirical information on the *needs of older minority persons, particularly in such areas as health, housing and employment.* Special attention should be given to the needs of Black, Hispanics, Native Americans and Pacific Asians and other ethnic groups whose cultural characteristics and difficulty with English language are barriers to receiving needed services. Information is needed particularly on access to services by minority elderly in rural areas.

Projects must propose to develop and disseminate useful information to National, State, Tribal and local organizations to improve policy development and service delivery for the aging population.

2.01.B Strengthening Tribal Governments To Foster Self-Government and Economic Development. Preapplications are requested *focusing on the knowledge base needed to implement the President's policy of fostering and encouraging self-government of Indian Tribes and enhancing the opportunities for economic development on Indian Reservations.* The preapplications should be linked to the report that will be made in the near future by the Presidential Commission on Indian Reservation Economies to permit Indian Tribes to act on the recommendations of the report. The underlying principles for the work of the Presidential Commission on Indian Reservation Economies are the government-to-government relationship, the Federal policy of self-determination and the Federal trust responsibility. The goals of the Commission's work are to remove obstacles to self-government and to create a favorable environment for the development of reservation economies.

The role of Indian Tribal governments will be to act on those recommendations that assure greater flexibility and improved opportunities for self-government, utilizing the relevant knowledge base for implementation.

2.02 Future Housing Needs of the Elderly

A major activity of the Administration on Aging is the development of a plan to address the needs of older persons beyond the year 2000. The plan will include housing and issue areas surrounding housing for the elderly.

Because persons 65 years or older are most likely to live in older homes whether they rent or own and because 80% of the 13 million older Americans who own their homes own them free and clear, long-rang housing requirements need to be explored. Elderly who are in homes too large to maintain, and those who want a financial cushion to cover emergencies could benefit from programs such as Home Equity Conversions. Homeowners who do not want to move out of their homes, but are financially unable to stay, could also benefit from such programs and could potentially use these funds toward long term care.

Applications are being solicited which propose to *collect, analyze and disseminate data on potential future housing needs and living conditions of older persons in both urban and rural areas.* Projects will also be funded to package and disseminate available materials on housing for the elderly to local officials on a nationwide basis. Proposals must be designed to improve planning, resource allocation and management by local officials based on strategies and approaches which reflect the housing and supportive service needs of older persons. This knowledge must be made available through the communication networks of national organizations representing local officials concerned with housing and living arrangements for the elderly.

2.03 Implementation of the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96-272)

A central child welfare goal of the Nation is to reduce the number of children who are inappropriately placed in foster care. The Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96-272), and reimbursement policies under the Social Security Act, require that a public agency make "reasonable efforts" to avoid out-of-home placement for children consistent with each child's safety. Similar language is used relative to Indian children and the Indian Child Welfare Act. * The purpose of this priority area is to provide public social service agencies and State/local juvenile and family court judges with guidelines or criteria for determining what constitutes *reasonable efforts.*

The law requires that a court review and certify that reasonable efforts have been made before a child can be placed in foster care. This requires each court to define "reasonable efforts" in the local context. In areas with a large American Indian population special emphasis should be placed on reasonable efforts for the American Indian population. Effective/exemplary processes of determining and defining this pattern of services are urgently needed to assist States and courts in this determination.

Through this study, *HDS expects a better understanding of best practices in defining what is meant by "reasonable efforts."*

2.04 Analysis of Factors Contributing to the Failure of Family Based Child Welfare Services

Family-based child welfare services have often proved effective in preventing the need for placement of the child or children or in reuniting the family. However, there have been some failures. A study is needed to provide information on these failures, which could then be used to improve planning and support policy and management decisions.

The purpose of this priority is to analyze cases where family-based child welfare services *failed to prevent the need for placement or to reunify families.* By indentifying the causes of such failures, better criteria for decision making, case management, planning and policy development can result.

New techniques in providing intensive, family-based child welfare services are effective in more than 80 percent of the cases. Without such innovative, intensive services, foster care placement and reentry rates can be as high as 48 percent. Nevertheless, every agency accumulates a number of failed cases. These failures require continuing social services, possibly extending to the next generation of family members. It is not clear whether these failures are due to such agency factors as poor decisions, inappropriate classifications, inappropriate or poor quality services, or to intrinsic qualities of the families involved. More information is needed to support policy and service decisions.

2.05 Suicide Prevention in Runaway Youth Centers

The purpose of this priority area is to identify or *develop effective techniques for intervention and providing emergency services to seriously depressed and suicidal youth* who use shelter facilities, and to disseminate these techniques to runaway and homeless youth shelters.

Suicide is the third highest cause of death for adolescents; the number of teen suicides has doubled since 1960. The possibility of suicide is particularly a possibility to runaway youth and youth without homes, who are often depressed and isolated.

Shelters are concerned about recognizing suicidal clients and taking appropriate steps to prevent their deaths. To meet this need, HDS encourages joint efforts of shelters and community mental health agencies to develop and test crisis intervention and treatment approaches. A variety of products should be produced by this effort, including refined suicide intervention training materials, guidelines for early identification, and emergency procedures. When possible, existing materials, guidelines, and procedures on suicides should be adapted for use in shelter settings.

Priority Area 3: Evaluation and Management Systems

More effective and efficient administration and planning of programs is a major goal of HDS discretionary activities. Extensive research and development activity has already been undertaken on evaluation techniques, financial management systems, management information systems, fee for service systems, and other management techniques. HDS will support efforts to increase the *use* of the techniques and the approaches that have resulted from previous efforts. This should result in an enhanced capacity to plan, develop and administer service programs responsive to local needs and priorities.

3.01 Evaluation as a Management Tool

Nonprofit service and community organizations as well as State, Tribal government, and local human service agencies need to conduct and use existing program evaluation systems to manage their human service programs more efficiently and effectively.

A significant amount of funding has been invested in research and demonstrations in all HDS program areas at the State, Tribal government, local and service provider level. The role of program evaluation now needs to be integrated within the management process.

For the last several years, HDS has defined evaluation as follows: evaluation is the measurement of program performance (efficiency, effectiveness, responsiveness), the making of comparisons based on those measurements, and use of the resulting information in policy-making and program management. HDS will fund nonprofit organizations, States and consortiums of States, Tribes or local governments who propose to *integrate these components of evaluation in their ongoing management programs.*

HDS will support evaluations of State, tribal and local programs on available national, state or local data. Evaluations should include innovative approaches for analyzing aggregate data, making valid cross-program comparisons and developing performance indicators and optimization techniques for measuring client outcomes.

Consideration will be given to those projects that propose short-term evaluations that will directly assist and motivate human service managers to improve performance across multiple HDS programs.

For example, HDS will support innovative projects that will enable State, Tribal and local governments and grantees to compare performance of their respective organizations with like institutions or with internally established goals and objectives. Evaluations should focus on the issues of cost, benefits, and productivity of human services and human services organizations. Applicants may select priority topics for evaluation studies; however, there must be a demonstrated commitment to implement study findings. Proposals should address:

(1) Priority concerns of the agency;

(2) Evaluative questions related to the priority concerns;

(3) Sources of information for the study;

(4) Expected results in terms of cost in relationship to efficiency, effectiveness, or impact; and

(5) Descriptions of the agency process for implementing study findings.

3.02 Management Systems

Effective use of management and services information systems remains a high priority in this year's announcement. Social service managers need direct access to information designed to allow services to be monitored and problems to be addressed. Local service providers need a working knowledge of information systems, computers, analytic software and computer hardware capabilities. Policymakers must be able to plan and target resources on the basis of accurate, timely and appropriate aggregate data.

Resources must be mobilized to diffuse information management systems throughout human services agencies. In order to promote this, HDS

will fund projects that *facilitate the uses of automated data processing technology to improve the management of human service programs.* Special emphasis will be given to microcomputer systems applications that develop software applications and decision support systems for HDS programs. Additional emphasis will be given to those applications that will develop self-supporting telecommunications networks among human service agencies.

3.03 Employment: Job Match and Job Placement Systemsge a23au3.088

Many methods of arranging for or "brokering" jobs for the elderly and developmentally disabled persons are being tried by projects and agencies across the country. This aspect of job placement is crucial since it involves the linkage between the work-ready individual and his or her potential employer. In addition, there are a number of scattered, loosely documented "systems for job matching" for the elderly and developmentally disabled persons. These systems link available workers with available jobs and have great potential to increase employment opportunities.

Human services agencies and other organizations concerned with the employment of the *elderly and developmentally disabled need to know which methods of job development, placement, and job matching are most effective* and how best to relate to the private sector. Past projects (such as Job Path in New York) have shown that the approach to job development can determine success or failure. This accumulated experience *needs to be evaluated to provide information for future planning and program decisions.*

Furthermore, experience suggests that there is a need to examine the state-of-the-art in terms of the range of "job matching" systems now operational. The relative success of these systems and the factors that contribute to their success need to be documented. Other factors such as parental attitudes as well as which methods and motivational techniques can best encourage good performance by developmentally disabled persons in competitive employment need to be addressed.

Priority Area 4: Knowledge Transfer

There exists in the human services a vast amount of research, demonstrations and experience that has yet to be successfully transferred to the practitioner and policymaker and utilized for the benefit of HDS target populations. The wide gap between knowledge and practice in human services continues to grow. New knowledge from research, demonstrations, evaluation, training and technical assistance is unevenly applied. From the local to the national level, inadequate knowledge transfer, utilization and application activities are increasingly recognized as major problem areas.

The effective transfer of knowledge and utilization of practices and techniques developed through previous HDS funded projects and/or with proven value under actual service conditions in a particular locality or State lessens the gap between knowledge and practice in human services. Knowledge transfer efforts focus on the use of State, Tribal, community or private organizations as trainers or transfer agents of the techniques or models. Inherent in the knowledge transfer is the understanding of the need to utilize marketing techniques as a means of spreading the current knowledge base.

HDS will consider innovative uses of clearinghouses; however, funds will not be available to establish new clearinghouses.

4.01 Implementation of Voucher Systems

As part of an effort to more effectively meet the needs of disadvantaged populations, HDS has funded several research and demonstration projects that test the use of vouchers for delivering human services. Vouchers are simply coupons, issued by an agency to an eligible client, which guarantee payment for services rendered to the client; often, there is a ceiling on the amount of the voucher. Although most voucher systems restrict the type of services that can be purchased with the voucher, clients are responsible for selecting the best service providers to meet their needs and for weighing such factors as convenience, quality, and costs. Theoretically, there can be an unlimited number of providers who, by complying with state regulations, are eligible to redeem vouchers.

Voucher systems emphasize consumer sovereignty. One major characteristic that they have in common is the attempt to use or enhance the role of the private market system in the provision of services. Thus, three major reasons for implementing voucher mechanisms are (1) allowing the consumer greater control in defining and selecting appropriate services; (2) fostering adequate supply, cost, and quality of services through competition among service providers; and (3) reducing operational costs through increased administrative efficiency.

The HDS-funded demonstrations have generally focused on target populations of children, the elderly and the disabled. The child-oriented projects deal with the provision of day care services while those involving the elderly or disabled are usually oriented toward providing services in a private home or community setting with the intent of delaying or avoiding institutionalization.

The experience of the HDS funded projects, as well as other similar efforts indicate that voucher systems offer several benefits. The increase in client choice enables selection of the most appropriate mix of services through access to a wide variety of providers; at the same time, cost consciousness of the client is encouraged through a ceiling on the subsidy. Replacement of contract/billing procedure with a voucher redemption process and a decrease in government control over service providers can simplify the process for both parties. These factors act to encourage a larger supply of providers who offer a variety of services at market determined prices; in the long term, the stimulation of supply will help contain the costs of the services. In addition, targeting of vouchers to clients who need the services is relatively easy.

In spite of the fact that the advantages seem to outweigh the possible difficulties, implementation of voucher programs in human services has been very limited. To address this problem, HDS will award grants totaling $3,000,000 to state, county and local governments to *assist in the implementation of operational voucher programs in social service delivery.* HDS expects to award grants to a broad range of jurisdictions so that governmental human service agencies of all sizes and geographical areas are encouraged to apply. Applicants should note that grants will only be awarded for projects with the specific purpose of implementing a permanent or long range voucher program. Short term projects to demonstrate or test the use of vouchers in a particular jurisdiction will not be funded.

Applicants should, in developing their proposal, consider the following issues:

- There are obvious tradeoffs inherent in selecting voucher mechanisms over traditional method of providing services. What are the long range ramifications of these tradeoffs? What type of information does a locality need to make decisions regarding the acceptability of vouchers? What other factors will influence the feasibility of implementing a voucher system?
- What minimal monitoring mechanisms need to be implemented

that will have not reduce the efficiency of the system and will not interfere with consumer choice?

• If supply of service providers remains unaffected by market forces (i.e., does not increase to an adequate level), how can supply be stimulated? How can barriers to entry into the market be recognized and corrected? What impact would such corrective action have on the overall cost of the system?

• Is it appropriate for voucher systems to be the only source of service in a given geographical area or does it make more sense to have such systems as adjunct to traditional methods of providing services?

• Are voucher payments considered as income for the clients?

4.02 Social and Economic Development

A major concept underlying HDS policies is that the Federal government should promote economic growth, thereby strengthening the ability of families and individuals to care for each other. This concept was articulated in the program announcement for the Fiscal Year 1983 Coordinated Discretionary Program (**Federal Register**, Vol. 47, No. 235, December 7, 1982) under Priority Area I, "Strategies for Increasing Social and Economic Self-Sufficiency."

Under this announcement and others (notably the Small Business Innovation Research program) the Office of Human Development Services has provided funds for over 50 research and demonstration projects in the area of Social and Economic Development. Many of these projects made important advances in such areas as generating employment and income, targeting resources, and promoting community and family-based care. However, to date, there has been no specific effort to evaluate the projects, identify new techniques and ideas, and effectively transfer them to areas and organizations that will immediately benefit from their use. The purpose of this priority is to launch such an effort.

HDS is particularly interested in *national dissemination of knowledge and practice that promotes the self-sufficiency and employability of its populations*—the aging, the developmentally disabled, adult AFDC recipients, Native Americans, and youth. Our primary interest is *to increase the private sector employment of these populations.* Therefore, eligibility to apply under this priority is limited to private, profit-making organizations, including businesses and corporations, and to such nonprofit organizations as local Chambers of Commerce or associations of small businesses and local or national trade organizations. Preapplications must also concentrate on the dissemination of ideas and techniques that would gain wide acceptance in the business world; i.e., those that would provide immediate gains in productivity and profit. Limitations of space prevent a listing of the projects funded under HDS's social and economic development research and demonstration efforts over the last two years, but a listing will be supplied to potential applicants upon request.

4.03 Primary Caregiving

Within the informal caregiving network, the primary caregiver is the person most likely to assume responsibility for the support needed in an emergency situation or over the long-term. HDS has funded a number of projects on the skills required of and supports required by primary caregivers, including respite care. These materials on caregiving need to be made available to service providers and the general public.

A number of community groups are now providing support to family members who give long-term care services to older impaired relatives. Information about the establishment and operation of these support groups needs to be disseminated nationally to community leaders in aging who are interested in enhancing support systems for family caregivers.

Proposals are solicited that would *identify and analyze data and disseminate information about model support groups for family* caregivers. Proposals should provide communities with data and information about staffing, recruitment, composition, outreach and other factors involved in the start-up of such groups. Preapplicants should propose to disseminate this date and information nationally to agencies and organizations for their use in planning and establishing family caregiver support groups.

4.04 Legal Services for the Elderly

The aging network and State executives responsible for the care and protection of older persons need to become more familiar with state-of-the-art legal services approaches, materials and techniques designed to improve services for the elderly.

A variety of materials have been developed on legal and protective services to the elderly which need to be analyzed, synthesized, and disseminated to the network on aging. Applicants should include well-developed information on state-of-the-art practices and materials.

4.04.A Elderly Abuse. The *results* of studies, demonstrations and other information *concerning elder abuse should be disseminated nation-wide.* This project should identify actions which States have taken to establish laws on elder abuse, reporting on incidents of elder abuse, as well as remedial actions to reduce the incidence of elder abuse.

4.4.B Capacity Building in Legal Services for the Elderly. There is need to *Disseminate information on legal services for older persons to enhance the capacity of the network on aging.* Preapplications are solicited which address two or more of the following topics:

• Dissemination of assessment tools of legal needs;

• Dissemination of procedures for the evaluation of legal services;

• Identification and dissemination of best practices models for the delivery of legal services; and

• Provision of assistance on substantive legal issues to the network on aging.

4.05 Special Aging Populations

Materials have been developed to address the specific and specialized need of minority and frail elderly. The Aging network needs this information in order to assure that frail and minority elderly receive the care, services, and treatment they need. The proposed activities hsould analyze, synthesize, and distribute these materials.

4.05.A Resurce Materials for Indian Tribes. Indian Tribes have a need for *"best practice" materials and financial resources to develop comprehensive and coordinated aging services for their elderly tribal members.* Preapplications are solicited which propose to develop exemplary materials and conduct training for administrators of programs that serve elderly Native Americans. Preapplications should propose Nationwide or HHS Regionwide programs which result in improved access to Federal, State and local resurces by Indian Tribes.

4.05.B Needs of Minority Elderly. AoA is concerned about differing needs and responses to services within varied groups of the general aging population. Life styles, employment patterns, income, housing and health status among Blacks, Hispanics, Native Americans and Pacific Asians are demonstrably different from those of the majority population. Special efforts are needed to assure adequate access to and utilization of services by the major

ethnic minority groups. Applications are solicited which propose such efforts as *national advocacy, technical assistance, dissemination of educational materials and training to insure recognition and appropriate responses to the needs of the minority elderly by the network on aging.*

4.06 Housing for the Elderly

A wide reange of housing programs are available to elderly consumers but they need access to the information. Local housing officals and aging program representatives also require more information in order to assure quality living arrangements for older people. Applications are requested for proposals which transfer existing knowledge to local officials responsible for housing policies and programs as well as the Network on Aging. Specific areas are outlined below.

4.06.A Collaborative Community Planning and Housing for the Elderly. Personnel of the Network on Aging, public social service agencies, local officials responsible for community planning and housing, representatives of voluntary and business organizations, and representatives of consumer organizations need to work together to address the housing and living arrangements of older persons. Collaborative efforts by these three groups could more effectively utilize the knowledge available from research and demonstration projects. Preapplications are solicited which would provide opportunities for the transfer of knowledge between public and private groups concerned with the housing and living arrangements of older persons in urban and rural areas. Proposals should result in *HHS Regional or Statewide programs which would develop and implement a strategy of knowledge transfer among officials concerned with the housing and living arrangements of the elderly.*

4.06.B Outreach and Supportive Services for the Elderly. Private developers, mayors, community planners, public and private housing managers and Network on Aging Personnel need information about best practice models of outreach and supportive services for older persons living in congregate housing, single room occupancy hotels and rooming houses.

Proposals are solicited for efforts which would assist in *disseminating the findings, models and techniques developed through the Administration on Aging and the Farmers Home Administration National Congregate Housing Demonstration Program and other relevant knowledge sources dealing with supportive services in congregate housing,* with particular emphasis on rural areas, as well as Single Room Occupancy (SRO) and rooming houses. Proposals must adapt available materials to the needs of local officials and disseminate the materials Nationwide.

4.06C Housing Options for the Elderly. Demonstrations of effective techniques for *distribution of information on housing options* for older persons are requested. Many older Americans are faced with difficult decisions regarding their choice of housing. Factors such as retirement, economic hardship, changing neighborhoods, illness or death of a spouse, and loss of family ties often influence choices. Although there are a variety of housing options available, older people frequently lack the knowledge and skills for making intelligent, informed decisions.

There is a need to make information available which will allow older persons to make informed decisions about housing options which are in their best interest. Preapplications are solicited which will provide comprehensive *Statewide* or *community-wide programs in large metropolitan areas which demonstrate effective techniques for making information available to older persons* for use in their housing choices. These efforts should also strengthen the capacity of local and State agencies to provide information on housing options for older persons. Emphasis should be placed on innovative or new techniques for making such information available. This could include the use of television, information and referral services, specialized financial or housing counselors, etc. Programs will be evaluated on the basis of their ability to reach great numbers of older persons and their effect on understanding of housing options.

4.07 Management Improvements

Improved management of human services programs is a goal of the Office of Human Development Services. This priority is designed to encourage approaches to improving planning and management skills, modifying State administrative procedures and providing training and reorganizing.

4.07.A State Licensing Programs for Child Welfare. The purpose of this priority area is to support projects designed to *assist States in implementing effective child welfare licensing policies and procedures.* Currently, protection of children through licensing of child placement and child care facilities varies widely from State to State. States have requested assistance in designing effective licensing policies and procedures for child placing agencies, family foster homes and child care institutions. Recently developed national resource materials on licensing provide information on exemplary approaches which can enable States to enhance the skills of licensing staff and to upgrade licensing practice.

Licensing requirements in various States differ according to administrative structures, operating policies, enforcement procedures, training of licensing staff, and differing statutory jurisdictions which in some States exclude many services from licensure. In addition, many State licensing requirements do not mandate specific activities which are conducive to permanency planning and other model elements of social work practice.

In FY 1984, eleven States applied for grants to address problem areas related to child welfare licensing. Many other States expressed an interest in applying for grants, but were unable to do so because of insufficient time to develop proposals. HDS intends to support an additional group of State agencies in addressing improvements in their child welfare licensing programs. Grants will range between $25,000 and $60,000 each. States receiving similar grants in FY 1984 will not be considered as eligible applicants in FY 1985 and FY 1986.

4.07.B Preplacement Preventive Services. The purpose of this priority area is to assist 10 to 20 State, county or metropolitan public child welfare agencies to *implement or improve delivery of preplacement preventive services, particularly through the provision of these services by non-profit organizations.* Priority will be given to those States with a significant over representation of minority children in placement, and to those States whose programs are in a beginning phase.

The requirement for provision of appropriate preplacement preventive services became effective October 1, 1983 with the passage of Pub. L. 96–272. Many State agencies have already developed very successful programs as indicated in the *Annotated Directory of Selected Family Based Service Programs,* a description of 139 programs which is available from the National Resource Center for Family Based Services, University of Iowa.

Nevertheless, the implementation of such programs requires reallocation of resources, specialized training and other changes which may be difficult in public agencies in spite of the known effectiveness of the programs. Currently no more than 10 States have implemented these programs statewide.

Seed grants for reorganization and training will materially assist the other States to institute preplacement preventive services.

4.08 Employment

4.08.A Youth Employment. Youth employment, leadership development and peer counseling techniques used in innovative approaches to prevent or reduce the negative consequences of youth problems such as teenage pregnancy, runaway behavior and juvenile delinquency have been demonstrated recently. These problems are significant because the occurrence of any of these problems in the life of a youth all too often is aggravated by the lack of a coherent response by the State, Tribal or local system of agencies dealing with youth. These projects have made creative use of youth employment, leadership development and peer counseling techniques to assist teenage mothers and fathers, runaway and other youth without homes, juvenile offenders and other youth at risk to take control of their economic life.

Preapplications are submitted which will provide *information and "best practice" materials for both the public and private sector, including for-profit employers, on recent developments in the area of youth employment.* The proposed efforts should have a regional or nationwide impact on reducing or preventing the problems which can affect the employment of youth.

4.08.B Employment and the Elderly. Officials of the Network on Aging need increased knowledge of factors affecting the retention of older workers in the labor force. These factors include forced retirement and unwarranted layoff policies affecting pension rights. Applications are solicited which will increase awareness by aging program administrators of statutory requirements affecting retirement and layoffs on a Nationwide or HHS Regionwide basis. These programs must be designed to expand capacity of Network on Aging officials to advocate for voluntary compliance with laws affecting pension coverage and retention of older workers in the labor force. Projects will also be funded which establish collaborative efforts between the network on aging and the private sector resulting in higher employment for the elderly.

4.09 Special Needs Adoption

During the past four years, the Adoption Opportunities Program has developed extensive resources, training materials and program models to address critical barriers to the adoption of special needs children. The two priorities to be addressed are training to use community services and developing ways to increase the number of Adoptive placements.

4.09.A Training for Community Services in Special Needs Adoption. Supportive services can ease some of the adjustment problems and stress accompanying special needs adoption. While the supportive services are usually available, some agency staff lack understanding and specific knowlege of how to serve these children and their adoptive families.

In 1984, HDS funded a small successful project in Western Pennsylvania to provide training to Mental Health Clinics in the area. There is interest and need in the field to further develop and disseminate materials to support such service programs across the country.

The purpose of this priority is to assist in training the staff of agencies related to developmental disabilities, mental health, mental retardation, and children and family services *to serve adoptive families of children with special needs.* Expanded and newly developed material will be tested and disseminated to the field.

4.09.B Grants to States to Increase the Number of Adoptive Placements of Special Needs Children. The purpose of this priority is *to assist States to (1) increase the number of adoptive placements of special needs children; and, (2) incorporate improvements in the State adoption programs* which will result in sustained increased levels of adoption.

Between 10 and 15 grants will be awarded to State social services agencies in the following eligible States (i.e. those States not receiving similar grants in FY 1984) and for a range of funding:

New Jersey, Pennsylvania, Maryland, Virginia, Minnesota, Texas, Oregon: $74,000–$125,000; Maine, New Hampshire, Vermont, Delaware, District of Columbia, West Virginia, Georgia, Mississippi, South Carolina, Tennessee, Arkansas, Louisiana, New Mexico, Iowa, Montana, North Dakota, Wyoming, Hawaii, Nevada, Alaska: $25,000–$65,000.

During the past five years, the Adoption Opportunities Program has developed extensive resources, training materials and program models to address critical barriers to the adoption of special needs children. An important issue at this point is the use by States and communities of these resources and information to increase measurably their capacity to place special needs children in adoptive homes.

There continues to be a significant number of special needs children not appropriately placed, as a result of inadequate recruitment, insufficient adoptive family preparation, or faulty relationships between foster care and adoption social service components.

Grants will be made to selected States which will identify their own barriers to placement and implement their own programmatic resolutions, utilizing various training materials and program models.

Applicants should work closely with State Developmental Disabilities Councils, University Affiliated Facilities, voluntary agencies, parent groups, minority organizations and other interested agencies and organizations.

Proposals must address the following requirements:

1. The applicant must propose a specific interest in the number of children to be adopted as a result of the effort, above those adopted in the most recent complete year for which statistics are available.

2. The applicant must document how it will institutionalize any improvement in the system which results from the grant, either at the State level or in a group of counties or a metropolitan area which encompasses a significant number of waiting children.

3. The applicant must certify that it can receive the grant and begin operation promptly, without unnecessary delays because of internal requirements for receiving funds.

4. The applicant should consider, as one element in the project, negotiating with the State's Head Start Program as volunteers in adoption, for recruiting, screening, preparing and training prospective adoptive families (a technique already developed and tested by the North Carolina project, "Friends of Black Children").

5. In addition to the discretionary matching requirement of 25%, the applicant must identify additional Title IV–B funds, beyond those spent in the previous year, to add to the State contribution for the effort. Federal funds should be viewed as seed money to help the State undertake a needed improvement, rather than as funds to run a complete project.

A 17 month project period will be permitted.

4.09.C Increasing Special Needs Adoption through the Media. One of the most effective means of securing permanent homes for special needs children is the highlighting of that child through the media. Presently there are over one hundred television stations and newspapers and at least one radio station running a "Child Is Waiting" program or feature story. The success

rate of placement for these children who are featured is 85%.

The purpose of this priority is to assist local adoption agencies and exchanges to increase the number of adoptive placements of special needs children by working with local media in the community to *encourage the television station, newspaper and/or radio station to run this type of feature.*

HDS will support projects in two different categories: (1) Awards will be made to agencies who facilitate communication between the local adoption exchange and/or agency and the local media. The project will focus on design, implementation and bringing to fruition a media strategy to highlight special needs children.

The second category is that of the *"Mini Adoption Telethon."* The telethon serves three purposes: (1) Highlighting of special needs children available for adoption; (2) recruiting of volunteers to work with the local exchanges; and, (3) raising private funds for the local exchanges.

Awards will be made for "How-To" programs to package the concept for nationwide or regional distribution. Programs would need to include stock video footage for generic use, budget requirements, logistics, problems, etc. The program would explain to the adoption exchange and the local media everything they would need to know to put on a mini adoption telethon. Joint projects by adoption agencies and media organizations are strongly encouraged.

4.10 Strengthening Families

The family is an essential factor for most human service activities. The family has primary responsibility for the care of all its members. Therefore, the preservation of strong family bonds and support should be one of the primary objectives of any human service program.

The purpose of this priority area is to develop effective and broad based dissemination and utilization systems to support and strengthen families in need. The proposed systems will disseminate and document use of information concerning positive characteristics that produce strong families and responsible parental guidance in matters such as health, education, career preparation, and social and emotional growth of children and youth. No new research is envisaged; information to be disseminated will be based on findings of recent and current studies of self-help groups, of volunteer agencies and public, private, and home-based support groups. An emphasis on prevention, wellness, and positive strengths of healthy families will be maintained. This activity will offer useful information about *application and acceptance of family research data in the provision of services.*

4.11 Child Abuse and Neglect

HDS has funded a number of demonstrations to address providing and delivering child abuse and neglect services more promptly, effectively and efficiently. This priority is intended to promote the utilization of the models and techniques from the demonstrations.

4.11.A Education of School-Aged Children to Prevent Child Sexual Abuse. HDS intends to support projects to *provide teachers and other staff in kindergartens and elementary schools, junior high and high schools with training on child sexual abuse and child molestation prevention, using existing materials* developed and tested by the National Center on Child Abuse and Neglect and other agencies, organizations and theater groups. HDS will provide assistance for this training to State Departments of Education, local school districts, State or local school-related organizations, or local child abuse prevention organizations that demonstrate support from school systems.

Through these projects, HDS seeks to extend the use of previously-developed prevention approaches and enhance the awareness of parents and educators about sexual abuse/exploitation prevention.

4.11.B Public Awareness Materials on Child Sexual Abuse for Parents and Service Providers. The current spotlight on child sexual abuse has emphasized the need for appropriate materials on the topic which can be used to enhance the awareness of parents and service providers about child sexual abuse.

Preapplications are solicited which *propose activities to increase public awareness of and to educate the public and service providers about child sexual abuse.* The activities may include, public service announcements, posters or repackaging existing materials on child sexual abuse as guidebooks for parents and service providers. The proposed projects should include dissemination of the materials through appropriate networks and organizations.

4.11.C Training to Enhance Multidisciplinary Support in Services for Abused and Neglected Children. The purpose of this priority is to provide adequate *advanced training for personnel other than child protective services (CPS) workers to assist those workers in the identification, prevention, and/or the treatment of child abuse,* including sexual abuse.

Many local and State jurisdictions use the multidisciplinary team approach to assist CPS workers. However, little advanced training has been accomplished to provide personnel in the school, policy, medical health, legal and mental health fields to successfully deal with the problems associated with child abuse or to coordinate services to this population. Applicants are limited to relevant State public agencies, using and adopting existing curricula.

From these projects, HDS expects results to include improved community coordination, support for CPS workers, ongoing training programs to educate the professional and lay community, the development of comprehensive service plans, and increased availability of multidisciplinary expertise.

4.12 Minority Volunteer Network for Child Welfare Services.

A review of all major child welfare programs indicates that minority children, particularly Black and Hispanic, are overrepresented. Black children are the largest minority group in State foster care systems. Black children also leave the foster care system at a lower rate than white children resulting in an increase in the proportion of Black children in the foster care system with longer average duration of time in placement. Efforts are needed which will expand existing community networks among organized minority groups to work together with States in improving the plight of minority children and families.

The purpose of this priority is to *use existing networks to increase the development of minority leadership and involvement in child welfare delivery systems.* Previously funded demonstration projects have demonstrated that local organizations, social and fraternal groups, clubs and businesses are untapped resources available to assist agencies in facilitating the movement of minority children out of the child welfare system.

HDS will fund projects that result in establishment of linkages between minority networks, child welfare agencies and the development of a model for capacity building and leadership training in minority communities.

4.13 Technologies in Nutrition

Preapplications are solicited for projects to *promote the use of the most effective new food technologies for providing home-delivered meals and meals in congregate settings,* in terms of

food safety, nutrient preservation, food acceptability, and economy; and to disseminate this information to providers of nutrition services. It is expected that the applicant demonstrate program and financial support for the private sector.

Many logistical problems exist in getting congregate or home/delivered meals from raw food from to the consumer. Distance and time decrease both the nutritional value and attractiveness of meals. Implementation of these new technologies would allow programs to deliver more nutritional meals to a greater number of people, including home-delivered meals on weekends and other circumstances. Applications should suggest methods to insure the dissemination and utilization of these technologies.

Priority Area 5: Gerontological Training

The quality of program development, management and services provided to meet the needs of older Americans depends heavily on professionals with gerontological training. Professionals essential to aging program services range from those whose careers focus exclusively on gerontology to those in allied professions. Allied professions are those occupations which may impact indirectly, but significantly, on older persons including such fields as architecture, city planning and management, pharmacology, podiatry and optometry. The Office of Human Development Services seeks to increase the quality and quantity of gerontological education and training available to gerontological or allied professions. Of special interest are the development and improvement of programs in institutions and geographic areas currently lacking gerontological education opportunities.

5.01 Career Preparation for Employment in Aging

There is a need to increase the number of persons with expertise and skills in working with the elderly by expanding the availability of gerontological training opportunities. Preapplications are solicited from those *institutions of higher education not previously funded by AoA* that are interested in establishing gerontological training programs. Proposals must emphasize the building of institutional capacity through faculty development activities. Applicants should note that the payment of stipends will be allowed in extremely few instances of demonstrated acute need.

Proposals are also solicited from institutions of higher education with established capacities in gerontological training. Preapplications must be designed to facilitate *faculty development at other institutions* involved in establishing gerontological training programs. Proposals must be jointly developed and submitted by the two or more institutions involved in such efforts.

Preapplications are also invited for the *establishment and upgrading of gerontological training programs at graduate and four year institutions.* Preapplications which propose multidisciplinary certification, field practice in aging service organizations, and development of tenure-track positions are of special interest. Preapplications are also are solicited from community colleges and vocational and technical institutions that propose a gerontological emphasis in programs that offer Associate Degrees in areas related to community planning, housing management, law enforcement, recreation and long-term care.

5.02 Continuing Education and Training in Aging

Opportunities must be provided to increase the capacity of Network on Aging personnel to administer programs and provide services to the elderly. Joint preapplications are solicited from institutions of higher education and State and Area Agencies on Aging to *provide continuing education opportunities for Network on Aging personnel.* Preapplications should propose innovative continuing education programs and knowledge transfer efforts designed to positively influence attitudes and develop the competencies in aging necessary for Network professionals to more effectively carry out their responsibilities. Activities proposed should be the result of collaborative planning on the part of institutions of higher education and appropriate agencies of the Network on Aging. Preapplications should propose activities at times and locations that are convenient to aging services personnel. Proposals should result in the development of model approaches to continuing education which have State and HHS region-wide impact.

5.03 Allied Professions in Aging

There is a continuing need to promote positive attitudes and develop aging competencies in professionals and paraprofessionals whose careers have a significant impact on the elderly. Efforts are needed to impact the training of professionals and paraprofessionals preparing for such careers as well as those already serving the elderly.

5.03A Allied Professions Gerontology Fellows Program. Preapplications are solicited that propose training gerontology fellows in a number of allied professions. The intent of this effort is to train graduate and postgraduate students in gerontology to assume leadership roles in their professions. It is anticipated that this Gerontology Fellowship Program for Allied Professions will assist in the development of a cadre of professionals with the knowledge, attitudes and skills appropriate to ensure adequate attention to the needs of the elderly. Special consideration will be given to preapplications from graduate and professional schools of *engineering, architecture, business administration and public administration.* Activities that will be supported include faculty and curriculum development: Projects funded must result in models suitable for replication in other disciplines.

5.03.B Continuing Education for Allied Professions. Preapplications will be considered which propose the inclusion of social gerontology in continuing education programs provided by the *national or regional associations representative of professions serving the elderly.* Consideration will be given to proposed continuing education programs in such areas as health and mental health care (with a special emphasis on physicians serving minority populations); architecture; business administration; public administration; nursing home administration law; recreation supervision; housing management; and those professions associated with issues related to home equity conversion—such as banking, lending, investment and real estate. Also, of special interest is the development and implementation of continuing education programs for engineers and scientists who wish to pursue the application of new technologies to the human service needs of older persons.

5.04 Minority Training and Development in Gerontology

Many of the institutions of higher education with predominantly minority enrollments, including the Historically Black Colleges and Universities (HBCUs), need assistance in developing and upgrading gerontological training programs. In particular, assistance is needed in the areas of *faculty and institutional development.* Assistance is also needed to increase the number of *Pacific Islanders* receiving gerontological training at institutions of higher education.

5.04.A Faculty Development and Exchange Program in Gerontology. Several efforts are needed to improve

faculty capacity at HBCUs and other institutions of higher education with a significant percentage of minority students. Preapplications are solicited that place an emphasis on faculty development in efforts to establish or upgrade gerontological training programs. In addition, preapplications are invited for the initiation of a *Nationwide* or *HHS region-wide Faculty Exchange Program*, between developing gerontology programs at HBCUs, other predominantly minority institutions, and more established gerontology career preparation programs. The Faculty Exchange Program is designed to afford faculty or minority and non-minority institutions opportunities to transfer knowledge and share experiences and information in their areas of expertise. Proposals also are invited for an effort designed to provide technical assistance to HBCUs and build gerontology program capacity.

5.04.B Multidisciplinary Development in Gerontological Training. Efforts are needed in the area of institutional development. Proposals are solicited from HBCUs and other predominantly minority institutions with demonstrated expertise in aging that wish to broaden their programs by *developing multidisciplinary approaches to gerontological training* at their institutions. Preapplications should include documented institutional support for proposal efforts to establish this multidisciplinary approach. Such preapplications must result in models that are applicable to other HBCUs that wish to establish a multidisciplinary approach to gerontological training. Preapplications also are requested that propose a nationwide effort to build linkages between the private sector and gerontology programs at HBCUs and other predominantly minority institutions. Such preapplications must be designed to secure private sector support for minority institutions in the form of financial assistance, materials, facilities, internships, student and faculty exchange programs, research fellowships, tuition support or other resources.

Priority Area 6: Child Welfare Services Training

The quality of child welfare services, program development and management required to address the needs of the child welfare system depends heavily on professionals and paraprofessionals with specialized training in child welfare practice. Professionals essential to child welfare services range from those whose careers focus exclusively on the study of child welfare practice to the local service provider and allied professions. Allied professions are those occupations which may impact indirectly, but significantly, on children; they include such fields as law enforcement or the justice system, local educational systems, health care professions, and public officials at the State and local levels. The Office of Human Development Services seeks to increase the quality of child welfare services education and training available to professionals and paraprofessionals. Of special interest are the development and improvement of programs in institutions of higher education and the uses of telecommunication and new technologies in the delivery of training.

Prospective applicants should be aware of the following conditions and requirements which *apply only to this priority area:*

- Child Welfare Service Training grants are awarded only to public and private nonprofit colleges and universities accredited by an appropriate authority.
- Applicant institutions are required to demonstrate the organizational professional and educational capacity to provide education and training in child welfare.
- Each application must clearly identify and address a *single* priority area for which the application is to compete. If applicants want to compete for more than one priority area, separate applications must be submitted for each one. In all cases, the Priority Area in which the application is being submitted *must be identified in Block 7* of the Standard Form 424.
- Each application must include a letter of support from the State Commissioner of Social Services, State Commissioner of Human Resources or his or her designee that its content specifically addresses the child welfare service needs of the State, and indicate how the State will work cooperatively as specified in the proposal to achieve the intended outcomes of the proposed project.
- Applications must not focus primarily on curriculum development or the development of new materials, where there is clear documentation that current materials already exist. Minor adaptations of existing materials will be permitted where the applicant documents that these activities will not exceed 20% of its level of effort.

Applications which include curriculum development must clearly indicate the level of effort for this activity.

- The limit on the length for preapplications under this priority area is 15 pages, rather than the limit of 10 pages that applies to all other priority areas. There is no limit on addendum.
- Funding decisions under this priority area may, at the discretion of the Assistant Secretary for Human Development Services and the Commissioner for the Administration for Children Youth and Families, be based solely on the preapplication. In such cases a full application will not be requested.

Applicants are advised that applications will be reviewed for conformance to the following *requirements*. These requirements pertain *only* to the Child Welfare Training priority area.

1. Project objectives must address one of the specific program priorities. The applicant must identify the specific child welfare issues which the project plans to address and describe how it will improve the child welfare resources and training capability of the affiliated State child welfare agency.

2. The applicant must document the extent of consultations with State or local administrators of public social service agencies, including, where appropriate, voluntary agencies or organizations. These consultations must take into account the child welfare training needs of the State, in particular training requirements necessary for implementation of Pub. L. 96–272. The proposal must document that the State public agency will provide specific and substantive on-going support to the project through to its conclusion.

3. The application must include a work plan designed to achieve the program objectives, including the following: (a) Proposed methodology and target indicators for identifying and measuring proposed outcomes; and (b) timetables for accomplishing program goals and objectives.

4. The application should include a plan documenting the continued involvement of the affiliated State or local public agency. Agency plans should include information about courses to be offered, types of trainees or staff who will be eligible or required to participate, and the faculty or training staff who will conduct the training.

5. Project personnel must be well qualified to provide child welfare training and the applicant must have adequate resources to conduct the project.

6. The estimated cost must be reasonable considering the anticipated results, and include funds for travel to a Statewide or regional meeting on child welfare training issues, and to one

national meeting of all funded projects in Washington, D.C.

7. The application must provide assurance where appropriate that all requirements for eligibility of students and for student stipends, will be met.

8. Where appropriate, applications must include a plan to recruit minority candidates into traineeship programs, especially those who have limited financial resources. This plan must specify activities and timetables by which the school will seek out, identify, and when implemented, *focus* traineeship selection on minority candidates.

9. Where applicable, the application must describe and document how the field placement experience will relate to the provision of child welfare services; the schedule the field placement will follow and the number of hours a week, month, semester, etc., it entails; that the trainee will work under the direction of professionally trained supervisory staff; and the policies and procedures the applicant will follow in the supervision of the students' field placements.

10. In the case of students who are currently employed in the field of child welfare, the applicant must document that it has obtained a letter of intent or commitment from social service agency to release employees for the pursuit of training in child welfare, specifying the number of employees to be released and stating that the agency will continue to employ the trainee during the time of the traineeship or will make a reasonable effort to rehire the employee upon completion of the training, in a position related to child welfare.

6.01 Child Welfare Practitioner Training

HDS will support projects which implement training activities specifically designed to expand and *improve the knowledge and skills of child welfare service providers and allied professions* by demonstrating innovative training approaches for addressing contemporary issues and problems related to child welfare practice. Projects should focus on uses of new technologies and telecommunications, training techniques and methodologies which emphasize current modes of practice and which integrate information acquisition with the development of operational skills. Projects should identify specific content areas to be addressed through practitioner training, indicating how these areas relate to the training needs of selected State or local agencies and how the proposed training will improve delivery of services.

Projects may focus on specific prevention, intervention, and/or treatment techniques, or they may be designed to inform practitioners of current trends in child welfare services and their practice implications. The specific training provided should enable workers to work more effectively within the child welfare service delivery system.

Specific content areas to be addressed may include: Implementation of Pub. L. 96–272; Permanency Planning; Prevention; Reunification; In-home Services; Foster Care Services; Adoption Services; Child Abuse and Neglect; Sexual Abuse; Protective/Emergency Services; Youth Services; Assessment/Intervention/Placement Skills; Rural Child Welfare; Metropolitan/Urban Child Welfare; Services to Minorities; Legal Issues in Child Welfare; Case Review and Case Management; Parent Training; Supervisory Training; and other relevant issues identified by State and local agencies.

6.02 Leadership Training for Child Welfare Executives

HDS will support projects which provide *short-term training to assist child welfare executives* and other administrative staff in identifying and implementing strategies to improve the administration and management of child welfare systems. Training should be designed for heterogeneous groups of decision-makers and policy-level staff directly involved in the ongoing operation of State and local child welfare agencies, including directors of social services, directors of fiscal operations, program planners, program managers and other key administrative staff of child placing agencies and organizations that interface with the child welfare system. *Training should focus on information, strategies, and techniques to enable administrators and program managers* to assess and effectively utilize program information and numerical data for formulating child welfare policy and for planning and implementing more effective child welfare services. Training must be multidisciplinary in approach, reflecting state-of-the-art management practices as well as theory and principles drawn from public administration, business, finance, law, organizational behavior, and human development. Training should emphasize analytical techniques to facilitate understanding and interpretation of social service data, to assist with program planning and assessment, and to identify and evaluate policy implications. Training should concentrate on systems-related administrative issues specifically relevant to child welfare. Specific needs and problems to be examined within the context of leadership training for child welfare may include permanency planning, planning for relocation, reunification, after-care, adoption, Pub. L. 96–272, fiscal operations, metropolitan child welfare problems vs statewide child welfare responsibility, preplacement prevention under Pub. L. 96–272, child abuse and neglect, treatment of sexual abuse, and other relevant issues identified by State and local agencies.

6.03 State Training Assistance

HDS will support projects which *strengthen or expand the capacity of State and local public agencies to provide ongoing training and staff development activities* for child welfare personnel. Projects should provide information and/or training on effective methods for utilizing existing training materials, uses of new technologies and other strategies for improving the capacity of public agencies to provide in-service training for child welfare staff. Projects should be structured to provide information and consultation directly to State and local agency officials specifically responsible for provision of training to local practitioners.

Projects may be designed to assist agencies in planning and implementing staff development training including certification programs for child welfare staff, individualized training plans, in-service or on-the-job training activities specifically designed for child welfare personnel, and other Federally approved or State-mandated child welfare training. Projects may also provide agencies with techniques for assessing workers' knowledge and skills, and strategies for developing and implementing standardized policies and protocols for service providers to reflects updated modes of practice and sound child welfare principles.

6.04 Child Welfare Traineeship Projects

HDS will support projects which provide financial support, education, and professional training for student and/or workers specializing in the field of child welfare practice. Projects should develop programs to provide specialized knowledge and skills related to child welfare services at the undergraduate or Masters level. Programs should be designed to integrate classroom instruction or special courses with work experiences, practicums, or other field work experiences in child welfare. Linkages between child welfare policy

and practice should be emphasized, and course work, in-service training, and related curriculum components should be designed to prepare trainees for current modes of social work/child welfare practice.

Traineeships may be developed for BSW or other senior level undergraduate students, for Masters level students or workers with little or no previous experience in child welfare services, or for experienced service providers currently employed in child welfare services, or seeking child welfare employment. Programs may be full-time or part-time, degree-oriented or non-degree. Programs should be structured to allow trainees to acquire information and expertise related to child welfare services, and to upgrade their practice skills working with children and families.

6.05 Indian Child Welfare Training Projects

The purpose of this Priority Area is to provide support for training projects specifically related to Indian Child Welfare Services. Training projects may be structured to conform to the guidelines for any of the four Priority Areas outlined above (Priority 6.1, 6.2, 6.3, or 6.4), allowing for the following programmatic emphases:

6.05.A Indian Practitioner Traning for Child Welfare. Projects may be developed for training Indian paraprofessional service providers, as well as professional social work practitioners from State or local child welfare agencies, and other workers from Indian tribal organizations with significant child welfare responsibilities.

6.05.B Indian Leadership Training for Child Welfare Executives. Projects may be developed for training tribal councilmen, tribal court judges, Indian elders, and other executive level directors, planners, and program managers of tribal and community agencies directly involved in administration, management, and decisionmaking on projects and programs effecting child welfare services for Indian children and families.

6.05.C Indian Tribal-State Training Assistance Projects. Projects may be developed to assist Indian tribes in the development and implementation of tribal-State agreements delineating specific areas of jurisdiction vis-a-vis child welfare services and other critical issues related to Indian child welfare and to assist State and local agencies in planning and implementing staff development training for service providers working with Indian children and families.

6.05.D Indian Child Welfare Traineeship Projects. Projects may be developed to provide financial asistance, education, and training for Indian students, paraprofessionals, and other service providers specializing in the field of Indian child welfare.

Priority Area 7: Small Business Innovation Research (SBIR)

The Small Business Innovation Development Act of 1982 (Pub. L. 97–219, 15 U.S.C. 638) directs most Federal agencies, including the Office of Human Development Services, to reserve a certain amount from their research and demonstration budgets for a small business innovation research (SBIR) program. The purpose of this priority area is to invite preapplications from small businesses for projects which involve the administration of human services programs.

In earlier years, HDS has made funds available for its SBIR program under a separate announcement and identified specific research topics for small business application. This year, the SBIR program announcement is being included as part of this announcement for the Coordinated Discretionary Program. Consequently, this priority area authorizes funding under appropriate statutory authorities for small businesses under any of the priorities described in this announcement. In addition, there is one area under which only small businesses may apply, and that is the use of new technology to assist the developmentally disabled and the elderly perform tasks of daily living. These technologies can be used to develop new products ranging from simple assistive devices to the development of "high tech" instrumentation. Proposals are invited for projects that will identify products and adaptable technology, study the market potential for this technology, and develop a plan for production and sale.

Funding Information

Projects under this priority area may be funded through the following authorities: Section 1110 (Research and Demonstration) of the Social Security Act; the Head Start Act of 1981; the Native Americans Programs Act of 1974, as amended; and, Section 425 of the Older Americans Act, as amended. Projects will be funded through cooperative agreements.

Proposals submitted under this priority area will be reviewed separately. Small businesses which apply for SBIR funding agreements should therefore indicate clearly, on the cover sheet of their application, that they are applying under "Priority Area 7: SBIR."

The SBIR program consists of the following three phases:

Phase I: To establish the technical merit and feasibility of R&D ideas which may ultimately lead to commercial products or services.

Phase II: To develop in-depth the Phase I ideas shown to be feasible. Special consideration will be given to projects demonstrating prospective private capital commitments for commercial applications. Only Phase I awardees will be eligible to apply for Phase II funding.

Phase III: To commercialize the results of R&D funded by a Federal agency using private capital, or for products intended for government use, using a different source of funds than SBIR.

HDS will provide funds for Phase I projects and will consider applications for Phase II projects from former Phase I grantees.

Eligibility to apply under this priority area is limited to organizations which meet the definition of a small business contained in this announcement. At least two-thirds of each SBIR project must be carried out in the small business firm, and the primary employment of the principal investigator (or project director) must be with the firm at the time of award and during the conduct of the proposed project. Primary employment means that more than one-half of the individual's working time is spent with the small business employer.

This announcement is intended for informational purposes and reflects current planning. If there is any inconsistency between the information contained herein and the terms of any resulting SBIR funding agreement, the terms of the funding agreement are controlling.

Prior to the award of an SBIR funding agreement, the government may request the applicant to submit certain additional information concerning the organization's management, personnel and finances to assure the responsibility of the applicant.

The government is not responsible for any expenditures by an applicant prior to the award of a funding agreement. The government is also under no obligation to fund any application or make any specific number of awards under this priority area. Significant Federal involvement is required for all cooperative agreements, and the type and level of involvement will be determined during pre-award negotiations.

A successful applicant under this program may be required to certify that project personnel have not previously been, nor are currently being, paid by the Federal government for essentially equivalent work.

Special Information for SBIR Applicants

Limited Rights Information and Data. Information contained in unsuccessful applications will remain the property of the applicant. The Federal government may, however, retain copies of all applications. Public release of information in any funded application will be subject to existing statutory and regulatory requirements. The government is not liable for disclosure required under the Freedom of Information Act (5 U.S.C. 552).

Proprietary information contained in applications will be treated in confidence to the extent permitted by law, provided that it is clearly identified as confidential and the following legend appears on the cover sheet of the application:

"For any purpose other than to evaluate the proposal, this data shall not be disclosed outside the government and shall not be duplicated, used or disclosed in whole or in part, provided that if a funding agreement is awarded, the government shall have the right to duplicate, use and disclose the data to the extent provided in the funding agreement. This restriction does not apply to the government's right to use information contained in this application if it is obtained from another source without restriction. The date subject to this restriction is contained on page(s) —— of this proposal."

Title to Property. Title to real property, equipment and supplies acquired by a for-profit recipient under a financial assistance award or sub-award shall vest upon acquisition to C e Federal government. The management, control and disposition of property in the hands of the recipient will be governed by rules applicable to grants and cooperative agreements to for-profit organizations under 45 CFR Part 74.

Rights in Data Developed under SBIR Funding Agreements. Rights in date, including software developed under a funding agreement in response to this announcement, shall remain with the developer for a two-year period. During that period the government shall have the limited right to use such data for internal purposes and shall not release such data outside the government without the permission of the developer. Effective at the conclusion of the two-year period, the government shall retain a royalty-free license for government use of any technical data delivered under an SBIR funding agreement whether patented or not.

Copyrights and Patents. Small business firms may normally copyright and publish material developed with government support, and may retain the principal worldwide patent rights to any invention developed with government support. The government receives a royalty-free license to use of publications and inventions. Each publication must contain an acknowledgement of agency support and a disclaimer. Likewise, the government reserves the right to require a patent holder to license others under certain circumstances, and requires anyone exclusively licensed to sell an invention in the United States to manufacture it domestically. To the extent authorized by 35 U.S.C. 205, the government will not make public any information disclosing a government-supported invention until the developer has had reasonable time to file an initial application.

Cost sharing. The HHS Appropriations Act requires that recipients of funds share in the cost of activities supported by research grants and cooperative agreements. For-profit organizations must share costs by an individual agreement which specifies the level of cost-sharing for each project. Applicants should not submit cost-sharing proposals until notified by the agency that an application has been approved and that a cost-sharing agreement is required.

Profit or Fee. In accord with 45 CFR Part 74, no profit or fee will be provided to for-profit organizations through cooperative agreements. A profit is considered as any amount in excess of actual direct or indirect costs incurred in the conduct of a project.

Joint Ventures and Limited Partnerships. Joint ventures are permitted provided the entity created qualifies as a small business in accord with the definition included in this announcement.

Limit on Contracting. Contracting under a cooperative agreement, as defined in this announcement, may not exceed thirty-three percent of the total proposed direct and indirect costs unless otherwise approved in writing by the contracting officer.

Terms and Conditions of Award. Upon acceptance of a cooperative agreement, the recipient must comply with the terms and conditions contained or referenced in the notice of award document. These terms and conditions constitute legal requirements imposed on a recipient by statute, regulations, administrative policy or the award document itself.

Definitions. A "small business" is an organization, including its affiliates, which is independently owned and operated for profit, is not dominant in its field of operation, and can further qualify under the following size standard: not more than 500 employees (full-time, part-time, temporary, or other) during the previous 12-month period in all affiliated firms owned or controlled by a single parent firm. Included are women-owned and minority and disadvantaged small businesses at least 51 percent owned or operated and controlled by such individuals.

"Control" means exercising the power to make policy decisions.

"Operate" means active involvement in day-to-day management.

"Research" or "research and development" is defined as 1) a systematic study directed toward greater knowledge or understanding of the subject studied; 2) a systematic study directed specifically toward applying new knowledge to meet a recognized need; or 3) a systematic application of knowledge toward the production of useful materials, devices, and systems or methods including design, development and improvement of prototypes and new processes to meet specific requirements.

A "cooperative agreement" is a financial assistance mechanism whereby money and/or direct assistance is provided by the government to carry out non-Federal activities and where significant Federal programmatic involvement with the recipient during performance is anticipated by the funding agency.

Part III: Preapplication Process

A. Eligible Applicants

In general, any State, local, public, or nonprofit organization or agency may submit a preapplication under this announcement. Some of the specific priority areas or topics included in this announcement may have more restrictive eligibility requirements (for example, only State and Area Agencies on Aging may be eligible to apply). Where this is the case, the ony eligible entities are specified in the priority area or topic description. Preapplications jointly developed by State, local and community-based social services agencies, foundations or universities are encouraged in order to promote comprehensive social services programs. "For-profit" organizations are eligible applicants for projects funded under authority of the Head Start Act, Native American Program Act and, in limited cases, the Older Americans Act.

They may also participate as contractors under a grant to eligible applicants on all projects. Small businesses, in particular are encouraged to apply.

B. Available Funds

The availability of funds for FY 1985 and FY 1986 is dependent on passage of appropriations by the Congress. Based on the level of funding for FY 1984, the Office of Human Development Services expects to award approximately $33,300,000 during the second, third and fourth quarters of FY 1985 for new grants and cooperative agreements. Subject to Congressional action on the FY 1986 budget, HDS may also award a limited number of grants under this announcement in the first and second quarters of FY 1986. Appropriate HDS discretionary funding authorities will be used to fund projects, and more than one authority may be used to fund some projects.

The funding estimated to be available from each authority is summarized below. Applicants should take into account the proportion of funds available under each authority in designing their projects. The actual dollar amount from each authority will not be available until late in the first quarter of FY 1985. However, we would anticipate that the following figures are a good estimate.

FUNDING SUMMARY

Program	Estimated availability of fiscal year 1985 funds
Administration on Aging	$5,500,000
ACYF/Child Abuse and Neglect	7,000,000
ACYF/Adoption Opportunities	1,500,000
ACYF/Child Welfare	5,000,000
ACYF/Runaway Youth	3,600,000
ACYF/Head Start	2,500,000
ACYF/Child Welfare Services Training	3,800,000
Administration on Developmental Disabilities	1,500,000
Administration for Native Americans	700,000
HDS/Social Services Research	2,000,000
Total	33,300,000

HDS expects to make approximately 200 new awards pursuant to this announcement. These awards are expected to range from $50,000 to a maximum of $200,000 per 12 month budget period, with the average award expected to be $100,000. Maximum grant awards and project periods for projects under each priority area are as follows:

Priority area	Maximum award (per year)	Maximum project period (months)
1. Demonstrations	$200,000	36
2. Basic knowledge	150,000	36
3. Evaluation and management	150,000	17
4. Knowledge transfer	150,000	17
5. Gerontological training	100,000	17
6. Child welfare training	150,000	17
7. SBIR	50,000	12

Actual awards may vary widely and eligible applicants requiring smaller awards are encouraged to apply. Projects of less than 12 months may also be submitted.

As stated earlier, applicants should be aware that HDS receives 2,000 to 5,000 preapplications annually to its Coordinated Discretionary Funds Program. Of these, about 200 applicants receive grant awards.

C. Regional Workshops for Prospective Preapplicants

There will be workshops on this program announcement in Washington, D.C. and in each of the ten cities with HDS regional offices. The purpose of these workshops is to inform prospective preapplicants about the priority areas to be addressed and the process for preparing and submitting a preapplication.

Specific information on the workshops is as follows:

Washington, D.C., Friday, September 7, 10:00 A.M., Auditorium, Humphrey Building, 200 Independence Ave., S.W.

Boston, Massachusetts, Tuesday, October 2, 2:00 P.M., Room 2003, JFK Federal Bldg., Cambridge Street

New York, New York, Friday, October 5, 9:30 A.M., Room 305A–C, Federal Building, 26 Federal Plaza

Philadelphia, Pennsylvania, Thursday, October 4, 1:00 P.M., Auditorium, Mid Atlantic Program Center, Social Security Administration, 300 Spring Garden Street

Atlanta, Georgia, Thursday, October 4, 9:30 A.M., Main Auditorium, Richard B. Russell Federal Building, 75 Spring Street, S.W.

Chicago, Illinois, Wednesday, October 3, 9:00 A.M., 35th Floor Conference Room, 300 South Wacker Drive

Dallas, Texas, Wednesday, October 3, 9:00 A.M., Town Hall, Concourse Level, One Main Place Building, 1201 Main Street

Kansas City, Missouri, Thursday, October 4, 9:00 A.M., Mid-West Research Institute, Mag Conference Center, 425 Volker Boulevard

Denver, Colorado, Monday, September 17, 9:30 A.M., Room 239, Federal Office Bldg. 2, 1961 Stout Street

San Francisco, California, Monday, September 24, 9:00 A.M., Crystal Ballroom, San Franciscan Hotel, 1231 Market Street

Seattle, Washington, Wednesday, October 3, 9:30 A.M., North Auditorium, 4th floor, 2nd Avenue entrance, Jackson Federal Building, 915 2nd Avenue

D. Grantee Share of the Project

At least 25% of the *total* cost of proposed projects must come from a source other than the Federal government (one dollar match for every three requested from HDS) except: (1) In the case of projects funded under the Native Americans Act Authority, where the grantee match must be 20% of the total cost of the proposed project; and (2) universities which already have an institutional cost hearing agreement with HHS. The non-Federal share of project costs may be in the form of grantee-incurred costs or third party in-kind contributions. HDS strongly encourages preapplications where the grantee share is more than 25% of the project costs or where the applicant proposes to match HDS grants, partially or fully, with cash contributions from other non-Federal funding sources.

E. Preapplication Process

Organizations wishing to compete for grants under this announcement must submit a preapplication by October 17, 1984. Preapplications received in response to this announcement will be reviewed by HDS staff and non-Federal experts. It is expected that successful preapplicants will be invited to submit final applications during January and February to compete for funding scheduled for the second, third and fourth quarters of FY 1985 and the first and second quarters of FY 1986.

1. Availability of Forms

Preapplications for grants under the HDS Coordinated Discretionay Funds Program must be submitted on the Standard Form 424, page 1, as provided or on a copy made from this form. For your convenience, this form as well as detailed guidance materials for use in preparing the preapplication is included in Part IV of this announcement. *The only form reguired for submittal of the preapplication is included in this announcement.*

Additional copies of this announcement may be obtained by phoning or writing to: HDS/Division of Research and Demonstration, 200 Independence Avenue, SW., Room 732E, Washington, D.C. 20201 Telephone: (800) 372–3344.

2. Preapplication Submission

One signed original and a minimum of two copies of the preapplication must be

submitted to: HDS/Division of Grants and Contracts Management, 200 Independence Avenue, S.W., Room 737F, Washington, D.C. 20201, Atttention HDS–85.

Submittal of five additional copies will expedite processing. There is no penalty for not submitting these additional copies.

3. Notification Under Executive Order 12372

Some of the programs listed under this announcement are covered under Executive Order (E.O.) 12372, "Intergovernmental Review of Federal Programs," and 45 CFR Part 100, Intergovernmental Review of Department of Health and Human Services Programs and Activities."

Each State has established a State Single Point of Contact (SPOC) to coordinate the State Process. For covered programs, in the preapplication phase, applicants do *not* have to contact their cognizant State Single Point of Contact for instructions regarding the State Process for E.O. 12372 review. *If preapplicants are invited to submit full applications, they must then submit required material to their SPOCs to obtain their comments for consideration by HDS as part of the full application review and award process.* Applications for programs to be administered directly by Federally-recognized tribes, as well as preapplications submitted under the SBIR program, are exempt from the requirements of E.O. 12372.

Applicants will be instructed to contact their SPOC or State Process as soon as possible to alert them of the prospective application and receive specific instructions regarding the process. Required material should be sent to the SPOC as early as possible. State Processes or directly affected State, areawide, regional, and local officials and entities will have 60 days starting from the full application deadline date to comment on applications for financial assistance under covered HDS programs.

SPOCs will submit their comments directly to the HDS Receiving Office specified in this announcement. HDS will notify the State of any full applications received which have no indication that the State Process has had an opportunity for review.

4. Preapplication Consideration

Complete preapplications that conform to the requirements of this program announcement will be reviewed competitively and evaluated by Federal officials and qualified persons outside of the Federal government. The results of the review will assist the Assistant Secretary and Program Commissioners in considering competing preapplications. This consideration may also take into account comments from Federal Regional and Headquarters program staff offices and from the State Single Point of Contact. In addition, comments may be requested from appropriate specialists and constituents inside and outside of the Federal government.

The Assistant Secretary for Human Development Services, Program Commissioners and other members of the HDS Executive Staff will determine the action to be taken on each preapplication and will make the decision whether to request a full application. In addition, the Older Americans Act places certain responsibilities upon, and authority in, the Commissioner on Aging which affects the role of the Administration on Aging in implementing this program announcement. All such requirements will be met through actions which conform to the mandates of the Act.

HDS reserves the option of discussing preapplications with, or referring them to, other Federal or non-Federal funding sources when this is determined to be in the best interest of the Federal government or the applicant.

5. Funding Limitations on Indirect Costs

Preapplicants should be aware that for projects funded under Gerontological Training (Priority 5) and Child Welfare Services Training (Priority 6) there is a limitation of eight percent on indirect costs.

F. Special Considerations for Funding

Within the limits of available Federal funds, HDS Executive Staff make financial assistance awards consistent with the purposes of the statutory authorities governing the HDS Discretionary Funds Program and this announcement. In making these decisions, *preference will be given to projects that propose the innovative use of volunteers or involve the private sector.* To the extent possible, final decisions will reflect the equitable distribution of assistance among the States, geographical areas of the nation, and rural and urban areas.

G. Criteria for Screening and Review

All preapplications that meet the deadline will be screened to determine completeness and conformity to the requirements of this announcement. Complete, conforming preapplications will then be reviewed and evaluated competitively.

1. Screening Requirements

In order for a preapplication to be in conformance, it must meet *all* of the following requirements:

(a) *Number of copies:* An original signed preapplication and two copies must be submitted.

(b) *Length:* The narrative portion of the preapplication *must not exceed ten double-spaced pages* (or five single-spaced pages) typewritten on one side of the paper only. The capability statement must not exceed two double-spaced or one single-spaced typewritten page.

(c) *Standard Form 424:* The preapplication must include an SF 424, page 1, completed according to instructions.

(d) *Multiple Submittals:* A project can only be proposed once under this announcement. Multiple submittals of the same—or essentially the same—project as preapplications under different priority areas will be deemed nonconforming.

(e) *Eligibility:* The applicant must be an eligible entity as defined in the announcement.

(f) *HDS' Priorities:* The concept or project embodied in the preapplication must specifically address a priority stated in the announcement.

(g) *HDS Populations:* The preapplication must clearly target one or more HDS populations: the elderly; children, youth and families; Native Amercians; the poor; and the developmentally disabled.

(h) Non-Federal Contribution: A non-Federal contribution of at least 25% of the total project costs must be proposed, except in the case of projects funded under the Native Americans Act Authority where the non-Federal contribution must be at least 20 percent, or in the case of orgainzations like universities that have an existing cost sharing agreement with HHS.

(i) *Cost:* Proposed projects must conform to the chart under "B. Available Funds", in this Part.

PREAPPLICATIONS MUST MEET *ALL* OF THE ABOVE REQUIREMENTS TO BE CONSIDERED. NONCONFORMING PREAPPLICANTS WILL NOT BE ALLOWED TO CORRECT DEFICIENCIES OR RESUBMIT AMENDED PREAPPLICATIONS.

2. Review Criteria

Preapplications which are determined to be in conformance with this announcement will be reviewed by panels which may be composed of Federal staff, State/local staff,

university and other nongovernment experts. Stage one will use the following criteria for the priority areas of: Demonstrations of National Relevance, Basic Knowledge and Data Development, Gerontological Training, and Child Welfare Services Training.

(a) *Criterion I:* Innovativeness (40 points). The preapplication clearly proposes a *significant improvement upon, or important departure from, existing practices and previous related work* in the field of human services (not only in the local area of the proposed project). The proposed project constitutes new activity and not merely a continuation or expansion of existing activity.

(b) *Criterion II:* Outcomes (20 points). The proposed project will result in a measurable, concerte reduction of a significant problem (a project should result, for example, in the actual employment of a specific number of youth by a specific time, not just in counseling those youth on how to seek employment).

(c) *Criterion III:* Project Design (20 points). The problem to be addressed is clearly stated. The preapplication has a concise but clear statement of goals, measurable objectives and project design or methodology. Problems, issues and methods are clearly related.

(d) *Criterion IV:* Potential for success (10 points). The goals of the proposed project are realistic in terms of the methodolgy, staff and funds allocated to the activity. The applicant organization is capable of carrying out the project as proposed.

(e) *Criterion V:* Cost/Benefit (10 points). The cost of the proposed project is commensurate with the specific outcomes of the project; the cost per unit of outcome (e.g., youth employed) is low. The extent to which other organizations are contributing funds for the project is clearly indicated.

In the areas of Evaluation and Management Systems and Knowledge Transfer, the Following criterial will be used for stage one:

(a) *Criterion I:* Innovativeness (20 points). The preapplication clearly proposes a significant improvement upon existing practices and previous related work in the field of human services. The proposed project constitutes a new activity and not merely a continuation or expansion of existing activity.

(b) *Criterion II:* Beneficial Impact (20 points). The knowledge, methods, dissemination, or technology to be developed can be expected to impact beneficially on human service programs and target populations. Knowledge transfer and evaluation activities should address specific areas within this announcement.

(c) *Criterion III:* Outcomes (20 points). The proposed project results in improvement of planning management or delivery of services at State and local levels or the enlargement of the knowledge base in one or more of the areas for which proposals are solicited.

(d) *Criterion IV:* Project Design (20 points). The problem to be addressed is clearly stated. The preapplication has a concise but clear statement of goals, measurable objectives and project disign or methodology. Problems, issues and methods are clearly related.

(e) *Criterion V:* Potential for Success (10 points). The goals of the proposed project are realistic in terms of the methodology, staff and funds allocated to the activity. The applicant organization is capable of carrying out the project as proposed.

(f) *Criterion VI:* Cost/Benefit (10 points). The cost of the proposed project is commensurate with the specific outcomes of the project; the cost per unit of outcome (e.g., youth employed) is low. The extent to which other organizations are contributing funds for the project is clearly indicated.

After the preapplications are rated by the review panels using these criteria, the HDS Executive Staff will select those which will be invited to submit final applications.

3. Evaluation Criteria

In stage two (the final application stage), Those preapplicants selected by the Executive Staff will be asked to submit full applications. These applications will be either administratively reviewed by HDS staff (in the case of a limited number of preapplications of unique interest) or competitively reviewed by qualified groups of experts who are primarily from outside of the Federal government. Acceptable applications must be complete and meet the following criteria:

(a) *Criterion I:* Technical Approach (25 Points).

- The applicant proposes a well-defined and carefully worked out technical approach (including problem or issue definition) that is, if well executed, capable of achieving the objectives of the project. The approach may include: research methodology, demonstration plan, innovativeness of concept, design of training programs or other appropriate techniques.
- Where appropriate, the applicant describes evaluation components. Evaluation, data collection and analysis procedures are geared to assess (using quantitative measures as much as possible) the degree to which intended objectives are achieved. The applicant clearly distinguishes the evaluation from management activities designed primarily to give project staff feedback on their progress toward meeting project objectives.

(b) *Criterion II:* Beneficial Impact (25 Points).

- The knowledge, methods, or technology to be developed can be expected to impact beneficially on human service programs and target populations beyond the site at which the project is conducted. This includes generalizability of results for research, demonstrations, and evaluation projects.

(c) *Criterion III:* Project Implementation Plan (20 Points).

- The preapplication specifies a sound plan for task accomplishment and staff loading by task.
- The preapplication contains a suitable plan for insuring the use of project results by appropriate users. The plan describes the kinds of reports and media to be used in transmitting final results to users and explains why this is expected to be an effective dissemination package that will reach and influence users.

(d) *Criterion IV:* Staffing and Management (15 Points).

- The proposed staff are well qualified to carry out the project.
- The division of responsibilities is appropriate to carry out project tasks, including sufficient time of senior staff to assure adequate management of the project.
- The applicant organization has adequate facilities, resources, and experience to conduct the project as proposed.
- *The author(s) for both the preapplication and the application should be clearly identified together with their current relationship to the applicant organization and any future project role they may have if the application is funded.*

(e) *Criterion V:* Budget Appropriateness and Reasonableness (15 points).

- The proposed budget is commensurate with the level of effort needed to accomplish the project objectives. The cost of the project is reasonable in relation to the value of the anticipated results
- The contribution of any collaborative agencies or organizations is assured in writing and included with the application when it is submitted. The participation of an agency other then the applicant, if critical to the proposed project, is evidenced by a

letter indicating agreement to participate.

G. Closing Date for Receipt of Preapplications

The closing date for submittal of preapplications under priorities identified in this program announcement is October 17, 1984. Preapplications must be mailed or hand delivered to: HDS/ Division of Grants and Contracts Management, 200 Independence Avenue, SW., Room 737F, Washington, D.C. 20201, Attention HDS–85.

Mailed preapplications. Preapplications mailed through the U.S. Postal Service shall be considered as meeting the deadline if they are either:

1. Received on or befor the deadline date; or

2. Sent by first class mail postmarked on or before the deadline date, and received in time to be considered during the competitive review and evaluation process. (Applicants are cautioned to request a legible U.S. Postal Service postmark or to use express mail or certified or registered mail and obtain a legibly dated mailing receipt from the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing.)

Preapplications submitted by other means. Preapplications submitted by any other means except through the U.S. Postal Service shall be considered as meeting the deadline only if they are physically received before close of business on or before the deadline date.

Late Preapplications. Preapplications which do not meet these criteria are considered late preapplications and will not be considered in the current competition.

Hand delivered preapplications. Hand delivered preapplications are accepted during the normal working hours of 9:00 A.M. to 5:30 P.M., Monday through Friday.

Part IV: Instructions for Completing Preapplications

A. Preapplication Package

In order to expedite the processing of preapplications, we request that you follow these instructions explicity. Each preapplication submission must include:

1. An original and a minimum of two additional copies of the preapplication (See Section B below). While an original and two copies are required, five additional copies will facilitate processing. No applicant will be penalized for submitting only the three required copies. Each copy should be stapled in the upper left corner. At least one copy (the original) must have an original signature on the Standard Form 424. Please *do not use covers, binders or tabs or include extraneous materials* such as agency promotion brochures, slides, tapes, film clips, etc. It is not feasible to use such items in the review process, and they will be discarded if included.

2. Three extra copies of Form 424 and three copies of the cover sheet with abstract stapled together apart from the copies of the preapplication.

3. Do not include a self-addressed, stamped acknowledgement card. All applicants will be automatically notified of receipt and of the Coordinated Discretionary Funds Program (CDP) identification number assigned to their preapplication. A post card will be addressed to the contact person named on line 4h at the address given on lines 4a–g of SF 424, page 1. This number and the priority area must be referred to in *ALL* subsequent communication with HDS concerning the preapplication. If acknowledgement is not received within six weeks after the deadline date, please notify HDS by telephone (202) 245–6233. Please refer to the identification number in subsequent communication with HDS.

B. Content of Preapplication

Each copy of the preapplication *must* contain, in the order listed, each of the following items:

1. Standard Form 424, page 1, completed according to the instructions listed below.

2. Cover sheet with abstract completed according to the instructions listed below.

3. Project narrative, *no more than ten pages long,* double-spaced and typewritten on one side only (or five pages single-spaced), completed according to the instructions listed below.

4. Organizational capability statement or materials, *no more than two double-spaced typerwritten pages long. Items 1, 2, 3 and 4 must not exceed a total of 15 pages,* if double-spaced. The instructions for completing the organizational statement are listed below.

C. Preparing the Preapplication

The single form necessary to complete the preapplication, the Standard Form 424, page 1, is reprinted below for your convenience. We suggest that you reproduce it and type your preapplication on the copy.

Prepare your preapplication in accordance with the following instructions:

1. Instructions for Standard Form 424, page 1: Complete item numbers 1, 4, 5, 6b, 7, 8, 13, 14, 17, 22a and 23 only.

Specific instructions are as follows:

Item 1. Mark "preapplication" box.

Items 4.a.–4.h. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of applicant, and name and telephone number of person who can provide further information about this request and to whom acknowledgement and notification of results will be sent.

Item 5. Employer identification number of applicant as assigned by Internal Revenue Service.

Item 6.b. Type "HDS FY 1985 Coordinated Discretionary Funds Program" *and the four digit number (for example, 3.02.A) of the priority area under which the preapplication is being submitted.* If more than one priority area is listed, HDS will disregard all but the first one listed.

Item 7. The title should briefly and clearly describe the focus of the proposed project and be selected with public understanding of the value of the project in mind. Do not use acronyms, abbreviations or jargon. Avoid unnecessary phrases such as "A Study of * * *," "Research to * * *," "A Project * * *," etc. *Do not use more than 100 characters,* including punctuation and spaces between words. Characters in excess of 100 will be lost during electronic data entry.

Item 8. Self-explanatory. "City" includes town, township, or other municipality.

Item 13.a. Enter the amount of Federal funds requested.

Item 13.b–13.e. Enter the amount(s) of funds from other than Federal sources which will be contributed to the proposed project.

Item 14.a. Enter the number of the congressional district where the applicant's principal office is located.

Item 14.b. Enter the number of the congressional district(s) where the project will be located.

Item 17. Estimated number of months to complete project after Federal funds are available.

Item 22. Self-explanatory.

Item 23. Self-explanatory.

2. Instructions for the cover page with abstract:

On a single sheet of plain white bond, type (single-spaced):

- Title of preapplication (exactly as entered in item 7 on Form 424).
- Name and address of applicant organization (exactly as in item 4).
- Priority area under which the preapplication is submitted.
- Target population(s).
- Total project period and total amount requested.
- Proposed match which should be *at least one dollar for every three*

requested from HDS unless the applicant is an Indian Tribe or has an existing cost sharing agreement with HHS. If these two exceptions apply, *state so clearly here.*

• Project abstract summarizing, in 200 nontechnical words or less, the proposed project. The abstract should be so clearly written that the following questions could be answered by a member of the general public who reads it:

What is the specific purpose of the project?

How is the project to be conducted?

What will be its concrete outcomes?

What difference might the results make?

To whom will the results apply?

It is important that the abstract be an accurate reflection of the activities proposed in the preapplication.

• The name of the author(s), their current relationship to the applicant and the proposed project role.

3. Instructions for project narrative: Describe the project you propose in response to this announcement. Your narrative *(10 pages typed double-spaced, or five pages typed single-spaced maximum,* on 8½" x 11" plain white bond with 1" margins on both sides) should provide information on how the preapplication meets the review criteria. We strongly suggest that you follow these format and page limitations:

a. *Statement of Need for the Proposed Project* (2 pages typed double-spaced or 1 typed page single-spaced maximum). This portion of the preapplication should state the objectives of the project, including clear specification of the concrete outcome(s) expected of the project and the HDS populations targeted. In addition, this portion should document the need for and importance of the issues to be addressed beyond the local area of the project. It should also describe how the proposed project builds upon previous work and how it advances the state of knowledge from a national perspective.

b. *Results and Benefits Expected* (1 page double-spaced maximum) This portion of the program narrative should briefly summarize the anticipated results and delineate the benefits which are expected. Emphasis should be placed on outcomes as opposed to process measures. Projects should result, for example, in the employment of a specific number of people rather than just the training of people to increase employability.

c. *Approach* Project Design (5 doubled-spaced pages maximum) This portion of the program narrative should describe specific plans for conducting the project. It should include relevant information about: (a) hypotheses to be tested (if appropriate); (b) data to be collected (including specification of data sources); (c) plan for data analysis; (d) what the project will do; and (e) who will do it.

d. *Utilization and Dissemination* (1 page doubled-spaced maximum) This section should describe ways in which the project will share its experiences and findings with the field of human services in general and, specifically, with agencies or organizations capable of developing improved service delivery and management.

e. *Level of Effort* (1 page doubled-spaced maximum) This part of the narrative should described the staff, money, facilities and time that will be required to complete the project as envisioned; describe the resources needed to carry out the project; and state the total Federal funds required to complete the project as proposed. A "line-item" budget is not needed in the preapplication.

5. Organizational Capability Statement:

A brief (maximum 2 typed pages double-spaced or one typed page single-spaced) background description of how the applicant agency (or the particular division of a larger agency which will have responsibility for this project) is organized and the types and quantity of services it provides or research capabilities it possesses. Include descriptions of any current or previous relevant experience. Describe the competence of the project team and its demonstrated ability to produce a final product that is readily comprehensible and usable. The qualifications of key staff should be described in a few paragraphs rather than in formal vitae.

Indicate clearly whether written commitments have been obtained from organizations that will be directly involved in the proposed project.

D. Check List of Preapplication Requirements

The following check list is provided for your convenience:

- ☐ SF 424, page 1, has been completed according to instructions (see sample SF 424).
- ☐ SF 424 has been signed and dated by an authorized official.
- ☐ Each preapplication has been stapled (no folders or binders) with a copy of the SF 424, page 1, as the first page of each copy.

Included in your preapplication package are:

- ☐ One original signed preapplication plus seven copies. Each of the copies should include the following:
- ☐ SF 424, page 1 (one page);
- ☐ A cover page with abstract (one page);
- ☐ A narrative (10 typewritten double-spaced pages, maximum);
- ☐ Organizational capability statement (2 typed doubled-spaced pages, maximum)

Remember, preapplications must be postmarked or hand delivered (by 5:30 p.m.) no later than October 17, 1984 to: HDS/Division of Grants and Contracts Management 200 Independence Avenue, SW., Room 737F, Washington, D.C 20201, Attention HDS–85.

E. Points to Remember

• You are required to send an original and two copies of a preapplication. We request that you send five additional copies to facilitate our review. However, there is no penalty for sending only three copies.

• Designate your preapplication for one priority area and one priority area only.

• Although multiple preapplications (of different concepts) from the same applicant are not prohibited, they are not encouraged.

• In computing the required match for all projects except those funded under the Native Americans Act Authority or with HHS cost sharing agreements, please note that 25% of the *total* (your share and the amount requested) project cost is equivalent to ⅓ of the amount requested from HDS. Thus for every three dollars you request from the Federal Government (HDS), you must match with one dollar from your applicant organization. *Miscomputation of the match is a common mistake that leads to disqualification.* In order to compute the required minimum match, divide the amount you are requesting from HDS by 3.

• *Preapplications containing narratives in excess of ten typewritten double-spaced pages (or five typewritten single-spaced pages) or capability statements of more than two double-spaced pages (or 1 single-spaced page) will not be given further consideration.*

• The distribution of topics related to specific HDS programs (e.g., AoA) is not necessarily commensurate with the distribution of discretionary funds among those programs.

• The cover page with the abstract of 200 words or less is an essential element of the preapplication. It is important that the abstract accurately reflect the nature and scope of the proposed project.

• Follow the recommended format as closely as possible in preparing the preapplication's narrative.

• The qualifications of key staff should be described in a few paragraphs rather than in formal vitae.

• Although letters of agreement (where appropriate) are required in final applications, it will suffice in the preapplication to state clearly that the necessary agreements have been obtained from those agencies whose participation is essential to the conduct of the proposed project. Letters of support you choose to submit as a part of the preapplication will be considered within the limited 10 typewritten double-spaced (or 5 typewritten single-spaced) pages of narrative.

• Indirect costs of Gerontological Training (Priority 5) and Child Welfare Services Training (Priority 6) grants may not exceed 8%.

• If selected to submit a full application, applicants should ensure that the Federal funds requested do not exceed what was requested in the preapplication. Disregard for this rule will result in an unfavorable review and may result in rejection of the application.

• Applicants are strongly encouraged to have someone other than the writer apply the screening requirements and review criteria to the preapplication prior to its submittal. In this way, applicants will gain a sense of their preapplication's quality and potential competitiveness.

F. Activities That Generally Will Not Meet the Purposes of This Announcement Include:

• Projects whose main activity is a conference or meeting.

• Projects whose major product is a manual.

• Proposals that request expansion or continuation of existing services or programs.

• Proposals what would establish clearinghouses.

• Projects of local significance only.

Dated: August 16, 1984.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Dodie Livingston,

Commissioner, Administration for Children, Youth and Families.

Jean K. Elder, Ph.D.,

Commissioner, Administration on Developmental Disabilities.

Lennie-Marie Tolliver, Ph.D.,

Commissioner, Administration on Aging.

William L. Engles,

Commissioner, Administration for Native Americans.

BILLING CODE 4130-01-M

OMB Approval No. 29–R0218

FEDERAL ASSISTANCE

1. TYPE OF ACTION (Mark appropriate box)
- ☐ PREAPPLICATION
- ☐ APPLICATION
- ☐ NOTIFICATION OF INTENT (Opt.)
- ☐ REPORT OF FEDERAL ACTION

2. APPLICANT'S APPLICATION — a. NUMBER; b. DATE Year month day 19

3. STATE APPLICATION IDENTIFIER — a. NUMBER; b. DATE Year month day ASSIGNED 19

Leave Blank

SECTION I—APPLICANT/RECIPIENT DATA

4. LEGAL APPLICANT/RECIPIENT
- a. Applicant Name :
- b. Organization Unit :
- c. Street/P.O. Box :
- d. City : e. County :
- f. State : g. ZIP Code:
- h. Contact Person (Name & telephone No.) :

5. FEDERAL EMPLOYER IDENTIFICATION NO.

6. PROGRAM (From Federal Catalog) — a. NUMBER; b. TITLE

7. TITLE AND DESCRIPTION OF APPLICANT'S PROJECT

8. TYPE OF APPLICANT/RECIPIENT
A–State; B–Interstate; C–Substate District; D–County; E–City; F–School District; G–Special Purpose District; H–Community Action Agency; I–Higher Educational Institution; J–Indian Tribe; K–Other (Specify): _____
Enter appropriate letter ☐

9. TYPE OF ASSISTANCE
A–Basic Grant; B–Supplemental Grant; C–Loan; D–Insurance; E–Other
Enter appropriate letter(s) ☐☐

10. AREA OF PROJECT IMPACT (Names of cities, counties, States, etc.)

11. ESTIMATED NUMBER OF PERSONS BENEFITING

12. TYPE OF APPLICATION
A–New; B–Renewal; C–Revision; D–Continuation; E–Augmentation
Enter appropriate letter ☐

13. PROPOSED FUNDING

a. FEDERAL	$	.00
b. APPLICANT		.00
c. STATE		.00
d. LOCAL		.00
e. OTHER		.00
f. TOTAL	$	.00

14. CONGRESSIONAL DISTRICTS OF: a. APPLICANT; b. PROJECT

15. TYPE OF CHANGE (For 12c or 12e)
A–Increase Dollars; B–Decrease Dollars; C–Increase Duration; D–Decrease Duration; E–Cancellation; F–Other (Specify): _____
Enter appropriate letter(s) ☐☐☐

16. PROJECT START DATE Year month day 19

17. PROJECT DURATION Months

18. ESTIMATED DATE TO BE SUBMITTED TO FEDERAL AGENCY ▶ Year month day 19

19. EXISTING FEDERAL IDENTIFICATION NUMBER

20. FEDERAL AGENCY TO RECEIVE REQUEST (Name, City, State, ZIP code)

21. REMARKS ADDED ☐ Yes ☐ No

SECTION II—CERTIFICATION

22. THE APPLICANT CERTIFIES THAT ▶
a. To the best of my knowledge and belief, data in this preapplication/application are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is approved.

b. If required by OMB Circular A–95 this application was submitted, pursuant to instructions therein, to appropriate clearinghouses and all responses are attached:

	No response	Response attached
(1)	☐	☐
(2)	☐	☐
(3)	☐	☐

23. CERTIFYING REPRESENTATIVE — a. TYPED NAME AND TITLE; b. SIGNATURE; c. DATE SIGNED Year month day 19

SECTION III—FEDERAL AGENCY ACTION

24. AGENCY NAME

25. APPLICATION RECEIVED Year month day 19

26. ORGANIZATIONAL UNIT

27. ADMINISTRATIVE OFFICE

28. FEDERAL APPLICATION IDENTIFICATION

29. ADDRESS

30. FEDERAL GRANT IDENTIFICATION

31. ACTION TAKEN
- ☐ a. AWARDED
- ☐ b. REJECTED
- ☐ c. RETURNED FOR AMENDMENT
- ☐ d. DEFERRED
- ☐ e. WITHDRAWN

32. FUNDING

a. FEDERAL	$	.00
b. APPLICANT		.00
c. STATE		.00
d. LOCAL		.00
e. OTHER		.00
f. TOTAL	$	.00

33. ACTION DATE ▶ Year month day 19

34. STARTING DATE Year month day 19

35. CONTACT FOR ADDITIONAL INFORMATION (Name and telephone number)

36. ENDING DATE Year month day 19

37. REMARKS ADDED ☐ Yes ☐ No

38. FEDERAL AGENCY A–95 ACTION
a. In taking above action, any comments received from clearinghouses were considered. If agency response is due under provisions of Part 1, OMB Circular A–95, it has been or is being made.

b. FEDERAL AGENCY A–95 OFFICIAL (Name and telephone no.)

STANDARD FORM 424 PAGE 1 (10–75)
Prescribed by GSA, Federal Management Circular 74–7

BILLING CODE 4130–01–C

Executive Order 12372—State Single Point of Contact List

Alabama

Alabama State Clearinghouse, Alabama Department of Economic and Community Affairs, 3465 Norman Bridge Road, P.O. Box 2939, Montgomery, Alabama 36105–0939

Arizona

Office of Economic Planning and Development, State of Arizona

Note.—Correspondence and questions concerning this state's E.O. 12372 process should be directed to: Director, Local Government Assistance, ATTN: Arizona State Clearinghouse, 1700 West Washington, Room 205, Phoenix, Arizona 85007, Tel. (602) 225–5004

Arkansas

State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Tel. (501) 371–2311

California

Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Tel. (916) 445–0282

Colorado

State Clearinghouse, Division of Local Government, 1313 Sherman Street, Room 520, Denver, Colorado 80203, Tel. (303) 866–2156

Connecticut

Under Secretary, Comprehensive Planning Division, Office of Policy and Management, Hartford, Connecticut 06106–4459

Note.—Correspondence & questions concerning this state's E.O. 12372 process should be directed to: Intergovernmental Review Coordinator, Comprehensive Planning Division, Office of Policy and Management, 80 Washington Street, Hartford, Connecticut 06106–4459 Tel. (203) 566–4298

Delaware

Executive Department, Thomas Collins Building, Dover, Delaware 19903, ATTN: Franchine Booth, Tel. (302) 736–4204

Florida

Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32301, Tel. (904) 488–8114

Georgia

Administrator, Georgia State Clearinghouse, 270 Washington Street, S.W., Atlanta, Georgia 30334, Tel. (404) 656–3855

Hawaii

Director, Department of Planning and Economic Development, P.O. Box 2359, Honolulu, Hawaii 96804

For Information Contact: Hawaii State Clearinghouse, Tel. (808) 548–3085.

Idaho

Senior Controller, Division of Financial Management, State House, Boise, Idaho 83720, Tel. (208) 334–2881

Illinois

Office of the Governor, State of Illinois, Springfield, Illinois 62706, Tel. (217) 782–8639

Indiana

State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Tel. (317) 232–5604

Iowa

Office of Planning and Programming, Capital Annex, 523 East 12th Street, Des Moines, Iowa 50319, Tel. (515) 281–6483

Kansas

Kansas Department of Human Resources, Office of the Secretary, ATTN: Judy Krueger, 401 Topeka Avenue, Topeka, Kansas 66603, Tel. (913) 296–5075

Kentucky

Kentucky State Clearinghouse, 2nd Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, Tel. (502) 564–2382

Louisiana

Executive Director, Louisiana State Planning, Office of the Governor, P.O. Box 44426, Baton Rouge, Louisiana 70804, Tel. (504) 342–7410

Maine

State Planning Office, ATTN: Intergovernmental Review Process, State House Station #38, Augusta, Maine 04333, Tel. (207) 289–3261

Maryland

Director, Maryland State Clearinghouse for Intergovernmental Assistance, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201–2365, Tel. (301) 383–7875

Massachusetts

Executive Office of Communities and Development, 100 Cambridge Street, Room 1401, Boston, Massachusetts 02202, Tel. (617) 727–3264

Michigan

Director, Office of Business and Community Development, Michigan Department of Commerce, P.O. Box 30004, Lansing, Michigan 48909, Tel. (517) 378–8363

Mississippi

Office of Federal State Programs, Department of Planning and Policy, 1504 Walnut Sillers Bldg., 500 High Street, Jackson, Mississippi 39202

For Information Contact: Department of Planning and Policy, Tel. (601) 359–3069.

Minnesota

Minnesota State Planning Agency, Capitol Square Building, Room 101, 550 Cedar Street, St. Paul, Minnesota 55101, Tel. (612) 296–3698

Missouri

Missouri Federal Assistance Clearinghouse, Office of Administration, Division oif Budget and Planning, Room 129, Capitol Building, Jefferson City, Missouri 65102, Tel. (314) 751–4834 or 751–2345

Montana

Manager, Intergovernmental Review Clearinghouse, c/o Office of the Lieutenant Governor, Capitol Station, Helena, Montana 59620, Tel. (406) 449–3111 x58.

Nebraska

Policy Research Office, P.O. Box 94601, Room 1321, State Capitol, Lincoln, Nebraska 68509, Tel. (402) 471–2414

Nevada

Director, Office of Community Services, Capitol Complex, Carson City, Nevada 89710, Tel. (702) 885–4420

Note.—Correspondence and questions concerning this state's E.O. 12372 process should be directed to: Clearinghouse Coordinator, Tel. (702) 885–4420

New Hampshire

Acting Director, New Hampshire Office of State Planning, 2½ Beacon Street, Concord, New Hampshire 03301, Tel. (603) 271–2155

New Jersey

Director, Division of Local Government Services, Department of Community Affairs, CN 803, 363 West Street, Trenton, New Jersey 08625, Tel. (609) 292–6613

New Mexico

Department of Finance and Administration, State of New Mexico, 515 Don Gaspar, Santa Fe, New Mexico 87503, Tel. (505) 827–3885

New York

Director of the Budget, New York State

Note.—Correspondence and questions concerning the state's E.O. 12372 process should be directed to: New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Tel. (518) 474–1605.

North Carolina

Director, State Clearinghouse, Department of Administration, 116 West Jones Street, Raleigh, North Carolina 27611, Tel. (919) 733–4131

North Dakota

Office of Intergovernmental Assistance, Office of Management and Budget, 14th Floor—State Capitol, Bismarck, North Dakota 58505, Tel. (701) 224–2094

Ohio

State Clearinghouse, Office of Budget and Management, 30 East Broad Street, Columbus, Ohio 43215

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Oklahoma

Office of Federal Assistance Management, 4545 North Lincoln Blvd., Oklahoma City, Oklahoma 73105, Tel. (405) 528–8200

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Intergovernmental Relations Division, State Clearinghouse, Executive Building, 155 Cottage Street, N.E., Salem, Oregon 97310, Tel. (503) 373–1998

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South Carolina

Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 298201, Tel. (803) 758–2417

South Dakota

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Tennessee State Planning Office, 1800 James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee, 37219, Tel. (615) 741–1676

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Vermont

State Planning Office, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Tel. (802) 828–3326

Virginia

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Washington Planning and Community Affairs Agency, North and Columbia Building, Olympia, Washington 98504, Tel. (206) 753–2200

West Virginia

Director, Community Development Division, Governor's Office of Economic and Community Development, Building #6, Room 553, Charleston, West Virginia 25305, Tel. (304) 348–4010

Wisconsin

Secretary, Wisconsin Department of Administration, 101 South Webster Street—GEF 2, Madison, Wisconsin 53702, Tel. (608) 266–1212

Wyoming

Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, Wyoming 82002, Tel. (307) 777–7574

Virgin Islands

Federal Program Office, Office of the Governor, The Virgin Islands of the United States, Charlotte Amalie, St. Thomas 00801, Tel. (809) 774–0001

District of Columbia

Director, Office of Intergovernmental Relations, Room 416, District Building, Washington, D.C. 20004, Tel. (202) 727–6265

Puerto Rico

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Northern Mariana Islands

Planning and Budget Office, Office of the Governor, Saipan, CM 96950

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Part III

Postal Service

39 CFR Part 111
Official Mail of the United States Government; Final Rule

POSTAL SERVICE

39 CFR Part 111

Official Mail of the United States Government

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule extensively modifies postal regulations dealing with official mail, particularly penalty mail of executive and judicial officers of the United States Government, and rearranges, renumbers, and reprints the franking regulations. The following is a general description of the changes made:

The regulations pertaining to official mail of authorized individuals (President-Elect, Former President and Surviving Spouse of Former President, and Surviving Spouse of Member of Congress) have been positioned with the franking regulations, which are reprinted in full.

A general reorganization of the penalty mail regulations groups related matters under one heading, deletes duplicate material, removes instructions to postal employees and adds a definition of "agencies." Additional reorganization has been made to the regulations that appeared in the proposed rule, and regulations concerning ZIP+4 mailings and use of penalty mail stamps have also been added to the final rule. A more detailed description of the changes made appears in the Supplementary Information, below.

EFFECTIVE DATE: October 1, 1984, with the following exceptions:

A. February 1, 1985

1. For agencies to begin submitting second-class mailing statements (Forms 3541 or 3541–A) in duplicate.

2. For Government Printing Office (GPO) contractors to begin using Form 3602–G instead of GPO Form 712, *Certificate of Conformance*, as a statement of mailing with single piece rate permit imprint mailings.

B. July 1, 1985

1. For agencies that were authorized before October 1, 1984 to submit bulk third-class mailings prepared with standard penalty indicia at particular post offices to begin preparing such mailings with penalty permit imprints or penalty postage meters at those post offices.

2. For agencies having publications that were authorized second-class mail privileges before October 1, 1984 to begin preparing those publications in accordance with the new penalty second-class imprint requirements.

C. **Note:** Agencies may comply with these procedures before the stated effective dates.

FOR FURTHER INFORMATION CONTACT: James S. Stanford, 245–5001.

SUPPLEMENTARY INFORMATION: On October 8, 1982, the Postal Service published for comment in the **Federal Register** (47 FR 44575) a revision of 137.2 of the Domestic Mail Manual (DMM), modifying regulations concerning mail of executive and judicial officers of the United States Government. The Postal Service received written comments from nine Federal agencies in response to the proposal.

Two commenters objected to the language in section 137.22, DMM, and recommended deletion of this portion of the regulations for three reasons. First, they said that the Postal Service lacks authority to direct the manner of reimbursement for the use of penalty mail. Section 3201 of Title 39, United States Code, requires agencies to "account for all penalty covers through the Postal Service." Section 3206(a) of Title 39, United States Code, requires agencies to "transfer to the Postal Service * * * the equivalent amount of postage due, as determined by the Postal Service." Section 3209 of Title 39, United States Code, requires agencies to "supply all information requested by the Postal Service" concerning their use of penalty mail as soon as practical after requested by the Postal Service. Section 401(2) of Title 39, United States Code, authorizes the Postal Service "to adopt, amend, and repeal such rules and regulations as it deems necessary to accomplish the objectives of this title." The clear meaning and the legislative history of these sections are that the manner and accounting of reimbursement for the use of penalty mail are to be established by Postal Service regulations. The Postal Service is, therefore, authorized to direct the manner of reimbursement for penalty mail by regulation. Section 137.22, DMM does this and, hence, is authorized by law. Accordingly, this suggested deletion was not made.

Second, these two commenters suggested we delete the language in section 137.22, DMM, that they read to permit the Postal Service to require an agency to submit information concerning measurement and budgeting without justifying the need and without concurrence of the agency. They said that the Postal Service is required to provide such justification. The language objected to in Section 137.22, DMM requires agencies to promptly furnish all information that the Postal Service considers necessary to assure accurate measurement of penalty mail use and adequate budgeting for timely payment.

The prompt submission of such information by other agencies at the request of the Postal Service is authorized by 39 U.S.C. 3209. The law does not require the Postal Service to obtain the agency's concurrence. Therefore, the suggested change was not adopted.

Third, these two commenters recommended deletion of the provision in section 137.22, DMM, that states the Postal Service may require an agency to change its penalty mail procedures (e.g., require use of penalty postage meters). The commenters argued that the Postal Service lacks authority to require particular methods of accountability without the agency's consent, if the change would increase manpower requirements or appropriated fund costs. The legislative history and plain meaning of 39 U.S.C. 3206(a) show that agencies must account for and reimburse the Postal Service the equivalent amount of postage due for use of penalty mail, as provided by Postal Service regulations. The Postal Service is therefore authorized by law to establish improved methods of estimating or measuring penalty mail volume, or to require use of penalty postage meters or other forms of direct accountability to ensure proper reimbursement for postage, as set forth in section 137.22, DMM. All mailers, public and private, have procedures established under postal regulations which they must follow in order to send and pay for their mail. As an accommodation to federal agencies, section 137.22, DMM requires that agencies be consulted before any changes are made, and that the agency be given adequate advance notice of a change. Accordingly, we see no reason to change section 137.22 of the DMM.

One commenter noted that the terms "official mail" and "official penalty mail" appeared to be used interchangeably throughout the text of section 137.2, DMM. The commenter asked if these terms mean the same thing, and requested the Postal Service to define the differences if they do not. Official mail is all mail pertaining to the business of the government of the United States that is authorized to be and is actually mailed without prepayment of postage. The two major categories of official mail are franked mail and penalty mail. (The third category is absentee balloting materials described in 137.3 DMM.) Franked mail is used primarily by members of

Congress. Penalty mail is used primarily by officers of the executive and judicial branches of government. Section 137.2, DMM, relates exclusively to penalty mail. Accordingly, the language in section 137.2, DMM, has been revised to show only the term "penalty" wherever penalty mail, as opposed to franked mail, or absentee balloting materials, is being described.

One commenter suggested that the provisions of section 137.241, DMM concerning the mailing of retirement announcements, Christmas cards, job resumes, and similar materials as penalty mail be eliminated from the Domestic Mail Manual on the ground that the agencies themselves should issue and enforce such rules. We agree that agencies should issue employee guidelines and rules concerning what may be mailed as penalty mail, and note that where it identifies possible misuse of penalty mail privileges, the Postal Service generally refers the matter to the agency for corrective action. Section 137.241, DMM was not intended as a unilateral prohibition against retirement announcements, Christmas cards, etc., from being sent as penalty mail. Section 137.241, DMM, has therefore been modified to clarify this policy.

Two commenters suggested that the permit imprint numbers assigned to each agency in section 137.262 (renumbered 137.252), DMM, be preceded by the letter "G" and that zeros preceding a permit imprint number be deleted. The commenter believed this would avoid confusion between permit numbers for commercial mailers and those of government mailers at the local level, and would enable most agencies to continue use of existing stock bearing permit imprints. We agree and have modified section 137.252, DMM in accordance with this suggestion.

One commenter indicated that the elimination of the requirement for obtaining Postal Service Headquarters approval for contractor use of penalty mail would result in lack of control of contractor mailings by agency mail management officers. The deletion of Postal Service Headquarters involvement does not preclude agencies from developing their own controls for keeping track of contractor mailings.

One commenter requested that we add regulations to specify that contractors are not to make payment for government permit mail. We assume by "permit mail" the commenter is referring to penalty permit imprint mail. As penalty mail by definition is mail sent without prepayment, we do not feel such a clause is necessary. See section 137.21, DMM. Furthermore, in some cases GPO contractors will be required to prepay postage for small quantities of government agency mail (see section 137.282(l), DMM). Addition of language specifying that contractors must not prepay postage could be misleading. Therefore, this suggestion is not adopted.

Two commenters suggested that we revise DMM 137.263b (renumbered 137.282) to make it clear that contractors can utilize bulk third-class mail. DMM 137.282 has been revised in accordance with this suggestion.

Two commenters suggested that standard penalty indicia continue to be permissible for use with bulk third-class mailings. First, these commenters indicated that printing contracts will have to be modified to reflect this change and expressed concern that adequate time would not be allowed for this process. We believe the effective dates set forth in this final rule should eliminate this concern.

Second, one of these commenters stated that since bulk rate mailings are allowed to bear a variety of indicia (permit imprints and meters) one more type of indicia should not pose a problem to the Postal Service, expecially since a mailing statement is required. Use of standard penalty indicia for bulk third-class mailings necessitates maintaining special authorization procedures for use of this rate. Agencies are required to submit an application to Postal Service Headquarters to obtain a special authorization number that must appear on bulk third-class mailing statements. The Postal Service must process these applications and maintain separate accounting systems to accommodate use of standard penalty indicia with bulk third-class mailings. Eliminating use of standard penalty indicia with bulk third-class mail will therefore simplify use of bulk third-class rates for both agencies and the Postal Service. At the same time, this new requirement has the desired effect of bringing agency mailing requirements more in line with those of other mailers. In addition, prohibiting use of standard penalty indicia eliminates the possibility that bulk third-class mail will inadvertently be included in Revenue, Pieces, and Weight samples used to determine the amount of postage owed the Postal Service by the agency for use of single piece rate standard penalty indicia.

Third, this commenter suggested that use of standard penalty indicia be allowed for both single piece and bulk rate mailings. The commenter indicated that prohibiting use of standard penalty indicia with presorted mailings would restrict use of presort because offices would have to know beforehand which pieces were going to be presorted in order to put them in an envelope with the proper indicia format. Prior to this rulemaking, the DMM provisions prohibited use of standard penalty indicia for Presort First-Class Mail and bulk rate forth-class mail. The DMM change implemented herein would merely extend this prohibition to bulk rate second-class and third-class mail. Due to the requirements of bulk second- and third-class mail, any mailer must know beforehand whether bulk rates will be utilized. We believe that the use of presort by commingling standard penalty indicia or permit imprint mail from different parts of an agency or different agencies after the mailing is placed in an envelope will increase the costs of conducting official business, will, if more than one agency is involved, make it impossible to determine which agency should be billed for the equivalent amount of postage due, and will increase Postal Service verification cost. Therefore, this suggestion is not adopted.

Two commenters asserted that 39 U.S.C. 3207 allows government mailers to mail any article exceeding four pounds in weight at fourth-class rates, even if that article contains pieces which might be sealed or include written matter. In our opinion, such a provision is not required by 39 U.S.C. 3207. That section, which is intended as a restriction on the use of penalty mail, 39 U.S.C. 3202(a), establishes size and weight limitations for penalty mail which are not necessarily identical to those generally established for each of the classes of mail, 36 U.S.C. 3207(a). Additionally Section 3207 prescribes the procedures which government mailers may use if the size and weight limitations do differ, and essentially provides that mail which exceeds the penalty mail limits and is over four pounds may be mailed at fourth-class rates, subject to 39 U.S.C. 3208, if the article does not exceed the general size and weight limits for mail matter and is otherwise mailable, 39 U.S.C. 3207(b). Since there is no disparity between the size and weight limits for Official Penalty Mail and other mail at this time, Section 3207(b) is not triggered and the mailing procedures it provides are no more available to government agencies than they are to any other mailer. See 39 U.S.C. 403(c). Of course, if a disparity is created in the future between the size and weight limits on Official Penalty Mail and other mail, the Postal Service will further consider whether implementation of the procedures provided in 39 U.S.C. 3207(b) is appropriate.

Two commenters objected to the continuation of the longstanding rule that official mail be separated by class before it is deposited into the postal system (sections 137.263a(6) and 137.42, DMM). This requirement allows the Postal Service to identify the class of each piece of official matter, and permits the Postal Service to give the mail appropriate treatment and to assess the proper amount of postage on it. See 39 U.S.C. 404(a)(1), (2), 3206, 3209. Accordingly, we believe the requirement to separate official mail by class should be continued.

One commenter suggested deletion of the section 137.263(a)(3), DMM requirement that the address and return address on all penalty mail include a ZIP Code. The commenter contended that there is no basis for this requirement and that it is discriminatory when applied to single piece rate mail. The commenter further asserted that a Presidental Memorandum issued June 18, 1965, concerning the use of ZIP Codes by agencies did not apply to all users of penalty mail, and that, by its language and identification as a Memorandum rather than an Executive Order, had a suggestive rather than binding effect. The commenter also pointed out that the proposed rule did not indicate that use of either the ZIP + 4 code of 5-digit ZIP Code was acceptable. The Postal Service does not believe that the regulation requiring government agencies to use the ZIP Code on single piece mail discriminates against them. These mailers still have more mailing options than other mailers since they may either prepay postage on this mail and be treated exactly like other mailers, or may mail it as penalty mail. We also do not believe the commenter was correct in its assertion that the Memorandum is not binding in nature, *see e.g., National Federation of Federal Employees, Local 1622 v. Brown*, 645 F.2d 1017, 1022 (D.C. Cir. 1981), or that the language of the Memorandum was merely suggestive in intent. In any event, the Memorandum directed the Post Office Department to issue regulations governing use of ZIP Codes. In response, the Post Office Department issued regulations requiring the use of ZIP Codes by penalty mailers. This longstanding rule, and its uniform applicability to all penalty mailers, improves service on agency mail and enables the Postal Service to handle the mail more efficiently. Accordingly, it is consistent with the Postal Service's statutory responsibility to provide an efficient delivery system, 39 U.S.C. 403(b)(1), 404(a)(1). For similar reasons, and since we do not believe including the ZIP Code in return addresses will impose any significant hardship, we have also determined that the proposed revision requiring inclusion of a ZIP Code in return addresses should be retained. The language of the regulation has been revised to specify that either the ZIP + 4 code or the 5-digit ZIP Code may be used in addresses and return addresses.

Two agencies expressed concern that the verification procedures for bulk rate mailings could be costly and could discourage use of presort. One of the commenters expressed concern that agency mail managers will not know whether additional postage charges have been assessed for improperly prepared mailings until the end of the fiscal year. The other commenter believed an entire mailing would be assessed single piece rate postage when any (even minor) irregularities in presort are found. This commenter also indicated that First-Class Mail containing presort errors should not be automatically accepted at the higher single piece rate. However, a third commenter requested that improperly prepared Presorted First-Class mailings be automatically accepted and not held until responsible agency personnel are contacted concerning their disposition, because holding the mail could pose a hardship on the mail recipients when the mail consists of items such as social security checks, etc. It appears that two of these commenters are unaware of the Postal Service's National Bulk Rate Mail Verification Program. Under this program, the Postal Service will accept mailings with presort errors of less than 10 percent. If a mailing is found to have errors of 10 percent or more, the mailer is contacted and given the choice of reworking the mailing to correct the errors, or paying the single piece rate postage on the percentage of the mailing found to be in error. The agency receives written notification of the changes in postage when it opts to pay the higher rate for the errors.

Therefore, agencies will have notification of any additional postage assessments before the end of the fiscal year, and minor errors (less than 10%) will not require reworking or additional postage. Through these procedures the Postal Service is simply trying to assure that it is paid at the proper rate for mailings. If government mailings are prepared in accordance with the requirements for a particular presort rate, they will be accepted at that rate with no additional charges to the agency. A provision has been added to section 137.263b(6), DMM to specify that if a First-Class bulk rate mailing is found to have errors in excess of the acceptable limit, and the agency personnel responsible for the mailing are not known or are not available for contract, the mailing will not be detained but will be entered into the mailstream and additional postage to cover the mailing at the single piece First-Class rates of postage for the percentage of the mailing estimated to be in error will be assessed the agency. This is in keeping with longstanding practice and, as stated by one agency commenter, necessary to preclude hardship to recipients that delay of such mail would incur. As this practice will occur only if attempts to contact the agency by telephone concerning disposition of the mailing have failed, it should not prove burdensome to agencies that do not wish such mailings to be accepted.

One commenter asserted that penalty meter stamps are prepaid postage and that federal agencies using penalty meter stamps should therefore be treated like other mailers with similar services, previleges and restrictions. The services requested by the commenter included certain delivery options to federal buildings, the option not to use ZIP Codes on single piece rated matter, and use of street collection boxes for single piece rate First-Class Mail. Penalty postage meters are set without prepayment of postage. While the amount of postage set in the meter is owned the Postal Sevice, and therefore collectible from the agency, the amount is not due until the agency receives its bill. Consequently, penalty meter stamps are not prepaid postage. Furthermore, the method of paying or indicating postage has no bearing on the type of delivery service afforded an agency. Therefore, the delivery service options requested by the commenter are beyond the scope of this rulemaking procedure. The use ZIP Codes on single piece rate penalty mail was discussed earlier. Language has been added to the regulations to indicate penalty postage meters are subject to the provisions of section 144, DMM, with certain modifications and exceptions. Section 144.51 and 144.52, DMM, provide that single piece rate metered mail may be deposited in street collection boxes under the jurisdiction of the post office at which the meter is licensed provided: (1) quantities of five or more pieces are bundled, boxed, or otherwise packaged with the addresses facing one direction, and (2) each class and denomination is bundled separately. Therefore, government agencies may deposit mail bearing penalty meter stamps in street collection boxes under the jurisdiction

of the post office at which the meter in licensed under the aforementioned conditions.

One commenter requested addition of a two-digit numerical suffix to permit imprint numbers to aid agencies in their accountability processes and in responding to inquiries and complaints. The Postal Service is modifying its accounting processes and will provide for the requested breakdown of agency bills, if desired, through the use of multiple permit imprint numbers rather than the suggested two-digit numerical suffix.

One commenter requested individual permit imprint numbers for subunits of an agency on an "as needed" basis. Procedures have been added to the final regulations for requesting additional permit imprint numbers from the Manager, Government Revenue and Examination Branch.

One commenter was concerned that mailings may be delayed if local post offices are not familiar with the new decentralized procedures. The Postal Service will issue a handbook to post offices that explains penalty mail procedures. Additional training of post office personnel is also planned. Accordingly, we expect post offices to be familiar with these procedures by the time they take effect.

Two commenters expressed concern that decentralization of permit imprint applications will delay preparation of fiscal reports, since post offices will be required to submit billing information to Postal Service Headquarters before agency can be billed. The Postal Service believes that publication of the handbook, the planned training sessions described above, and redesign of our accounting and reporting systems will result in timely preparation and submission of agency billing data.

Three commenters requested that language specifying that GPO Form 712 cannot be used as a statement of mailing be added to the regulations. Language to this effect has been added to section 137.263b(4), Domestic Mail Manual.

One commenter requested that conditions for use of new Form 3602–G, *Statement of Mailing with Penalty Permit Imprints*, be added to the regulations. Former section 137.284c, Domestic Mail Manual (renumbered 137.274c) has been revised to specify that Form 3602–G is for use only with mailings submitted by GPO contractors at single piece rates and to set forth other conditions for use of this form.

One commenter asked who will assign serial numbers to GPO Form 712. The Government Printing Office will be responsible for adding serial numbers to GPO Form 712.

One commenter requested that an Exhibit of Form 3602–G be made available to agencies. A copy of Form 3602–G has been included as an exhibit at the end of this final rule although such an exhibit will not be incorporated as part of the Domestic Mail Manual.

One commenter asked if the new procedures will be included in the standard GPO contract. The Postal Service has provided the Government Printing Office with a summary of Postal Service requirements for contractor mailings. This language can be used in GPO contracts or otherwise provided to GPO contractors.

One commenter asked where agencies and contractors will be able to obtain copies of their procedures and responsibilities and copies of Postal Service operating procedures. The Manager, Government Revenue and Examination Branch, provides instructions to agencies concerning mailing and postage reimbursement requirements each fiscal year. Agencies are responsible for advising contractors of their requirements. Additionally, agencies may wish to order copies of the Domestic Mail Manual, which sets forth the requirements concerning official mail and domestic mail services, from the Superintendent of Documents, Government Printing Office, Washington, DC 20402–0001.

One commenter brought to our attention that Exhibits 137.285f(2)(d) and 137.286a, Domestic Mail Manual (renumbered Exhibits 137.276g(2)(d) and 137.277a(2), Domestic Mail Manual) indicated that the city and country rather than the city and state must be shown in the address on penalty business reply mail, and in the return address on penalty second-class mail. These Exhibits have been corrected.

Two commenters asked that regulations be added to specify that third-party penalty business reply mail arrangements may be used by government agencies. Use of third-party arrangements for penalty business reply mail would be unwieldy, as the holder of the permit number shown on the piece would not be the agency or individual to whom the piece is returned and from whom reimbursement would initially be expected. Such arrangements could cause difficulty in determining whom to bill for such mail, especially if the mail is returned to a non-government concern. Agencies desiring to use such arrangements may do so only by obtaining regular business reply permits in accordance with Section 917, Domestic Mail Manual.

One commenter requested that the exception allowing the Bureau of the Census to distribute reply mail bearing the standard penalty indicia, be extended to other federal agencies. This exception was granted to avoid delays in conducting the Bureau's prime mission to count accurately the people in the households of the United States. The Postal Service is seeking to increase direct accountability practices of government agencies. Accordingly, the Postal Service does not plan to make other exceptions to use of the business reply mail format. The continued use of standard penalty indicia for reply mail by the Bureau of the Census is currently under review.

One commenter requested that American Consulates be added to the list of locations at which absentee balloting materials may be deposited without prepayment of postage. Section 137.312, Domestic Mail Manual has been modified in accordance with this request.

One commenter requested that a cutoff date be established at the end of the fiscal year for agency bills and that any postage charges received for the fiscal year after the cutoff date not be included in the subsequent year's bill. Section 3206 of Title 39 requires agencies to reimburse the Postal Service the amount of postage due for matter sent in the mails by them or to them as penalty mail. Failure to pay the full postage discovered to be owed for service provided would result in an improper subsidy to an agency's operations by other mailers.

One commenter asked that the discrepancy between the U.S. Postal Service fiscal year (13 accounting periods) and the federal budget fiscal year (12 accounting periods) be resolved to improve accounting procedures and to prevent disputes involving one-year O&M funds and three-year U.S. Postal Service transactions. This request is beyond the scope of this rulemaking process. However, the Postal Service is considering this request in its development of new information and billing systems for penalty mail.

Five commenters requested that the effective date for these reglations allow agencies adequate time to change their contracts and mailing operations. We believe the effective dates accommodate these requests.

After full consideration of each of the issues raised by the commenters, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (39 CFR 111.1).

The following is a brief explanation of the principal amendments being adopted:

(1) Use of Penalty Mail Indicia Formats

(a) All bulk rate mailings (other than second-class and nonpresorted ZIP + 4) must be prepared using penalty permit imprints or penalty meters. Use of the standard penalty indicia for bulk third-class mailings will be prohibited.

(b) A new format for the penalty second-class imprint is required.

(c) Use for reply mail purposes of standard penalty indicia envelopes and labels is prohibited for Naturalization Mail. (Standard penalty indicia may be used for reply mail purposes only for official penalty fourth-class reply mail, special service reply mail and mail of the Bureau of the Census that relates to a collection of statistics, survey, or census authorized by Title 13, United States Code.)

(d) The Postal Service will no longer provide post office penalty envelopes or labels for use in sending annual reports of government aided colleges through the mail (see Section 137.242a(4) DMM). Authorized government aided colleges must procure their own standard penalty indicia envelopes or obtain them from the Department of Agriculture.

(2) Authorizations

(a) Authorization from U.S. Postal Service Headquarters will no longer be required to mail at the bulk third-class rates.

(b) U.S. Postal Service Headquarters approval will no longer be required for permit imprint applications. All applications must be submitted to the post office or post offices where mailings will be submitted and will be approved by the local postmaster. The penalty permit imprint number to be used by agencies is listed in Column B of Section 137.252, DMM.

(c) Agencies are no longer required to obtain authorization from U.S. Postal Service Headquarters for contractor use of penalty mail services. However, agencies must promptly furnish, in the manner and form requested, all information concerning contractor use of penalty mail services that the Manager, Government Revenue and Examination Branch, may consider necessary to insure accurate reimbursement to the Postal Service.

(3) Mailing Statements

(a) A new Form 3602–G, *Statement of Mailing with Penalty Permit Imprints*, has been developed to accommodate permit imprint mailings of GPO contractors that, as permitted by DMM 137.274c(2), consist of nonidentical weight pieces or contain more than one class of mail. GPO Form 712, *Certificate of Performance*, will no longer be accepted by the Postal Service as a statement of mailing. The Postal Service will not retain a copy of GPO Form 712 submitted with mailings.

(b) All second-class mailing statements must be submitted in duplicate. If the agency or contractor wishes a copy of the mailing statement, a triplicate copy must be submitted.

(4) Other Requirements

(a) Penalty permit imprint mailings will be required to meet the minimum quantity requirements prescribed for use of permit imprints in Section 145.61, DMM. This will have the greatest impact on GPO contractor mailings as it will require mailings not meeting the minimum quantity requirements to be paid by means of penalty postage meters or penalty mail stamps or require the contractor to prepay the postage and be reimbursed under the terms of the contract. Mail prepaid by contractors must not bear any elements of a penalty mail indicia format.

(b) The class of mail endorsement on penalty permit imprint mail pieces may appear immediately below or to the left of the permit imprint as well as within the permit imprint.

(c) The correct 5-digit ZIP Code or ZIP + 4 code must be included in the return address of all penalty mail. (This is in addition to the requirement that the correct 5-digit Zip Code or ZIP + 4 code of the addressee be included in the address.)

(d) Additional clarifying language has been added to some sections.

(e) Section 145.5, DMM, has been revised to show additional examples of penalty permit imprint formats.

List of Subjects in 39 CFR Part 111

Postal service.

PART 137—[AMENDED]

Part 137—Official Mail is revised as follows:

PART 137—OFFICIAL MAIL

137.1 *Franked Mail*

.11 *Members of Congress*

.111 *Collection of Postage, Fees, and Charges.* Postage, fees, and charges on mail sent under the franking privilege by the Vice President, Members and Members-elect of Congress, Delegates or Delegates-elect, the Resident Commissioner or Resident Commissioner-elect from Puerto Rico, the Secretary of the Senate, Sergeant at Arms of the Senate, each of the elected officers of the House of Representatives (other than a Member of the House), Legislative Counsel of the House of Representatives, and the Senate, and Senate Legal Counsel are paid quarterly by a lump sum to the Postal Service.

.112 *Description.* Official Mail of Members of Congress is sent without prepayment of postage and bears a written signature, printed facsimile signature or other required marking instead of a postage stamp. The types of mail matter accepted under frank, and the officials authorized to use franked mail are shown in Exhibit 137.112.

.12 *Individuals*

.121 *President-Elect.* All mail sent by any President-elect in connection with preparations for the assumption of official duties as President may be accepted without prepayment. The right to use official franked mail ceases immediately upon inauguration to the Presidency.

.122 *Former President and Surviving Spouse of Former President.* All nonpolitical mail of former United States Presidents, and of the surviving spouse of a former President, must be accepted without prepayment of postage if it bears the written signature of the sender, or a facsimile signature and the words POSTAGE AND FEES PAID in the upper right corner of the address side.

.123 *Surviving Spouse of Member of Congress.* Upon the death of a Member of Congress during the term of office, the surviving spouse of such member may send without prepayment of postage, for a period not to exceed one hundred and eighty days after the death of the Member, correspondence relating to the death of the Member, provided it bears the written signature of the sender, or a facsimile signature in the upper right corner of the address side. Where there is no surviving spouse, this privilege may be exercised by a member of the immediate family of a Member of Congress who dies in office. The member of the immediate family must be designated to send such mail by the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate.

.13 *Restrictions*

.131 *General Restrictions*

a. A person entitled to use franked mail may not loan this frank, or permit its use by any committee, organization, or association; or permit use by any person for the benefit or use of any committee, organization, or association. This restriction does not apply to any committee composed of Members of Congress.

b. Franked mail must meet the mailability criteria established in 123 and 124.

c. Franked mail is entitled to any special services for which it is properly endorsed.

d. Franked mail is handled as ordinary mail.

e. Franked mail is forwarded like any other mail, but when once delivered to the addressee it may not be remailed. A package of franked pieces may be sent by a person entitled to the franking privilege to one addressee, who, on receiving and opening the package, may on behalf of such person place addresses on the franked articles and mail them.

f. Franked mail must be addressed to the recipient by name, except as provided in 122.442.

.132 *Restrictions for Members of Congress*

a. Matter transmitted under frank of the Vice President, each Member of or Member-elect to Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, each of the elected officers of the House of Representatives (other than a Member of the House), each Delegate or Delegate-elect, the Resident Commissioner or Resident Commissioner-elect, each Legislative Counsel of the House and the Senate, and Senate Legal Counsel must relate to the official business, activities, and duties of the Congress of the United States.

b. Matter transmitted under frank of the former Vice President, each former Member of Congress, the former Secretary of the Senate, the former Sergeant at Arms of the Senate, each former elected officer of the House of Representatives (other than a former Member of the House), and each former Delegate or Resident Commissioner must be on official business relating to the closing of each respective office.

.14 *Weight and Size Limits.* Franked mail must conform to the weight, size, and shape requirements for the class of mail being used.

.15 *Forwarding Mailing Records for Franked Mail*

.151 Post offices serving the district offices of Members of Congress and other Congressional officials entitled to use the franking privilege must record on Form 103, *Originating Franked Mail*, the number of pieces of originating franked mail, the dollar value of fees for originating special services, volume data on mailing lists corrected, the volume of incoming address corrections delivered to the Member's district office, and the dollar value of other incoming postage due items delivered during each accounting period.

.152 Do not report on Form 103 any franked mail entered by an authorized contractor or endorsed *Presorted First-Class* or *Third-Class Bulk*. Forms 3602 are required for such mailings entered at the reporting post office by representatives of the authorized user of the frank. Forward these Forms 3602, *Statement of Mailing With Permit Imprints*, to the Government Revenue and Examination Branch, Finance Department, USPS Headquarters, Washington, DC 20260–5215, for billing purposes. Post offices must not report data for mail in the following categories on either Form 103 or Form 3602:

a. Third-Class Bulk and other franked mail sent in orange pouches from Washington, DC in accordance with POSTAL OPERATIONS MANUAL (POM) 453.123 and 453.2. This mail is counted and reported by the Washington, DC Post Office.

b. The value of special service fees paid on franked envelopes by affixed postage.

c. Volume and revenue for Postage and Fees Paid (Penalty Mail) matter sent by Executive and Judicial agencies and departments of the Federal Government.

.153 Post offices, stations and branches serving Congressional district offices must forward Form 103 for each accounting period to reach their Regional Management Information Branch (RMIB) no later than the fifth working day after the close of the accounting period. These offices must submit negative reports on Form 103 when no reportable franked mail items are processed during an accounting period.

.154 Post offices not regularly serving a local Congressional office should report on a Routing Slip, or by memorandum the volume of any occasional franked mailing made at their offices and data on mailing lists submitted for correction by an authorized user of the frank.

This information must be submitted to the appropriate RMIB at the end of any accounting period when mailings occur or mailing lists are corrected. Negative reports are not required from these offices.

BILLING CODE 7710-12-M

FRANKED MAIL			
Authorized Users	**Matter that may be franked**	**Marking required**	**Period during which the frank may be used**
Vice President of the United States, Members of Congress, Resident Commissioners, Secretary of the Senate, Sergeant at Arms of the Senate, and each of the elected officers of the House of Representatives (other than Members of the House).	Public documents printed by order of Congress.	The words *Public Document*—and the letters U.S.S. or M.C. must appear on the address side.	During the 90-day period immediately following expiration of their respective terms of office.
Members of Congress and Resident Commissioners.	Congressional Record or any part of it or any reprint of any part of it or speeches or reports contained in it, if relating to official business, activities or duties.	The words *Congressional Record* or *Part of Congressional Record*—and the letters U.S.S. or M.C. must appear on the address side.	During term of office only.
Members of Congress.	Seeds and agricultural reports from the Department of Agriculture.	The signature and title, either written or printed facsimile, of the person entitled to frank it, must appears on the address side.	During the 90-day period immediately following the expiration of their terms of office.
Vice President of the United States, Members and Members-elect of Congress, Resident Commissioners, Secretary of the Senate, Sergeant at Arms of the Senate, each of the elected officers of the House of Representatives (other than a Member of the House), Legislative Counsels of the House of Representatives and the Senate, the Law Revision Counsel of the House of Representatives, and Senate Legal Counsel.	Official correspondence including Mailgrams.	Mailgrams may be sent in standard Mailgram envelopes. For other correspondence, the signature and title, either written or printed facsimile, of the person entitled to frank it, must appear on the address side.	During term of office only. When the position of Secretary, Sergeant at Arms, elected officer, Legislative Counsel, Law Revision Counsel, or Senate Legal Counsel is vacant, privileges may be exercised in officer's name by authorized persons.
Vice-President-elect.	All mail, sent by the Vice-President-elect in connection with preparation for the assumption of official duties.	The signature and title, either written or printed facsimile, of the Vice-President-elect must appear on the address side.	Until assumption of duties as the Vice President.
Former Vice President, each former Member of Congress, the former Secretary of the Senate, the former Sergeant at Arms of the Senate, each former elected officer of the House (other than a former Member of the House), and each former Delegate or Resident Commissioner.	Matter on official business related to the closing of their respective offices.	The signature and title, either written or printed facsimile, of the person entitled to frank it, must appear on the address side.	During the 90-day period immediately following the date on which he leaves office.
Former Speakers of the House.	Public documents, seeds and agricultural reports from the Department of Agriculture, official correspondence including Mailgrams.	The signature and title, either written or printed facsimile, of the former Speaker, or appropriate Mailgram or public document marking as indicated above, must appear on the address side.	For as long as the former Speaker determines necessary.

EXHIBIT 137.112 - Franked Mail of Members of Congress

BILLING CODE 7710-12-C

137.2 *Penalty Mail—Executive and Judicial Officers*

.21 *Definition.* Penalty mail is official mail sent by agencies of the United States Government containing matter relating exclusively to the business of the Government of the United States that is authorized by law to be transmitted in the mail without prepayment of postage. For the purposes of 137.2 through 137.4, departments, agencies, corporations, establishments, commissions, committees, and any officers or other authorities of the United States Government authorized to use official penalty mail are generally referred to as "agencies". See 137.24 for a further description of who may send and what may be sent as penalty mail.

.22 *Collection of Postage and Fees.* Agencies must reimburse the Postal Service the equivalent amount of postage and fees due for the penalty mail service they receive. Instructions governing the manner of reimbursement for penalty mail service are issued and administered by the Manager, Government Revenue and Examination Branch, Finance Department, USPS Headquarters, Washington, DC 20260–5215. Agencies and any contractors authorized by them to use penalty mail services must prompty furnish, in the manner and forms requested, all information which the Manager considers necessary to assure accurate measurements of penalty mail use and adequate budgeting for timely payment. The Manager may require agencies to establish improved methods of estimating or measuring penalty mail volume, or to use penalty postage meters or other forms of direct accountability for the use of penalty mail services, where the Manager determines such action is necessary to insure proper reimbursement. Before making any such determination, the Manager will consult with the agency involved to identify possible alternative actions that might be more efficient or more economical. If the Manager decides to require the use of penalty postage meters or other forms of accountability for the use of penalty mail services, adequate advance notice must be given to affected agencies.

.23 *Prepayment of Postage and Fees.* Agencies may choose to prepay postage by using regular postage stamps, commercial meters, or any other means available to private sector mailers in addition to, or instead of the procedures described in 137.22. Mail that is prepaid in this manner is not considered penalty mail and must not contain the penalty indicia format elements described in 137.27.

.24 *Eligibility for Penalty Mail Privileges*

.241 *General.* Only matter relating exclusively to the business of the Government of the United States, mailed by officers of the executive and judicial branches of the Government, the legislative counsel for the House of Representatives and the Senate, the Superintendent of Documents, and, when it mails correspondence concerning the *Congressional Directory*, the Joint Committee on Printing, may be sent without prepayment of postage as penalty mail. Mail matter not relating exclusively to the business of the Government may not be sent as penalty mail. The Postal Service generally considers that the mailing department or agency should determine which matter relates exclusively to its own business. Departments and agencies authorized to mail matter as penalty mail should maintain rules and guidelines for the use of penalty mail privileges, which should include provisions concerning the circumstances, if any, when officers or employees may mail retirement announcements, Christmas cards, job resumes, complaints, grievances, and similar materials, as penalty mail. Instances of questionable use will be referred to the agency.

.242 *Special Users of Penalty Mail*

a. *Department of Agriculture.*

(1) *Extension and Home Economics.* All correspondence, bulletins, and reports relating to agricultural extension work and home economics carried on in cooperation with the United States Department of Agriculture may be sent as penalty mail, when mailed by the college officer or other person who is connected with the extension department of the college and who has been designated by the Secretary of Agriculture. The designated officer may deposit mailings only at the post office authorized by the Director, Office of Mail Classification, Rates and Classification Department, USPS Headquarters, Washington, DC 20260–5360. Correspondence must be conducted under the name of the designated officer. Correspondence with an autograph signature may be sealed, but all other matter must be left unsealed.

(2) *Cooperative Extension Work.* All correspondence, bulletins, pamphlets and other matter promoting cooperative extension work as a Federal enterprise or otherwise relating exclusively to the business of the Government of the United States may be sent as penalty mail, when mailed by cooperative extension agents of the United States Department of Agriculture Extension Service, such as county agents, county home demonstration agents, farm management demonstrators, and farm forestry agents as part of their official duties. Correspondence mailed by cooperative extension employees must be signed by authorized agents of the United States Department of Agriculture, who must give their official titles to indicate they are officers of the United States Government and entitled to use penalty mail.

(3) *Research and Experimentation.* Bulletins, reports, periodicals, reprints of articles, and other publications necessary for the dissemination of results of research and experiments, including lists of publications available for distribution, may be sent as penalty mail when mailed by agricultural experiment stations designated by the act of March 2, 1887, as amended by the act of August 11, 1955. See 39 U.S.C. 3707(a)(4). The officer in charge of a station that claims the privilege of sending materials through the mail without prepayment of postage must file an application at the post office where the station is located. The post office will forward the application to the Office of Mail Classification, Rates and Classification Department, USPS Headquarters, Washington, DC 20260–5360. This application must state the date of establishment of the station, its name or designation, its official organization, the names of its officers, the name of the college, school, or institution, if any, to which it is attached, the state or territorial legislation providing for its establishment, and any other legislation granting it the benefits of the act of Congress cited above. Use of special services is not authorized for penalty mail of agricultural experiment stations.

(4) *College Reports.* Annual reports under 7 U.S.C. 325 of Government-aided colleges may be sent as penalty mail, when addressed to the Secretary of Education, the Secretary of Agriculture, or to any other such Government-aided college.

b. *State Employment Security Offices.* All mail prepared in accordance with 137.272b(4), 137.273, 137.274, and 137.276 by State employment security offices cooperating with the U.S. Department of Labor must be accepted without prepayment of postage or fees. Postage and fees chargeable are collected periodically under a special arrangement between the Postal Service and the U.S. Department of Labor. Such matter must be given the service indicated on the cover.

c. *General Secretariat of the Organization of American States and*

Pan American Health Organizations (or Pan American Sanitary Bureau). The General Secretariat of the Organization of American States and Pan American Health Organization (or Pan American Sanitary Bureau) are authorized by law to transmit official matter without prepayment. Detailed procedures for international mailings of these organizations are located in International Mail Manual (IMM) 221.344 and 221.345.

.25 *Authorizations*

.251 *General*

a. Agencies appearing on the list in 137.252 are authorized to use penalty mail. Agencies not appearing on the list may request the Manager, Government Revenue and Examination Branch, Finance Department, USPS Headquarters, Washington, DC 20260–5215, to authorize their use of penalty mail services.

b. The college officer or other person who is connected with the extension department of the college who has been designated by the Secretary of Agriculture to use penalty mail in accordance with 137.242a(1) must obtain an authorization to deposit penalty mailings at a specific post office from the Director, Office of Mail Classification, Rates and Classification Department, USPS Headquarters, Washington, DC 20260–5360.

c. The officer in charge of an agricultural experiment station that claims the privilege of using penalty mail must submit an application for use of penalty mail to the post office where the station is located in accordance with 137.242a(3). The postmaster will forward the application to the Office of Mail Classification, Rates and Classification Department, USPS Headquarters, Washington, DC 20260–5360.

d. Agencies authorized to use penalty mail may use penalty postage meters, penalty permit imprints, penalty mail stamps, penalty business reply mail, penalty fourth-class reply mail, special services reply mail, and second-class mail privileges only pursuant to specific authorization under the procedures set forth in 137.273–137.277a.

e. Agencies that desire to make nonpresorted ZIP + 4 mailings using standard penalty indicia as provided in 137.263c must obtain an authorization for use of permit imprints at each post office of mailing as described in 137.274a.

f. The right of an officer to use the penalty mail privilege ceases immediately when the officer leaves office.

g. Except as provided in 137.276 and 137.28, an agency must not loan or furnish penalty envelopes, cards, cartons, labels, meter stamps, or penalty mail stamps to any private person, concern, or organization or permit the use of such penalty envelopes, cards, cartons, labels, meter stamps or penalty mail stamps for matter not relating exclusively to the business of the Government of the United States.

.252 *Agency Authorization Codes.* The agency sampling code shown in Column A *Sampling Number* must be shown on each piece of standard penalty indicium mail (see Section 137.272) and must not be used for any other purpose. An "M" in Column A indicates that an agency is not eligible to use standard penalty indicia and is required to use penalty postage meters, penalty mail stamps, or other directly accountable methods of penalty indicia. The *Permit Imprint Number* shown in Column B must be included in the permit imprint indicium of each piece of the agency's penalty permit imprint mail (see 137.274). Agencies desiring additional penalty permit imprint numbers for particular segments of their agencies must submit a written request to the Manager, Government Revenue and Examination Branch, USPS Headquarters, Washington, DC 20260–5215.

(A) Sampling no.	(B) Permit imprint no.
602 Action	G-21.
603 Administrative Conference of the United States.	G-260.
426 Administrative Office of the United States Courts.	G-18.
566 Advisory Commission on Intergovernmental Relations.	G-34.
567 Advisory Committee on Federal Pay	G-146.
568 Advisory Council on Historic Preservation	G-81.
M African Development Foundation	G-275.
101 Agricultural Experiment Stations	G-269.
101 Agricultural Research Service	G-95.
M Agriculture Stabilization & Conservation Service.	G-96.
101 Agriculture, Department of (see component agency).	
318 Air Force, Department of the	G-1.
M Alaska Natural Gas Transportation System, Federal Inspector for.	G-171.
353 Alaska Power Administration—Energy	G-147.
516 Alaska Railroad	G-148.
396 Alcohol, Drug Abuse and Mental Health Administration—PHS/HHS.	G-283.
564 Alcohol, Tobacco and Firearms Bureau—Treasury.	G-86.
604 American Battle Monuments Commission	G-149.
320 American Forces Information Service	G-150.
605 American States—Pan American Union, Organization of.	G-85.
102 Animal & Plant Health Inspection Service—Agriculture.	G-41.
606 Appalachian Regional Commission	G-99.
370 Architect of the Capitol	G-151.
569 Architectural & Transportation Barriers Compliance Board.	G-152.
314 Army, Department of the	G-5.
396 Assistant Secretary for Health, Office of—PHS/HHS.	G-280.
570 Blind and Other Severely Handicapped, Commission for Purchase from the Board for (see other part of title).	G-153.
354 Bonneville Power Administration—Energy	G-135.
371 Botanic Garden, United States Bureau of (see other part of title).	G-154.
202 Census, Bureau of the—Commerce	G-58.
396 Centers for Disease Control—PHS/HHS	G-284.
607 Central Intelligence Agency	G-155.
608 Civil Aeronautics Board	G-156.
609 Civil Rights, Commission on	G-73.
322 Civilian Health & Medical Program of the Uniformed Services, Office of—Defense.	G-143.
514 Coast Guard, United States—Transportation.	G-157.
201 Commerce—Office of the Secretary of Commerce, Department of (see component agency) Commission on (see other part of title).	G-46.
610 Commodity Futures Trading Commission	G-57.
556 Comptroller of the Currency, Office of the—Treasury.	G-8.
372 Congressional Budget Office	G-70.
612 Consumer Product Safety Commission	G-72.
101 Cooperative Extension Service—Agriculture.	G-268.
373 Copyright Royalty Tribunal Council (see other part of title).	G-159.
426 Court of Claims, United States	G-18.
430 Court of Appeals for the Federal Circuit, United States.	G-244.
M Court of Military Appeals, United States	G-251.
565 Court of International Trade, United States.	G-252.
552 Customs Service, United States—Treasury.	G-97.
309 Defense Audiovisual Agency	G-265.
305 Defense Audit Service—Inspector General.	G-160.
M Defense Communications Agency	G-60.
312 Defense Contract Audit Agency	G-161.
Defense, Department of (see component agency).	
302 Defense—(components not listed elsewhere).	G-79.
306 Defense Intelligence Agency	G-162.
328 Defense Investigative Service	G-131.
304 Defense Logistics Agency	G-53.
326 Defense Mapping Agency	G-2.
310 Defense Nuclear Agency	G-163.
622 Depository Institutions Deregulatory Committee.	G-125.
437 Drug Enforcement Administration—Justice.	G-33.
476 Economic Advisers, Council of	G-184.
209 Economic Analysis, Bureau of—Commerce.	G-56.
204 Economic Development Administration—Commerce.	G-165.
101 Economic Research Service—Agriculture	G-145.
395 Education, Department of	G-17.
449 Employment & Training Administration—Employment Security.	G-12.
350 Energy, Department of (components not otherwise listed).	G-20.
559 Engraving and Printing, Bureau of—Treasury.	G-166.
335 Environmental Protection Agency	G-35.
477 Environmental Quality, Council on	G-105.
613 Equal Employment Opportunity Commission.	G-14.
M Executive, Legislative, and Judicial Salaries, Commission on.	G-290.
M Executive Office of the President—Office of Administration.	G-141.
105 Extension Service—Agriculture	G-268.
614 Farm Credit Administration	G-167.
103 Farmers Home Administration—Agriculture.	G-266.
515 Federal Aviation Administration—Transportation.	G-44.
432 Federal Bureau of Investigation—Justice	G-168.
615 Federal Communications Commission	G-111.
101 Federal Crop Insurance Corporation—Agriculture.	G-112.
616 Federal Deposit Insurance Corporation	G-36.
617 Federal Election Commission	G-31.
625 Federal Emergency Management Agency.	G-114.
351 Federal Energy Regulatory Commission—Energy.	G-142.
571 Federal Financial Institution Examination Council.	G-169
512 Federal Highway Administration—Transportation.	G-68.
618 Federal Home Loan Bank Board	G-170.
619 Federal Labor Relations Authority	G-139.
561 Federal Law Enforcement Training Center—Treasury.	G-93.
620 Federal Maritime Commission	G-172.

(A) Sampling no.	(B) Permit imprint no.
561 Federal 620 Federal Maritime CommissionLaw Enforcement Training Center—Treasury.	G-17293.
621 Federal Mediation and Conciliation Service.	G-173.
573 Federal Mine Safety & Health Review Commission.	G-174.
435 Federal Prison Industries—Justice	G-175.
516 Federal Railroad Administration—Transportation.	G-128.
622 Federal Reserve System, Board of Governors of the.	G-124.
361 Federal Supply Service—GSA	G-176.
623 Federal Trade Commission	G-62.
624 Fine Arts, Commission of	G-177.
423 Fish and Wildlife Service—Interior	G-77.
396 Food and Drug Administration—PHS/HHS.	G-285.
104 Food and Nutrition Service—Agriculture	G-39.
106 Food Safety & Inspection Service—Agriculture.	G-42.
101 Foreign Agricultural Service	G-262.
427 Foreign Claims Settlement Commission of the United States.	G-178.
M Forest Service—Agriculture	G-40.
374 General Accounting Office	G-100.
361 General Services Administration	G-30.
413 Geological Survey—Interior	G-23.
M German-American Tricentennial, Presidential Commission for.	G-273.
553 Government Financial Operations, Bureau of—Treasury.	G-4.
375 Government Printing Office—Superintendent of Documents—Sales Program.	G-160.
377 Government Printing Office—Superintendent of Documents—Statutory & Library Distribution.	G-26.
376 Government Printing Office (components not otherwise listed).	G-181.
583 Harry S. Truman Scholarship Foundation Health & Human Services (HHS) (see component agencies).	G-16
391 Health and Human Services, Department of (components not otherwise listed).	G-45.
392 Health Care Financing Administration—HHS.	G-28.
396 Health Resources and Services Administration—PHS/HHS.	G-286.
401 Housing and Urban Development, Department of.	G-51.
M Holocaust Memorial Council, United States.	G-287.
393 Human Development Services, Office of—HHS.	G-98.
433 Immigration and Naturalization Service—Justice.	G-78.
414 Indian Affairs, Bureau of—Interior	G-74.
628 Information Agency, United States	G-186.
M Inter-American Foundation Interior, Department of (see component agency).	G-183.
418 Interior, Department of the (components not otherwise listed).	G-65.
554 Internal Revenue Service—Treasury	G-48.
686 International Boundary and Water Commission.	G-184.
627 International Broadcasting, Board for	G-185.
629 International Development, Agency for United States.	G-107.
M International Joint Commission—U.S. & Canada.	G-122.
206 International Trade Administration—Commerce.	G-54.
653 International Trade Commission, United States.	G-253.
630 Interstate Commerce Commission	G-64.
575 Japan, U.S. Friendship Commission	G-187.
631 John F. Kennedy Center for the Performing Arts.	G-106.
303 Joint Chiefs of Staff	G-188.
436 Justice Assistance, Research and Statistics, Office of Justice, Department of (see component agency).	G-91.
441 Labor Department of	G-59.
415 Land Management, Bureau of—Interior	G-76.
378 Library of Congress	G-103.
101 Mail and Reproduction Management Division, Office of the Secretary—Agriculture.	G-272.
479 Management and Budget, Office of	G-80.
431 Management and Finance Information System, Office of—Justice.	G-71.
317 Marine Corps, United States	G-63.
576 Marine Mammal Commission	G-189.
520 Maritime Administration—Transportation	G-117.
632 Merit Systems Protection Board	G-113.
450 Mine Safety & Health Administration—Labor.	G-190.
425 Minerals Management Services—Interior	G-270.
416 Mines, Bureau of—Interior	G-191.
208 Minority Business Development Agency—Commerce.	G-192.
555 Mint, Bureau of the—Treasury	G-7.
M Museum Services, Institute of	G-274.
451 National Aeronautics and Space Administration.	G-27.
215 National Bureau of Standards—Commerce.	G-195.
633 National Capital Planning Commission	G-196.
396 National Center for Health Services Research—PHS/HHS.	G-282.
396 National Center for Health Statistics—PHS/HHS.	G-281.
M* National Commission on Libraries and Information Science.	G-116.
M National Council on the Handicapped	G-279.
634 National Credit Union Administration	G-88.
635 National Endowment for the Arts	G-50.
636 National Endowment for the Humanities	G-43.
637 National Gallery of Art	G-47.
517 National Highway Traffic Safety Administration—Transportation.	G-90.
398 National Institute of Education	G-25.
638 National Labor Relations Board	G-132.
639 National Mediation Board	G-197.
210 National Oceanic & Atmospheric Administration—Commerce.	G-19.
417 National Park Service—Interior	G-83.
640 National Science Foundation	G-69.
M National Security Agency—Defense	G-278.
480 National Security Council	G-198.
211 National Technical Information Service—Commerce.	G-15.
216 National Telecommunications & Information Administration—Commerce.	G-199.
641 National Transportation Safety Board	G-200.
M Native Hawaiians Study Commission, United States.	G-263.
M Navajo Hopi Indian Relocation Commission.	G-138.
316 Navy, Department of the	G-9.
642 Nuclear Regulatory Commission	G-67.
643 Occupational Safety and Health Review Commission.	G-222.
Office of (see other part of title)	
Organizstion of (see other part of title)	
644 Overseas Private Investment Corporation	G-223.
688 Pan American Health Organization	G-61.
645 Panama Canal Commission	G-224.
502 Passport Administration—State	G-225.
502 Passport Office—State	G-226.
212 Patent Office—Commerce	G-84.
611 Peace Corps	G-264.
646 Pennsylvania Avenue Development Corporation.	G-227.
447 Pension Benefit Guaranty Corporation	G-92.
245 Personnel Management, Office of	G-24.
M Postal Rate Commission	G-228.
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M President's Commission on Organized Crime.	G-276.
434 Prisons, Bureau of—Justice	G-231.
M Prospective Payment Assessment Commission.	G-288.
560 Public Debt Bureau of the—Treasury	G-232.
396 Public Health Service—HHS	G-29.
648 Railroad Retirement Board	G-120.
420 Reclamation, Bureau of—Interior	G-110.
510 Research & Special Programs Administration—Transportation.	G-126.
101 Rural Development Policy, Office of—Agriculture.	G-289.
519 St. Lawrence Seaway Development Corporation—Transportation.	G-234.
562 Savings Bond Division, United States—Treasury.	G-55.
481 Science and Technology Policy, Office of.	G-235.
563 Secret Service, United States—Treasury	G-258.
649 Securities and Exchange Commission	G-123.
650 Selective Service System	G-119.
475 Small Business Administration	G-82.
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397 Social Security Administration—HHS	G-11.
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655 Soldier's & Airmen's Home, United States.	G-254.
355 Southeastern Power Administration—Energy.	G-236.
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101 Statistical Reporting Service—Agriculture	G-38.
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424 Surface Mining Reclamation and Emforcement, Bureau of—Interior.	G-239.
352 Synthetic Fuels Corporation, United States.	G-255.
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482 Trade Representative, Office of the United States.	G-257.
379 Technology Assessment, Office of	G-240.
652 Tennessee Valley Authority	G-241.
Transportation, Department of (see component agency).	
518 Transportation, Department of (components not otherwise listed).	G-127.
518 Transportation Systems Center—Transportation.	G-242.
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551 Treasury—(all components not otherwise listed).	G-52.
307 University of Health Sciences—Uniformed Services.	G-259.
511 Urban Mass Transportation Administration.	G-129.
601 Veterans Administration	G-75.

[1] Standard penalty indicia bearing sampling No. 578 may be accepted until October 1, 1984.

.26 *Services, Classes, Rates, and Preparation Requirements*

.261 *Policy.* It is Postal Service policy to provide penalty mail customers the same services accorded to other mailers unless otherwise provided by law or regulation. Agencies are not entitled to send penalty mail at nonprofit or subsidized rates (i.e., special bulk third-class rates, fourth-class library rates and the following second-class rates: in-county, special nonprofit, classroom, science of agriculture, limited circulation, and limited circulation science of agriculture).

.262 *Forwarding, Return, and Address Correction Services.* Penalty mail on which forwarding, return, or address correction service has been requested must be given the service requested without being rated for collection of postage due.

.263 *Mail Preparation*

a. *General.*

(1) *Penalty Indicia Formats.* Mailings must be prepared using an appropriate penalty indicia format in accordance with 137.27.

(2) *Weight and Size Limits.* Penalty mail must conform to the weight, size and shape requirements for the class of mail being used (see individual classes of mail).

(3) *ZIP Codes.* The address on all penalty mail must include either the ZIP+4 code or the 5-digit ZIP Code. The return address on all penalty mail pieces procured after April 1, 1985 must also

include either the ZIP+4 code or the 5-digit ZIP Code.

(4) *Eligibility for Rates.* Penalty mail must meet the general requirements for the class or rate at which it is sent and, unless specifically provided elsewhere in 137.2, must meet the preparation requirements specified for that class and rate.

(5) *Endorsements.* The requirements for class of mail endorsements for standard penalty indicia pieces are in 137.272d. Except for single piece rate First-Class Mail not exceeding 12 ounces and single piece rate fourth-class parcel post, all penalty metered mail must bear the proper endorsement of the class or rate at which it is mailed (see the requirements for the individual classes of mail). Each piece of penalty permit imprint mail must bear the appropriate class or rate endorsement within the permit imprint indicia, or below or to the left of the permit imprint indicia. For certain rate categories it is also permissible for the rate endorsement to appear directly above the top line of the address on pieces prepared with penalty permit imprints (see 137.274b and the requirements for the individual classes of mail). Except for First-Class Mail weighing 12 ounces or less, all mail bearing penalty mail stamps must be marked to indicate the class at which it is mailed. For special service endorsements, see 137.264 and Chapter 9.

(6) *Separation by Class and Service.* Penalty mail must be separated according to the class of mail and special service requested before it is presented to the post office. See 137.42.

b. *Bulk Rate Mailings.*

(1) *Penalty Indicia Formats.* Bulk rate mailings must be prepared using either penalty postage meters or penalty permit imprints (see 137.273 and 137.274), or for second-class mail, the penalty second-class imprint (137.277a). Exception: Nonpresorted ZIP+4 mail may be prepared with standard penalty indicia as provided in 137.263c.

(2) *Mailing Fees.* The mailing fees for First-Class Presort rates, bulk third-class rates and presorted special fourth-class rates are billed and charged centrally from Postal Service Headquarters based on records of mailing activity. Agencies listed in 137.252 do not require special authorization to mail at these rates.

(3) *Rate Eligibility and Presort.* ZIP + 4, ZIP + 4 Presort, First-Class carrier route, Presort First-Class, second-class, bulk third-class (all presort levels), presorted special fourth-class mail and bulk bound printed matter must meet the same eligibility requirements for these rates as other mailers (see 323, 324, 420, 622, 723, and 724) and must be prepared under 360, 460, 660, or 760 respectively. The postmaster will furnish appropriate sack or tray labels with which to identify the various types of mail. Penalty mail must be presented for acceptance and verification at the entry post office in accordance with the same instructions and requirements for other mailers. See 137.42.

(4) *Mailing Statements.* The appropriate Postal Service mailing statement must be submitted with each bulk rate mailing. Second-class mailing statements, Forms 3541, *Statement of Mailings—Second-Class Publications (Except Requester Publications)* and 3541–A, *Statement of Mailing—Second-Class/Requester Publications,* must be submitted in duplicate, (triplicate if the mailer desires a copy). If presented without the appropriate Postal Service mailing statement, a mailing will be refused.

Note.—GPO Form 712 is *not* a Postal Service mailing statement. Exception: Until February 1, 1985, GPO contractors may submit GPO Form 712 instead of a mailing statement for permit imprint mailings at single piece rates.

(5) *Rate Documentation.* Agencies or their contractors must provide the appropriate documentation for pieces mailed at carrier route and 5-digit level presort rates, and ZIP + 4 presort rates in accordance with the same requirements for other mailers (see the requirements for the individual classes of mail).

(6) *Acceptance.* Acceptance unit employees must employ the same verification and notification procedures for penalty mail as those required for other mail. Therefore, penalty bulk rate mailings submitted at post offices under the National Bulk Rate Mail Verification Program, that have makeup errors of 10 percent or more will be rejected and returned for correction unless the agency elects to reimburse the Postal Service at the single piece rate for the percentage of the mailing estimated to be in error. *Exception:* First-Class bulk rate mail will not be detained. If the agency cannot be contacted concerning disposition of a mailing that is not acceptable at the bulk rate, the single piece rate will be computed for the mailing or appropriate portion of the mailing, and the mailing will be entered into the mailstream. The agency must be notified in writing of the equivalent amount of postage due.

c. *Special Procedures for Nonpresorted ZIP + 4 Mail.* In addition to use of penalty postage meters and penalty permit imprints in accordance with the same procedures used by other mailers, the standard penalty indicia may be used by agencies to mail nonpresorted ZIP + 4 mailings provided all of the following conditions are met:

(1) All pieces must meet the requirements in 324, 368.1, and 368.2.

(2) The agency must obtain a penalty permit imprint authorization at each post office where the mailings will be submitted.

(3) The mailing must be presented to the bulk acceptance unit of the post office accompanied by a copy of a Form 3602 that shows the permit imprint number of the agency, the total number of pieces, and the total weight of the mailing in pounds. If the mailing consists of nonidentical weight pieces, the words "nonidentical weight" must be written in the "weight of a single" piece block, and postage will be computed based on the average weight of the pieces.

(4) The endorsement *"ZIP + 4"* must appear approximately ¼ of an inch below the agency sampling number in the standard penalty indicium.

.264 *Special Services.* Penalty mail may be endorsed to indicate a special service and is given the indicated service without prepayment of fees and postage with the following exceptions:

a. Registered mail for which insurance is also requested cannot be sent as penalty mail and must have postage and fees prepaid.

b. Mail insured for over $50 cannot be sent as penalty mail and must have postage and fees prepaid.

c. Return receipts requested after mailing cannot be accounted for under penalty mail procedures and must be prepaid.

d. Money orders cannot be accounted for under penalty mail procedures and must be prepaid.

e. COD mail cannot be accounted for under penalty mail procedures and must be prepaid.

f. Post office box service fees cannot be accounted for under penalty mail procedures and must be prepaid.

g. Certificates of mailing for less than three pieces must have prepaid postage affixed or have penalty metered postage or penalty mail stamps affixed (see DMM 931.6).

h. Use of special services is not authorized for penalty mail of agricultural experiment stations. See 137.242(3).

Note.—Reimbursement for special mail services is obtained under instructions issued by the Manager, Government Revenue and Examination Branch. For a description of the available services, see Chapter 9.

.265 *Shortpaid and Unpaid Mail.* The procedures in 146 for handling shortpaid and unpaid mail apply to penalty mail

except that agencies are authorized to pay for shortpaid mail with penalty meter strips or penalty mail stamps in addition to payment methods available to other mailers. The penalty meter strip must be in the exact amount of the postage due and bear the current date. When penalty mail stamps are used for payment of shortpaid mail, sufficient stamps to cover the amount of postage due must be submitted. Credit will not be given if it is necessary to submit stamps in excess of the amount due.

.266 *International Mail Services.* Penalty mail of agencies may be sent to other countries. Such mail is subject to the weight and size limits and other conditions prescribed in IMM 221.34 and 324.4. Reimbursement for the services received is covered by 137.22. However, agencies may elect to prepay the postages and fees in accordance with 137.23.

.27 *Penalty Mail Indicia Formats*

.271 *General*

a. *Formats and Methods.* There are six separate formats and methods of mailing penalty mail: (1) standard penalty indicium mail, (2) penalty metered mail, (3) penalty permit imprint mail, (4) penalty mail stamps, (5) penalty second-class imprint mail, and (6) penalty reply mail. In addition, there are special procedures for penalty Express Mail and use of E–COM and Intelpost services.

b. *Items Carried Outside the U.S. Mail.* All penalty mail matter must conform to the requirements described in 137.272 through 137.277. Envelopes and labels prepared according to these requirements may be used only to transmit penalty mail, and must not be used on items carried outside the U.S. except:

(1) When official items are carried by employees of the originating agency;

(2) When official items are carried by contractors for subsequent entry into the U.S. Mail under the provisions of 137.28; or

(3) When agencies reach written agreement with the Manager, Government Revenue and Examination Branch, to account for and pay postage on official items carried outside the U.S. Mail to avoid violation of the Private Express Statutes (18 U.S.C. 1693–1699 and 39 U.S.C. 601–606).

c. *Postage Prepaid.* Agency mail which is not sent by use of penalty envelopes or labels as provided in 137.272 through 137.277 must have postage prepaid.

.272 *Standard Penalty Indicia*

a. *Standard Penalty Indicia Requirements.* Except as provided in 137.272 b and c, all penalty mail using the standard penalty indicia must comply with the following specifications:

(1) *Format.* The indicium must be printed and must consist of the postal emblem (See Exhibits 137.272a(1) and (2)), located ⅜ of an inch from the top edge of the mail piece. In addition, immediately below the postal emblem, the words *POSTAGE AND FEES PAID*, the name of the agency, and the agency sampling number listed in 137.252, column A, must appear. The complete return address (agency name and mailing address) and the words *OFFICIAL BUSINESS, PENALTY FOR PRIVATE USE, $300* must appear in the upper left corner of the mail piece (see Exhibit 137.272a(1)). The penalty statement must not be handwritten or typewritten.

(2) *FIM.* The Facing Identification Mark (FIM), a vertical bar code pattern which functions as an orientation mark for automatic facing and canceling equipment, is required on single piece rate letter-size mail as follows:

(a) An area of 3 inches by 1¾ inches in the upper right corner of the address side of each mail piece must be reserved for the indicium and the FIM. The entire indicium, including the postal emblem, must be within 1¾ inches from the right edge and within 1¾ inches from the top edge of the mail piece. A FIM must be printed on all letter-sized mail pieces, including cards, envelopes, and self-mailers (see 128), but is not required on labels or envelopes larger than letter-size.

(b) The FIM must be positioned so that the distance from the right edge of the mail piece to the nearest FIM bar is 2 inches plus or minus ⅛ of an inch, and the top of the FIM pattern is within ⅛ of an inch of the top edge of the mail piece. It is permissible for the pattern to touch the top edge of the mail piece. The bars must be ⅝ of an inch long plus or minus ⅛ of an inch. A clear area free of any other printing must be maintained around the FIM, beginning 1¾ inches from the right edge of the mail piece and extending 1¼ inches to the left. The clear area must extend ⅝ of an inch down from the top edge. (See Exhibit 137.272a(2)). Additional specifications for printing the FIM are contained in Publication 12, *Bar Code and FIM Printing Guidelines.*

(c) Because the spacing between the vertical bars must be precise, the Postal Service provides negatives which must be used for printing the FIM pattern. In all cases, Postal Service specifications and negatives must be used. The specifications and negatives for FIM are available from local post offices or from the Manager, Government Revenue and Examination Branch, Finance Department, USPS Headquarters, Washington, DC 20260–5215. A FIM must appear on all letter-size mailing pieces procured beginning April 1, 1982. Stocks of cards, envelopes, and self-mailers procured before April 1, 1982, which do not bear a FIM may be used until exhausted.

b. *Requirements for Special Users of Standard Penalty Indicia.*

(1) *Mail of a Designated State Extension Director.* Penalty mail of a designated State extension director as described in 137.242a(1) must bear in the upper left corner the name of the agricultural college and the name of the post office at which the mail is to be accepted without prepayment of postage. This must be followed by the name and title of the designated officer and the words *COOPERATIVE AGRICULTURE EXTENSION WORK—ACTS OF MAY 8 AND JUNE 30, 1914.* The words *OFFICIAL BUSINESS, PENALTY FOR PRIVATE USE $300,* must appear below this statement. The penalty statement must not be handwritten or typewritten. The words *POSTAGE AND FEES PAID U.S. DEPARTMENT OF AGRICULTURE,* and the agency sampling number (Column A, 137.252) must appear in the upper right corner of the address side immediately below the postal emblem. The postal emblem must be prepared in accordance with 137.272a(1). The FIM pattern must be used as described in 137.272a(2).

(2) *Mail of Agricultural Experiment Stations.* Penalty mailings by agricultural experiment stations as described in 137.242a(3) must bear in the upper left corner of the address side: the name of the station, the name of the post office at which the matter is to be accepted, and the name and title of the officer in charge of the station, followed by the word *PUBLICATION.* The title of the bulletin or report may be used. The words *OFFICIAL BUSINESS, PENALTY FOR PRIVATE USE $300,* must appear below this statement. The penalty statement must not be handwritten or typewritten. The words *POSTAGE PAID, U.S. DEPARTMENT OF AGRICULTURE,* and the agency sampling number must appear in the upper right corner of the address side immediately below the postal emblem. The postal emblem must be prepared in accordance with 137.272a(1). The FIM pattern must be used as described in 137.272a(2).

(3) *Mail of Cooperative Extension Agents.* Penalty mailings of cooperative extension agents described in 137.242a(2) must be prepared in

accordance with the provisions of 137.272a.

(4) *Mail of State Employment Security Agencies.* Penalty mailings of State employment security agencies cooperating with the Department of Labor must bear in the upper left corner the name and complete return address (mailing address) of the state agency and the words *OFFICIAL BUSINESS, PENALTY FOR PRIVATE USE $300.* The penalty statement must not be handwritten or typewritten. The words *POSTAGE AND FEES PAID, EMPLOYMENT SECURITY MAIL, LAB 449* must appear in the upper right corner of the address side immediately below the postal emblem. The postal emblem must be prepared in accordance with 137.272a(1). The FIM pattern must be used as described in 137.272a(2).

c. *Exceptions to Format Requirements.* The following exceptions apply to standard penalty indicia format requirements: (1) The FIM pattern and use of the postal emblem as part of the indicium is optional on larger than letter-size mail; (2) the postal emblem and FIM pattern may be omitted on self-mailers completely printed by computer with no provision for printing designs other than letters and numbers, provided the items are faced, sorted and tied in bundles by ZIP Code; (3) the FIM pattern is not required on second-class mail, and must not appear on penalty permit imprint, or penalty metered mail, or mail bearing penalty mail stamps; (4) stock of cards, envelopes, and self mailers procured prior to April 1, 1982, that do not bear a FIM may be used until exhausted.

d. *Endorsements.* Standard penalty indicium mail may only be endorsed for mailing at single piece rates. All standard penalty indicium mail which is not endorsed for another class will receive First-Class service and will be charged at First-Class rates, with the following exceptions: (1) Unendorsed mail weighing over 12 ounces but less than 16 ounces will be treated and charged as single piece third-class, (2) Unendorsed mail weighing 16 ounces or over will be treated and charged as fourth-class parcel post, (3) Pieces weighing over 12 ounces which are to be given First-Class service must be endorsed "First Class" or "Priority". To assure consistency of treatment and handling appropriate to the level of service desired, all agencies should endorse their flats and small parcels as "First-Class", "Third-Class", "Parcel Post", or "Priority" as appropriate. Pieces mailed at the nonpresorted ZIP + 4 rates must bear the endorsement "ZIP + 4" (see 137.263c). Any endorsement for a special service or class of mail must appear approximately ¼ of an inch below the agency number in the indicium.

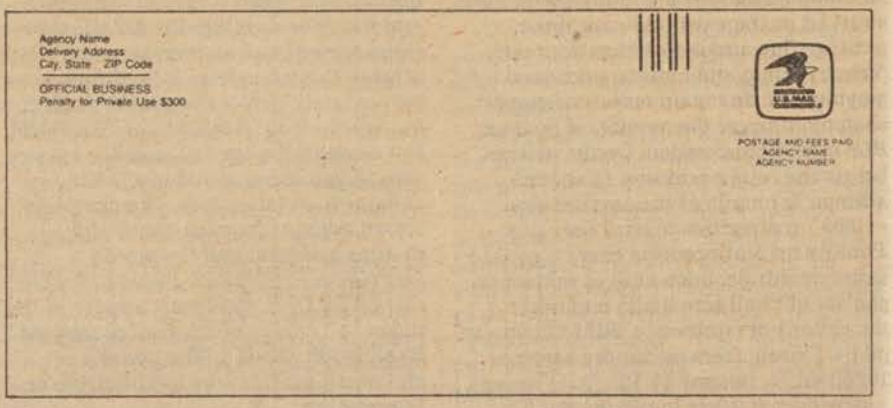


EXHIBIT 137.272a(1)—Standard Penalty Indicia Format

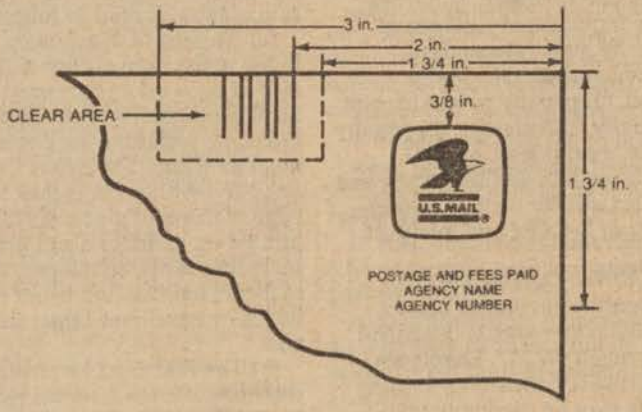


EXHIBIT 137.272a(2)—Placement of Standard Penalty Indicia Format Elements

.273 *Penalty Meters.*

a. *Description.* Postage meters having a special penalty design may be used by agencies. The procedures described in 144 govern the use of these meters. *Exceptions:* (1) The provisions of 144.344, 144.355, 144.38, and 144.39 are not available to penalty meter users; and (2) as otherwise modified below.

b. *License.* Agencies must obtain a license to use a penalty postage meter by submitting Form 3601–A, *Application For a Postage Meter License,* to the Manager, Government Revenue and Examination Branch, Finance Department, USPS Headquarters, Washington, DC 20260–5215. A separate application must be submitted for each meter to be set. A copy of each approved license will be sent to the post office at the requested location and will authorize setting one penalty postage meter without prepayment.

c. *Meter Indicium Format.* Special penalty mail meter stamp designs prescribed for metered penalty mail in 144.41b must be placed in the upper right corner of the mail pieces. Envelopes used with a penalty postage meter must not contain FIM patterns, or standard penalty indicia, and must not contain printing other than the meter indicium in the area where the meter stamp will be applied. However, postmasters at post offices where penalty meters are licensed may grant an exception to this requirement by allowing agencies a reasonable time to use existing supplies of standard penalty indicium envelopes by printing penalty meter impressions over the indicia. This should be permitted only when the surplus standard penalty indicium envelopes

cannot reasonably be used at another non-metered location. If this exception is granted, post offices will check to ensure that no standard penalty indicium envelopes are mailed without metered postage printed over the indicia. The complete return address (agency name and mailing address) must appear in the upper left corner of each mail piece. The words *OFFICIAL BUSINESS* must appear immediately below the return address. (The return address for mail of State agricultural extension directors, agricultural experiment stations, and State Employment Security Offices must consist of the information required for the upper left corner of standard penalty mail of these users as required in 137.272b (1), (2), and (4)).

d. *Meter Settings and Payment.* Only one meter may be set for each license issued. Payment is not required at the time a penalty meter is set. Agencies are charged by Postal Service Headquarters for the amount of postage set during each quarter, based on reports prepared by the meter-setting office. *Note:* Since penalty meters must be inspected by the setting post office at least once every six months (144.224) and payment is based on the amount of postage set rather than the amount used, agencies should have their meters set at least once every six months. In this way, an agency can meet the inspection requirement and also achieve budgetary control over metered penalty postage.

3e. *Spoiled or Unused Penalty Meter Postage.* To obtain credit, an agency must present spoiled or unused penalty meter postage to the setting post office. When such postage is presented, the procedures in 147.2 must be followed by completing Form 3533, *Application and Voucher for Refund of Postage and Fees.* No refunds may be made in cash or applied to a meter. Agencies will be credited with the spoiled postage amount by reports prepared at the meter setting office and forwarded to Postal Service Headquarters.

f. *Changing Penalty Meter Location.* When a penalty postage meter is transferred from one post office to another, the agency must reapply in accordance with 137.273a for a license authorizing the new post office to set the meter without prepayment. Penalty meters may be transferred between stations or branches of the *same* post office with the permission of the postmaster. A new license application or notification to Headquarters is not required for such transfers within the same office.

g. *On-site Penalty Meter Settings.* Agencies which desire on-site penalty meter settings must pay the setting fee prescribed in 144.35 when the meter is set. *Note:* Payment for the actual amount of postage set under the on-site program is handled through the procedures in 137.273d.

h. *Replacement Penalty Meters.* If a meter is replaced, the remaining postage is transferred from the original meter to the replacement meter. It will not be transferred to a penalty meter operating under a different license number. For penalty meters checked out-of-service without replacement, see 137.273i.

i. *Checking Penalty Meters Out-of-Service.* When a penalty meter is checked out-of-service without replacement and postage remains on the meter, no cash refund will be given by the post office. Credits due will be reported on Form 3612, *Quarterly Report of Official Mail Meter Settings,* and reflected on the agency billing statement.

j. *Mailings.* Penalty meter imprints should indicate the correct postage, including any applicable special service or surcharge for the class and weight of the mail piece. Penalty metered mail with insufficient postage imprinted must be handled in accordance with 146.13. If envelopes and labels designed for penalty meter use are found in the mail without a penalty meter stamp, they must be handled in accordance with 146.12. Agency units or locations that use penalty postage meters are prohibited use of standard penalty indicia.

.274 *Penalty Permit Imprint Mail*

a. *Application*

(1) Agencies may apply to use penalty permit imprint procedures by completing two (2) copies of Form 3601, *Application to Mail Without Affixing Postage Stamps,* and submitting both copies to the post office where the mailings will be deposited. It is suggested that the agency show the permit imprint number in the "Permit Number" section of the application portion (top half) of Form 3601 that normally is for completion by the Postmaster. The agency should also be sure to show the complete name of the agency, and subunit of the agency if applicable, in the "Name of Applicant" section of the form to assist the post office in verifying that the permit number is correct. This is especially important for agencies assigned use of more than one permit imprint number. When the agency has obtained authorization in accordance with 137.251a or 137.252 to use a penalty permit imprint number not shown in 137.252, Column, B, a copy of the letter from the Manager, Government Revenue and Examination Branch, authorizing the use of that permit number must be submitted to the post office where mailings will be made along with the Forms 3601. The appropriate permit imprint fee will be billed and charged centrally, based on application forms forwarded to USPS Headquarters by the post office.

(2) When a contractor mails penalty permit imprint matter, the agency must follow the procedures described in 137.274a(1) or provide both copies of the completed Form 3601 to the contractor for submission to the entry post office.

b. *Indicium Requirements.* The penalty permit imprint indicium must appear in a rectangular box in the upper right corner of the mail piece. The penalty permit imprint indicium must include the words *POSTAGE AND FEES PAID,* the agency name, and the agency's assigned penalty permit imprint number 137.252, Column B, or other penalty permit imprint number authorized by the Manager, Government Revenue and Examination Branch. This number must always be preceded by the letter "G". In addition, the class of mail or appropriate rate endorsement must appear either as the first item within the permit imprint (the preferred position) or immediately below or to the left of the permit imprint. (Rate endorsements for certain rate categories may also appear directly above the top line of the address; see the requirements for the individual classes of mail.) The city of mailing, amount of postage, and weight of the piece may be included within the permit imprint but are not required. First-Class penalty permit imprints may also show the date. Examples of the penalty permit imprint indicium are provided in 145.5 e, f, and g. The complete return address (agency name and mailing address) must appear in the upper left corner. (The return address for mail of State agriculture extension directors, agricultural experiment stations, and State Employment Security Offices must consist of the information required for the upper left corner of standard penalty mail of these users as set forth in 137.272b (1), (2), and (4)). The words *OFFICIAL BUSINESS, PENALTY FOR PRIVATE USE $300* must appear immediately below the return address. The penalty statement must not be handwritten or typewritten. The FIM pattern described in 137.272a(2) must not be used on penalty permit imprint mail.

c. *Mailings.*

(1) *General.* Mail sent under penalty permit imprint procedures, including international mail, must meet the provisions of 145, except for 145.4 and 145.66. The appropriate Postal Service mailing statement, Form 3602, *Statement*

of Mailing With Permit Imprints, or 3605, *Statement of Mailing—Bulk Zone Rates*, as prescribed in 145.65 must be submitted in duplicate with each penalty permit imprint mailing. If a receipt is desired, the mailer must submit a duplicate copy which will be returned to the mailer by the acceptance employee after verification. When mailing statements are submitted by Government Printing Office (GPO) contractors, the serial number of the GPO Form 712 submitted with the mailing must be shown in the upper right hand corner of the accompanying Forms 3602 or 3605. *Exception:* A copy of GPO Form 712 may be submitted instead of a 3602 or 3605 for single piece rate mailings until February 1, 1985.

(2) *Exception for GPO Contractor Mailings.* Agency mailings submitted by GPO contractors may contain nonidentical weight pieces and contain more than one class of mail provided all of the following conditions are met:

(a) The pieces are for mailing at single piece rates.

(b) All other requirements for use of permit imprints are met including the minimum quantity requirements in 145.61 and the requirement in 137.274a(1) that the pieces contain the proper class of mail endorsements either within or immediately adjacent to the permit imprint.

Example: For a mailing containing both First-Class and fourth-class pieces, the pieces mailed at First Class rates must show the marking "First-Class" or "Priority" within or adjacent to the permit imprint, and the pieces mailed at the fourth-class rate must show the marking "Fourth-Class" within or adjacent to the permit imprint.

(c) Effective February 1, 1985, a properly completed PS Form 3602–G, *Statement of Mailing with Penalty Permit Imprints*, must be submitted to the entry post office for each mailing. A duplicate copy must be submitted if the contractor wishes to retain a copy. *Exception:* Until February 1, 1985, GPO Form 712 may be submitted instead of Form 3602–G.

(d) The mailings are physically separated according to the class and weight categories on Form 3602–G upon presentation to the post office. *Note:* This does not apply to mailings submitted with GPO Form 712 in accordance with the exception in 137.274c(2)(c).

(e) A GPO Form 712 is submitted with the mailing as evidence that the mailing is made by a GPO contractor.

Postage will be computed based on the average weight of a piece for each category of mail reported on Form 3602–G. Mailings made using Form 3602–G are not eligible for the fourth-class intra BMC parcel post rates. *Note:* GPO contractors may choose to use Form 3602–G for single piece rate mailings that would be eligible for reporting on Form 3602 or Form 3605.

.275 *Penalty Mail Stamps*

a. *Use and Authorization.* Penalty mail stamps may be used by government agencies to facilitate postage accountability. Penalty mail may be sent under penalty mail stamp procedures when an agency has obtained authorization in accordance with 137.275c.

b. *Availability.* Penalty mail adhesive stamps are available in several denominations. Penalty mail stamped stationery (plain stamped envelopes, printed stamped envelopes, and postal cards) is also available.

c. *Application.* Federal government agencies may apply to use penalty mail stamps by submitting a letter of application to the Manager, Government Revenue and Examination Branch, USPS Headquarters, Washington, DC 20260–5215. The letter of application must state the degree to which the agency has adopted other accountable systems and the manner and extent to which it plans to use penalty mail stamps. The Manager, Government Revenue and Examination Branch, will approve or deny applications for use of penalty mail stamps.

d. *Format*

(1) *Adhesive stamps.* Penalty mail adhesive stamps must be firmly affixed in the upper right corner of the address side of the mail piece. The complete return address of the government agency (mailing address) must appear in the upper left corner of the address side of the mail piece. The words *Official Business* must appear immediately below the return address. See Exhibit 137.275d(1).

(2) *Stamped Stationery.* The complete return address of the government agency (mailing address) must appear in the upper left corner of the address side of the mail piece. The words *Official Business*, and *Penalty for Private Use $300* must appear immediately below the return address. See Exhibit 137.275d(2).

Note.—The return address of mail of State agricultural extension directors, agriculture experiment stations and State Employment Security agencies must consist of the information required for the upper left corner of standard penalty indicia mail of these users as described in 137.272b (1), (2), and (4).

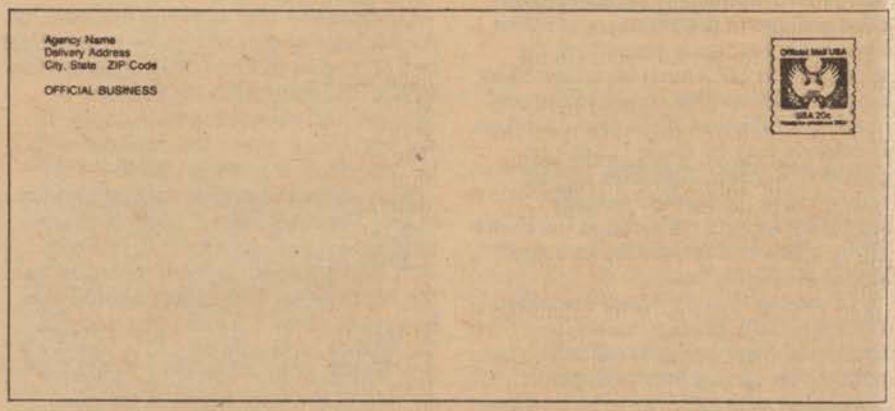


EXHIBIT 137.275d(1)—Penalty Mail Stamp Format

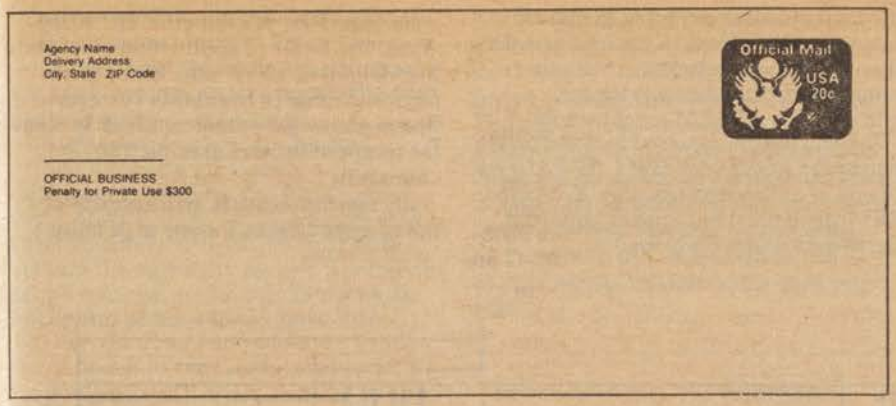


EXHIBIT 137.275d(2)—Penalty Mail Stamped Stationery Format

e. *Use on Standard Penalty Indica Mail.* The penalty mail stamp normally must not be used on mail bearing the standard penalty indicia (FIM, postal emblem, agency sampling number, and the words *Postage and Fees Paid*). However, postmasters may grant an exception to this requirement by allowing agencies a reasonable amount of time to use existing supplies of standard penalty indicia envelopes with the penalty mail adhesive stamps placed over the postal emblem and the agency sampling code obliterated. When this exception is granted, post offices will check to ensure that no standard penalty indicia envelopes are mailed without penalty mail adhesive stamps placed over the postal emblem.

f. *Ordering Porcedures.* Departments and agencies authorized by 137.245a to use penalty mail stamps must order penalty mail stock as follows:

(1) Orders for penalty mail stamp stock other than printed stamped envelopes must be submitted to the stamp distribution office (SDO) serving the ZIP Code area to which the stamp stock is to be shipped on a properly completed Form 17–GX, *Official Mail Stamp Requisition* or properly completed Form 17–G, *Penalty Mail Stamp Requisition.* Order for printed stamped envelopes must be submitted to the United States Stamped Envelope Agency, Williamsburg, PA 16693–0500, on Form 17–JX, *Official Mail Printed Stamped Envelope Order* or Form 17–J, *Penalty Mail Printed Stamped Envelope Order.*

(2) Each component unit of an agency is requested to submit no more than one order for penalty mail stamp stock each quarter.

(3) Each order must total at least $40. Orders received for stamp stock totaling less than this minimum dollar amount will be increased to meet or exceed the minimum by adding full stamp coils (100 stamps) at the current First-Class single piece rate for pieces weighing one ounce or less.

(4) Each denomination of stamps can be ordered only in multiples of 100 (i.e., full sheets or coils), except that $5 stamps can be ordered only in multiples of 20.

(5) Penalty postal cards may be ordered only in units of 250 cards (full packs).

(6) Penalty stamped envelopes (plain and printed stamped envelopes), may be ordered only in units of 500 envelopes (full boxes).

g. *Reporting Procedures.* Government agencies will receive a quarterly statement reflecting all penalty mail stamp stock shipped during that quarter. The statement will list all orders filled in that quarter and include a summary dollar total and number of requisitions.

h. *Mailings.* Sufficient penalty mail stamps to cover the correct single piece rate postage, including any applicable surcharges, or special services must be affixed to each mailing piece. Except for First-Class Mail weighing 12 ounces or less, all mail bearing penalty mail stamps must be marked to indicate the class at which it is mailed. Pieces with insufficient penalty mail stamps affixed must be handled as shortpaid mail in accordance with 146.13 or 146.4 as appropriate. If envelopes and labels designed for use with penalty mail stamps are found in the mail without a penalty mail stamp, they must be handled as unpaid mail in accordance with 146.12 or 146.4 as appropriate.

i. *Exchanges.* Mistakes made by an SDO in shipping the wrong items, or shipping damaged, defective, or otherwise unserviceable stamps may be corrected by the SDO by exchanging the items at full value.

.276 *Penalty Reply Mail*

a. *Restriction to Approved Formats.* Agencies may distribute penalty envelopes, cards, cartons or labels to any person, concern, or organization from whom or through whom official matter is desired by: (1) Using the penalty business reply format provided by 137.276g; (2) using the penalty metered reply format provided by 137.276d; (3) affixing penalty mail adhesive stamps or using penalty mail stamped stationery as provided in 137.276e; or (4) by following the penalty fourth-class and special services reply procedures in 137.276f. Standard penalty indicium envelopes, cards, cartons, and labels described in 137.272 may not be distributed for reply purposes except as provided in 137.276f, or when used to return matter to the Bureau of the Census as provided in 137.276b below.

b. *Bureau of the Census.* Standard penalty indicium envelopes and labels prepared in accordance with 137.272a and containing the preprinted address of the Department of Commerce or one of its bureaus or agencies may be used to transmit mail relating to a collection of statistics, survey, or census authorized by Title 13, United States Code.

c. *Prepayment of Reply Mail.* Adhesive postage stamps may be affixed to cards and envelopes distributed for reply purposes under the provisions of 137.23.

d. *Penalty Metered Reply Mail.* An agency which holds a penalty postage meter license may distribute penalty metered reply cards and envelopes for return to the meter license holder, as provided in 144.112. Instructions in 144.112 a, b, and c governing the preparation of the address side of metered reply cards and envelopes also apply to penalty metered reply mail.

e. *Penalty Mail Stamp Reply Mail.* A department or agency authorized to use the penalty mail privilege may furnish to a person, concern, or organization from or through whom official matter is desired, for reply purposes, printed penalty mail stamped stationery or envelopes or cards bearing penalty mail stamps that contain the preprinted address of a Federal Government office or officer.

f. *Penalty Fourth-Class and Special Services Reply Mail.* Agencies may distribute penalty envelopes, cards, cartons or labels for return at fourth-class rates or for return with a special service, by using the standard penalty indicium format in 137.272a. Prior written approval is required from the Manager, Government Revenue and Examination Branch. Requests to use this procedure must be submitted in writing to the Manager, Government Revenue and Examination Branch, Finance Department, USPS Headquarters, Washington, DC 20260–5215. Such requests must include: (1) The service desired, (2) The post offices to which the mail will be returned, and (3) The proposed procedures to determine actual volume and postage due. Return envelopes, cards, cartons, or labels distributed under this provision must have the appropriate fourth-class endorsement or the desired special service preprinted on them.

g. *Penalty Business Reply.*

(1) *Application.*

(a) An agency must apply to furnish penalty return envelopes to correspondents by filing an application in duplicate on Form 3614, *Application to Distribute Business Reply Cards, Envelopes, Cartons, and Labels.* The application must be filed at the post office where the mail will be returned, or at the post office where the agency headquarters is located if mail bearing a single business reply mail permit number will be returned to offices in more than one city.

(b) Agencies must notify the Manager, Government Revenue and Examination Branch, if penalty business reply mail having a single permit number will be returned through post offices other than the permit issuing post office. This notification must include, for each permit number, the addresses and cities where mail will be returned.

(2) *Format Requirements.* Penalty business reply mail envelopes must bear the address of one of the authorized agencies listed in 137.252, or one of their component units. They must be printed in the format required by 917.5 with the following exceptions:

(a) The address may be printed, typewritten, or handstamped directly on the mail piece, or a printed gummed label may be affixed in the address area. It must not be handwritten. All other preparation requirements for the address side in 917.51 must be met.

(b) The legend required by 917.52a(4) must read *POSTAGE WILL BE PAID BY* (name of authorized agency). *Exception:* The legend must not appear on Postal Service business reply mail.

(c) The space for permit holders' use described in 917.52b(3)(e) must include the statement, *OFFICIAL BUSINESS, PENALTY FOR PRIVATE USE, $300.* Space above this statement may be used for return address, logos, distribution codes, etc.

(d) The following is an illustration of the penalty business reply mail format:

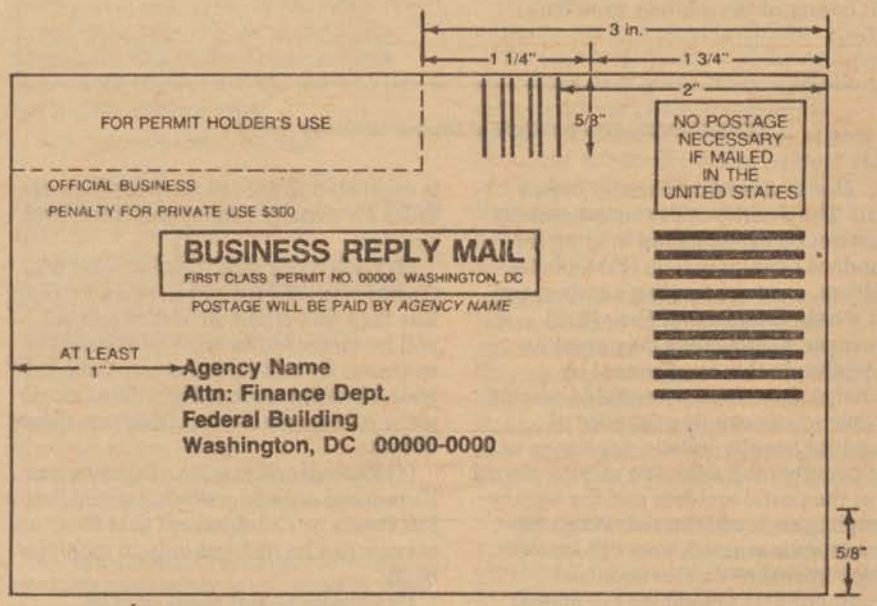


EXHIBIT 137.276g(2)(d)—Penalty Business Reply Mail Format

(3) *Payment of Postage and Fees.* Agencies will be charged an annual permit fee in accordance with 917.23 and 917.252. In addition, the annual business reply mail accounting fee will be charged each calendar year for each permit issued. However, post offices will not collect money from agencies in connection with the issuance of penalty business reply permits, accounting fees, or for postage and fees due on such mail. Annual permit fees, accounting fees, postage and business reply fees will be paid by agencies in accordance with the reimbursement procedures of 137.22.

.227 *Procedures for Certain Classes of Penalty Mail*

a. *Penalty Second-Class Mail.*

(1) *Application.* Agencies may apply for penalty second-class mail privileges for periodical publications which meet the basic qualifying conditions stated in 421 and the requirements of 422.2 or 422.6 by completing Form 3501, *Application for Second-Class Mail Privileges,* or Form 3511, *Application for Second-Class (Requester) Privileges,* (as appropriate). The application and the appropriate number of copies of the publication for which the privileges are desired should be filed at the post office where the known office of publication is located in accordance with 441.11, and either 441.12, or 441.15.

(2) *Mailing Format.* Penalty mail sent at second-class rates must meet the provisions of Chapter 4, except for 455.2 and 481. A penalty mail second-class imprint must be printed on the front or back cover of each copy, preferably in the upper right corner of the address area, or must be printed in the upper right corner of the address side of its envelope or wrapper. The imprint for copies mailed while an application is pending must read "Application to Mail at Second-Class Rates Pending." The imprint for authorized publications must contain: (1) the words *SECOND-CLASS MAIL or SECOND-CLASS NEWSPAPER* (as appropriate); (2) the words *POSTAGE AND FEES PAID;* (3) the agency name; and (4) the

International Standard Serial Number (ISSN) assigned by the Library of Congress, if the publication has one, or the publication number assigned by the Postal Service at the time of authorization. For both authorized publications and publications with applications pending, the front or back cover of each copy, or the address side of its envelope or wrapper must also contain the agency name and a complete return address, preferably in the upper left corner of the address area. The words, *OFFICIAL BUSINESS, PENALTY FOR PRIVATE USE, $300* must appear immediately below the return address (see Exhibit 137.277a). The penalty statement must not be handwritten or typewritten. *Exception:* Publications authorized before October 1, 1984 may be prepared with standard penalty indicia showing the marking *SECOND-CLASS MAIL or SECOND-CLASS MAIL NEWSPAPER* until July 1, 1985.

EXHIBIT 137.277a(1)—Penalty Second Class Format for Publications Mailed While an Application is Pending

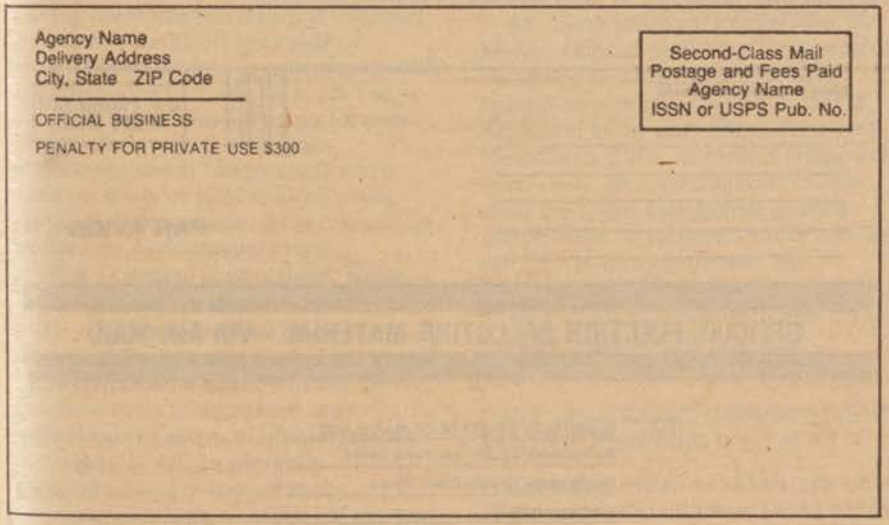


EXHIBIT 137.277a(2)—Penalty Second-Class Format for Authorized Second-Class Publications

(3) *Payment of Postage and Fees.* Post offices will not collect money from agencies in connection with applications for original entry, additional entry, reentry, or for postage on second-class mailings. However, agencies must submit a Form 3541 or Form 3541–A, in duplicate, for each mailing at the entry post office. Postage and fees will be paid in accordance with the reimbursement procedures in 137.22.

b. *Penalty Express Mail.* Agencies have the same service and contract options as other mailers when making arrangements for penalty Express Mail service. A description of the available services is contained in Chapter 2. The procedures for preparing penalty Express Mail service are explained in Handbook M–68, *Express Mail Service,* Chapter 7, *Federal Agency Special Permit and Postage Trust Accounts.* Postmasters should be consulted before the start of service. Penalty postage meters or penalty mail stamps may also be used for Express Mail. If penalty meters or penalty mail stamps are used, an agency number must *not* appear in the customer number block of Express Mail Labels. *Note:* Agencies may also prepay postage for Express Mail (i.e. not use penalty mail procedures, see 137.23). When Express Mail is prepaid, an agency number must *not* appear in the customer number block of Express Mail Labels.

c. *E-COM and INTELPOST.* Agencies desiring use of E-COM service and Intelpost may contact the Manager, Government Revenue and Examination Branch, USPS Headquarters, Washington, DC 20260–5215, to make arrangements for accounting for such mail.

.28 *Contractors.*

.281 *Reimbursement.* Agencies authorized to use the penalty mail privilege must reimburse the Postal Service for contractor use of penalty mail services. Agencies must promptly furnish, in the manner and form requested, all information concerning contractor use of penalty mail services which the Manager, Government Revenue and Examination Branch, considers necessary to insure accurate reimbursement to the Postal Service. Except for Standard Penalty Indicia Express Mail, contractors are prohibited the use of standard penalty indicium envelopes or labels described in 137.272.

.282 *Use of Penalty Indicia Formats.* Contractors must prepare penalty mailings in accordance with the following:

(1) First-, third-, and fourth-class penalty mailings must be prepared using either penalty permit imprints as described in 137.274 or penalty meters as described in 137.273. Single piece rate mailings may also be prepared with penalty mail stamps as described in 137.275. *Exception:* Bulk third-class mailings for agencies that were authorized at particular post offices to prepare bulk third-class mailings with standard penalty indicia before October 1, 1984 may be prepared for entry at those post offices with standard penalty indicia (bearing the proper rate endorsement(s)) until July 1, 1985. *Note:* First-, third-, and fourth-class mailings made by contractors that do not meet the requirements in 137.274 and 145 for use of permit imprints must be mailed using official penalty meters or penalty mail stamps. If penalty meters or penalty mail stamps are not available, the contract must require the contractor to prepay the postage on such mailings and be reimbursed for the postage under the contract terms. Pieces prepaid by the contractor in this manner must not bear an official penalty indicium format. See

137.274c for exceptions to permit imprint identical weight and identical class of mail requirements for Government Printing Office (GPO) contractors using Form 3602–G.

(2) Second-class mail must be prepared using a penalty second-class imprint described in 137.277a(2). *Exception:* Publications authorized penalty second-class mail privileges before October 1, 1984 may be prepared using standard penalty indicia endorsed either *SECOND-CLASS MAIL* or *SECOND-CLASS MAIL NEWSPAPER* until July 1, 1985.

(3) Reply mail must be prepared in accordance with 137.276.

(4) Express Mail must be prepared with standard penalty indicia, official penalty postage meters or penalty mail stamps as described in 137.277b.

.283 *Mailing Statements.* Contractors submitting mailings that require mailing statements (all permit imprint mailings, second-class mailings, and metered mailings at presort or ZIP + 4 rates) must prepare the mailing statements in duplicate (triplicate for second-class) if they wish to receive a copy back from the Postal Service.

.284 *Contractor Progress Reports.* When agencies require contractors to provide progress reports or to return government materials to the agency by mail, they may require the contractor to prepay postage on such items, or, as an alternative, they may provide contractors with business reply envelopes and labels for these purposes (see 137.276g).

.285 *Return Addresses.* Penalty envelopes and labels used by any contractor must bear the printed return address of one of the authorized agencies listed in 137.252. The name and address of a private person, concern, organization, or contractor must not be shown in the return address.

.286 *Special Services.* When a special service is required for contractor penalty mailings, the type of service desired must be printed on the envelope or label.

137.3 *Absentee Balloting Materials*

.31 *Purpose.*

.311 Balloting materials, consisting of post card applications, ballots, voting instructions, and envelopes, may be sent through the mail without prepayment of postage to enable every person in any of the following categories to apply for registration and to vote by absentee ballot when absent from the place of voting residence, and when otherwise eligible to vote as an absentee:

a. Members of the Armed Forces while in the active service and their spouses and dependents.

b. Members of the Merchant Marine of the United States and their spouses and dependents.

c. Citizens of the United States residing for a definite or indefinite time outside the territorial limits of the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them.

.312 To be mailable without prepayment of postage, the balloting materials must be deposited at a United States post office or an overseas United States military post office, or presented to an American Embassy or American Consulate.

.32 *Mailings Between Officials.* Balloting materials may be mailed between State and local election officials, individually or in bulk, without prepayment of postage. Packages of materials mailed in bulk must bear an address label complying with 137.341.

.33 *Elections Affected.* Materials may be sent for any general election of electors for President and Vice President, or of Senators and Representatives in Congress, and for other general, primary, and special elections.

.34 *Required Markings.*

.341 *Envelopes.* Envelopes used to send balloting material and envelopes supplied for return of the ballots must have printed across the face two parallel horizontal red bars, each ¼ of an inch wide, extending from one side of the envelope to the other side, with an intervening space of ¼ of an inch, the top bar to be 1¼ inches from the top of the envelope. The words *Official Election Balloting Material,* or similar language prescribed by State law, must be printed between the bars. In the upper right corner of each envelope, in a rectangular box, the words *U.S. Postage Paid 42 USC 1973dd* must be printed. All printing on the face of the envelope must be red, with an appropriate inscription or blanks for the return address of the sender in the upper left corner (see Exhibit 137.341).

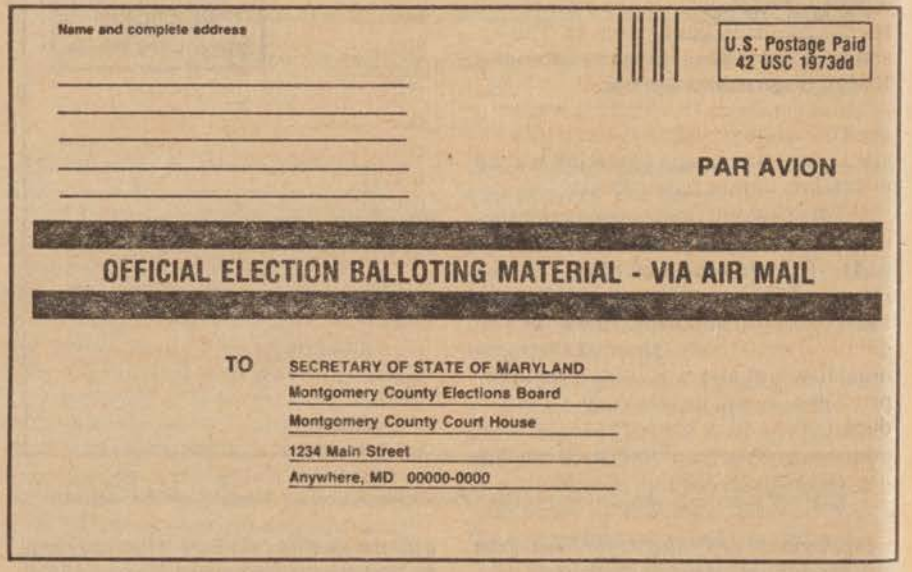


EXHIBIT 137.341—Balloting Materials Envelope Format

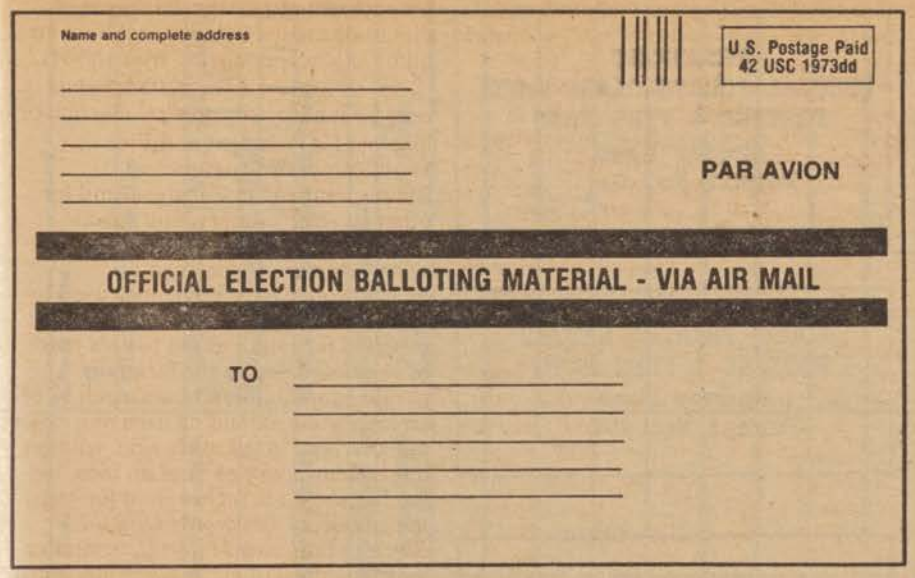


EXHIBIT 137.342—Federal Voting Registration Post Card Application Format

.342 *Post Cards.* The Federal voting registration post card application must be approximately 5x8 inches in size. The design shown in Exhibit 137.342 must be printed in red ink on the address side of the card.

.343 *Facing Indentification Marks.* Facing identification marks (FIM) must be printed on the address side of envelopes and cards in accordance with specifications in Publication 12. The shade of red ink identified as Pantone 193U will generally meet print reflectance needs (30 percent) when used on white or light colored paper stock. A darker shade of red ink will be needed on darker paper stock.

137.4 *General Instructions.* These instructions apply to all official mail.

.41 *Official Mail Not To Be Detained.* Except as provided in 115 and 137.263b(6) official mail will not be detained even though there are indications of abuse of official mailing privileges. It will be promptly dispatched and delivered to the addressee. Reports of indicated abuses are submitted to the Office of Mail Classification, Rates and Classification Department, USPS Headquarters, Washington, DC 20260–5360. The Office of Mail Classification will refer instances of abuse to the appropriate agency for investigation and appropriate action.

.42 *Separation of Official Mail By Mailer.* Official mail must be separated according to the class of mail and special service requested before it is deposited at the post office. Presorted First-Class, ZIP + 4, second-class, bulk third-class, presorted special fourth-class mail, and bulk bound printed matter must be prepared under 360, 460, 660, or 760, as appropriate. The postmaster will furnish appropriate sack or tray labels with which to identify the various types of bulk rate mail.

* * * * *

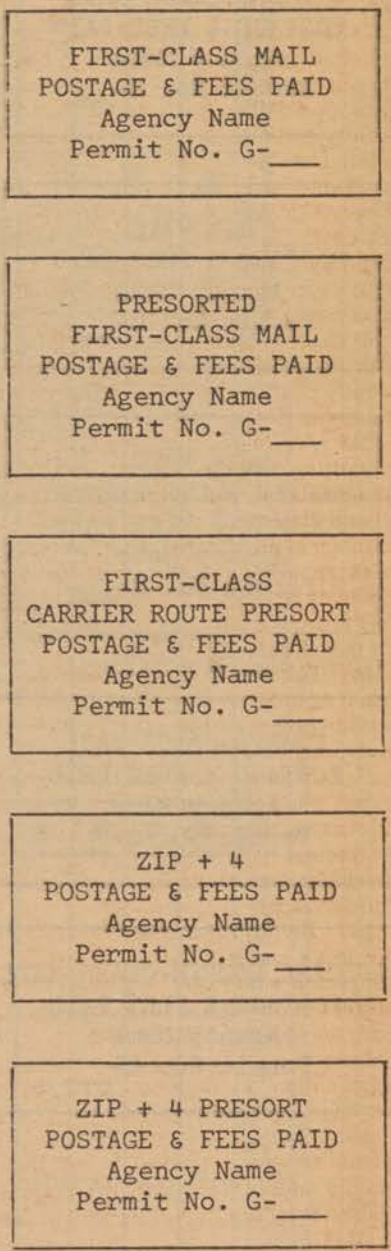
PART 145—PERMIT IMPRINTS (MAIL WITHOUT AFFIXED POSTAGE)

Renumber 145.5g as 145.5h. amend 145.5e and f, and add new 145.5g to read as follows:

145.5 *Format of Permit Imprints.*

* * * * *

e. *Official Mail (First-Class).*



f. *Official Mail (Third-Class).*

THIRD-CLASS MAIL
POSTAGE & FEES PAID
Agency Name
Permit No. G-___

PRESORTED
SPECIAL FOURTH-CLASS RATE
POSTAGE & FEES PAID
Agency Name
Permit No. G-___

BULK RATE
POSTAGE & FEES PAID
Agency Name
Permit No. G-___

BOUND PRINTED MATTER
POSTAGE & FEES PAID
Agency Name
Permit No. G-___

BULK RATE
CARRIER ROUTE PRESORT
POSTAGE & FEES PAID
Agency Name
Permit No. G-___

BULK RATE
BOUND PRINTED MATTER
POSTAGE & FEES PAID
Agency Name
Permit No. G-___

g. *Official Mail (Fourth-Class).*

FOURTH-CLASS MAIL
POSTAGE & FEES PAID
Agency Name
Permit No. G-___

SPECIAL FOURTH-CLASS RATE
POSTAGE & FEES PAID
Agency Name
Permit No. G-___

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of these changes will be published in the **Federal Register** as provided in 39 CFR 111.3. (39 U.S.C. 401(2), (10), 403(b), 404(a)(1), 3201–18, 42 U.S.C. 1973cc–13, 1973cc–14)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

Form 3602–G is reproduced below for mailer information:

BILLING CODE 7710-12-M

Statement of Mailing with Penalty Permit Imprints

(For Use Only by GPO Contractors at Single Piece Rates)

1. Name and Mailing Address of the Agency (Include ZIP Code)	2. Name and Mailing Address of Contractor (Include ZIP Code)	3. Permit Number G- 4. Serial No. (GPO Form 712)
5. Name and Telephone No. of Agency Employee Most Familiar With the Mailing	6. Name and Telephone No. of Contractor Employee Most Familiar With the Mailing	7. Time & Date Received a.m. p.m. Mo. Day Year
8. Number of Sacks, Trays, or Other Containers For Items 14-26 Below Item No. Sacks Trays Other | Item No. Sacks Trays Other	9. For Mailer's Use 11. Finance No. 12. Name and State of Station or Branch	10. Zip Code of Main Post Office 13. Name and State of Main Post Office

Mailing Class	A Total Pieces	B Total Weight (in pounds)	ITEM	*FOR POSTAL SERVICE USE ONLY – WEIGHING SECTION C Total Pieces	D Verified Total Wt. (in pounds)	E Average Weight (in pounds)	F Rate (Single Piece)	G Postage
14. First-Class (12 oz. or less)[1,2]			14					
15. First-Class/Priority Over 12 oz. to 14 lbs.			15					
16. First-Class/Priority Over 14 lbs. to 25 lbs.			16					
17. First-Class/Priority Over 25 lbs. to 40 lbs.			17					
18. First-Class/Priority Over 40 lbs. to 70 lbs.			18					
19. Third-Class (single piece)[2]			19					
20. Fourth-Class - Inter BMC Machinable 1 lb. to 14 lbs.			20					
21. Fourth-Class - Inter BMC Machinable Over 14 lbs. to 25 lbs.			21					
22. Fourth-Class - Inter BMC Non-Machinable Over 25 lbs. to 40 lbs.			22					
23. Fourth-Class - Inter BMC Non-Machinable Over 40 lbs. to 70 lbs.			23					
24.*			24					
25.*			25					
26.*			26					
27. Totals			27			Total Postage →		

[1]Do not report post card rate pieces in this item. Write in "First-Class Post Cards" in item 24, 25, or 26.
[2]Do not report pieces subject to the nonstandard surcharge in this item. Write in "First Class Nonstandard" or "Third-Class Nonstandard" in item 24, 25, or 26.
*Special fourth-class, bound printed matter, second-class noncommingled transient rate, special services, and foreign mail may also be recorded in items 24, 25, or 26. Intra-BMC fourth-class rate and bulk rate mail must *not* be claimed on this form.

28. Comments

29. Signature of Contractor

30. Signature of Weigher. I certify that this mailing has been weighed and examined to verify preparation.

Willful entry of false, fictitious or fraudulent statement or representation hereon punishable by fine up to $10,000 or imprisonment up to 5 years or both (18 USC 1001).

PS Form 3602-G, Aug. 1984

Financial Document – Forward to Finance Office

Instructions

. . . . . .

This form may be used only for single piece rate mailings containing at least 200 pieces or 50 pounds. *Mailings not meeting these requirements must be prepared with penalty postage meters, penalty mail stamps, or have postage affixed by the contractor.*

. . . . . .

Contractor — Complete Unshaded Portions of the Form as indicated below:

Item 1 — Enter the name of the agency, and the agency's mailing address, including the ZIP Code.
Item 2 — Enter the name of the contractor, and the mailing address of the contractor, including the ZIP Code.
Item 3 — Enter the permit imprint number of the agency.
Item 4 — Enter the serial number shown on the GPO Form 712 submitted with the mailing.
Item 5 — Enter the name and telephone number, including area code, of the agency employee to be contacted in the event there is a problem with the mailing.
Item 6 — Enter the name and telephone number, including area code, of the contractor employee to be contacted in the event there is a problem with the mailing.
Item 8 — Show the number of sacks, trays, or other containers used for each mail category that you report in items 14-26.
Item 9 — For mailer's use if desired.
Items 14-21 — For each rate category (and where applicable, for each weight category within a rate), enter in Column A the total number of pieces and in Column B the total weight of the pieces. The mailing must be physically segregated by these rate and weight categories upon presentation to the post office acceptance unit. The class of mail shown in the permit imprint on the pieces submitted must correspond to the class of mail reported on this form.
Item 22 — Enter the sum of Column A and the sum of Column B.
Item 24 — Self-explanatory.

Acceptance Unit — Complete shaded portions of the form as indicated below:

Note: Place Form 3607-G beneath this form with carbon paper for simultaneous completion of the forms.

As use of Form 3602-G is limited to mailings made by GPO contractors, do not accept mailings on this form unless accompanied by a GPO Form 712.

Item 7 — Enter the Month, Day, Year (2 digits each) and time received.
Item 10 — Enter the ZIP Code of the Finance Office of the main post office.
Items 11-13 — Self-explanatory.
Items 14-26 — **Columns C, D, and E**

1) Find the verified total weight of the first category of mail reported in items 14 through 26 by weighing the group of pieces in bulk and subtracting the tare weight. The weight must be recorded in pounds carried out to two decimal places.
2) If the pieces are of identical weight, verify the number of pieces in the category (find the average weight of a single piece and divide the total verified weight by the average weight of a single piece). If the pieces are nonidentical weight, use the number of pieces reported by the mailer.
3) Divide the verified total weight by the number of pieces to find the average weight. The average weight must be recorded in pounds carried out to four decimal places.
4) Enter the number of pieces, verified total weight, and average weight in Columns C, D, and E, respectively on the proper line (items 14-26). The proper line item is determined by the class of mail at which the pieces are endorsed, the average weight, and in some instances by the size of the piece. *Note:* If the mail is not eligible for the class of mail shown in the permit imprint by virtue of weight or other considerations, reject the mailing.
5) Repeat steps 1 through 4 for each category of mail reported by the contractor in items 14-26.

— **Column F** — In each category, enter the appropriate single piece rate for a piece having the weight shown in the average weight column (Column E). For zone rated categories, use Zone 5 when determining the appropriate rates. Note that fourth-class mail weighing 25 pounds or less must be computed at the inter BMC machinable parcel post rates and fourth-class mail weighing over 25 pounds must be computed at the inter BMC nonmachinable parcel post rates.
— **Column G** — For each category, multiply the total number of pieces (Column C) by the piece rate (Column F) and enter the results in Column G.

Item 27 — Enter the totals of Columns C, D and G.
Item 28 & 30 — Self-explanatory.

Conversion Table

Ounces		Pounds	Ounces		Pounds
1	=	.0625	9	=	.5625
2	=	.1250	10	=	.6250
3	=	.1875	11	=	.6875
4	=	.2500	12	=	.7500
5	=	.3125	13	=	.8125
6	=	.3750	14	=	.8750
7	=	.4375	15	=	.9375
8	=	.5000	16	=	1.0000

PS Form 3602-G, Aug. 1984 *(Reverse)*

[FR Doc. 84-22355 Filed 8-22-84; 8:45 am]
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federal register

Thursday
August 23, 1984

Part IV

Department of the Interior

Bureau of Indian Affairs

25 CFR Part 273

Request for Comments on Proposed Options to Distribution Formula; Proposed Revision Under the Johnson-O'Malley Act

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 273

Request for Comments on Proposed Options to Distribution Formula

August 20, 1984.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Propose revision of the distribution formula under the Johnson-O'Malley Act.

SUMMARY: This notice advises tribes recognized by the Secretary of the Interior that the Bureau intends to amend the Johnson-O'Malley program distribution formula. Tribes are invited to comment on or to recommend additional formulas for prescribing equitable distribution of supplemental Snyder Act funds to contractors. Indian tribes and organizations will also have the opportunity, during consultation meetings to be conducted by Area Education Programs Administrators (Area EPA's) or Agency Superintendents for Education (ASE's), to express their views on changing the formula.

DATES: Comments must be received or postmarked on or before October 22, 1984.

ADDRESS: Written comments may be sent by mail or hand-carried to the Director, Office of Indian Education Programs, Bureau of Indian Affairs, Department of the Interior, 18th and "C" Streets, NW., Room 3510, Washington, D.C. 20240, telephone number (202) 343–2175.

FOR FURTHER INFORMATION CONTACT: Maribel W. Printup, Office of Indian Education Programs, Bureau of Indian Affairs, Department of the Interior, 18th and "C" Streets, NW., Washington, D.C. 20240, telephone number (202) 343–6364.

SUPPLEMENTARY INFORMATION: Meetings will be held by the Area EPA's or ASE's for the purpose of consultation. In addition, interested persons are invited to submit written comments, suggestions or objections to the Director, Office of Indian Education Programs, Bureau of Indian Affairs, Department of the Interior, 18th and "C" Streets, NW., Washington, D.C. 20240.

The current distribution formula is a part of the regulations as required by Pub. L. 95–561, Sec. 1102. This Section requires the Secretary to revise such formula periodically as necessary, in accordance with the prescribed procedures.

The prescribed procedures contained in Sec. 1102 require the Secretary to develop alternative methods for the equitable distribution of supplemental program funds. Such alternatives are to be published in the **Federal Register** for the purpose of allowing eligible tribes to comment and/or to submit additional options. During the sixty (60) days comment period, the Area EPA's or ASE's will arrange meetings for consultation and collection of further comments.

The Secretary will select, after review of all comments and options received, formula alternatives and submit them to a vote of the tribes. The voting period will be open for sixty (60) days. The formula determined to be the most equitable and receiving the majority of tribal votes in approval, as evidenced by a vote count certified to the Secretary, will be adopted for distribution for funds. In the event no formula receives a majority vote, there will be another vote on the two formulas receiving the most votes. The formula which receives more than fifty percent (50%) of the vote of the eligible voting tribes will be accepted as the final rule and published in the **Federal Register.** Tribes, recognized by the Secretary of the Interior, will have one vote each.

Background

Funds are distributed to eligible contractors through a formula that is based on the number of eligible Indian students served, the States' average per pupil costs and the national average per pupil cost.

List of Subjects in 25 CFR Part 273

Government contracts, Indians—Education, Indian—Self determination.

Distribution Formula Options

The following options for distribution of funds have been developed for consideration and are published for the purpose of allowing eligible tribes to comment by October 22, 1984.

(1) Option "A" is the current formula used in the distribution of funds. This is based on the number of eligible Indian students to be served, the national average per pupil expenditure and a weighting factor which is intended to take into account the differences in education costs among the States. The weighting factor is the quotient obtained by dividing the State's cost of delivering educational services by the national average; except that for every State whose cost is at or below the national average, that State's cost will be based on the national average.

(2) Option "B" is similar to Option "A" except that only those school districts in the State attended by eligible students funded by a Johnson-O'Malley program are used to determine the State's per pupil average.

(3) Option "C" is the same as Option "B" except that there is a maximum weighting factor of two (2) for any State.

(4) Option "D" provides for an equal per pupil distribution of funds for eligible students in all States except Alaska. Alaska will receive an additional twenty-five (25%) of the equal per pupil distribution.

Tribes are invited to recommend additional formulas as well as comment on those described above.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary-Indian Affairs under 209 DM 8.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 84-22404 Filed 8-20-84; 2:44 pm]

BILLING CODE 4310-02-M

federal register

Thursday
August 23, 1984

Part V

Federal Communications Commission

47 CFR Parts 0 and 73

Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 73

[MM Docket No. 83-670; FCC 84-293]

Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action revises the Commission's policies with respect to programming and commercialization regulations, ascertainment and program log requirements for commercial television stations. This proceeding eliminates existing programming requirements which require the presentation of specified amounts of informational (news and public affairs), local and overall non-entertainment programming. Also eliminated are existing regulations pertaining to ascertainment procedures. Moreover, this proceeding eliminates existing regulations which limit the amount of commercial programming that may be presented. Under the new regulatory scheme, licensees will remain subject to an obligation to provide programming that responds to issues confronting their communities. Accordingly, existing logging procedures have been revised to reflect the new regulatory focus. Licensees will be required to place in their public files, on a quarterly basis, an issues/programs list.

This action is predicated on the recognition that market incentives are the primary determinants of licensee compliance. Accordingly, the existing regulatory scheme is no longer necessary to achieve our regulatory objectives. Moreover, the existing system imposes unnecessary administrative costs on licensees as well as raising potential First Amendment problems.

EFFECTIVE DATE: September 24, 1984.

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

FOR FURTHER INFORMATION CONTACT: David L. Donovan, Marcia Alterman, Freda Thyden or Thomas Walsh, Mass Media Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television, Radio broadcast.

Report and Order (Proceeding Terminated)

In the matter of the revision of programming and commercialization policies, ascertainment requirements, and program log requirements for commercial television stations; MM Docket No. 83-670.

Adopted: June 27, 1984.

Released: August 21, 1984.

By the Commission: Commisioner Rivera concurring in part and dissenting in part and issuing a statement.

I. Introduction

1. Before the Commission for consideration are comments filed in response to the *Notice of Proposed Rule Making* in the above-captioned proceeding.[1] The *Notice* solicited comments on several proposals that would amend the Commission's policies with respect to programming, ascertainment, commercialization and program log requirements for commercial television station licensees.

2. After an exhaustive review of the record in this proceeding, our independent study of the economic incentives for the delivery of video programming, and a re-examination of the current programming policies, we conclude that modifications to the existing regulatory system are appropriate. Stating our conclusions along the functional lines outlined by the specific rules and policies examined in this docket, we find that market incentives will ensure the presentation of programming that responds to community needs and provide sufficient incentives for licensees to become and remain aware of the needs and problems of their communities. Moreover, we are convinced that these forces will continue to hold levels of commercialization below our existing guidelines. Given these economic and policy conclusions, we no longer believe it appropriate to routinely review the programming, the levels of commercialization, and the formal ascertainment practices of television licensees in the uncontested renewal context. In addition, existing logging requirements should be revised to reflect the policies articulated in this proceeding. Accordingly, a quarterly issues/programs list, similar to that now required of commercial radio broadcasters, is hereby instituted.

3. Our action today constitutes another step in the deregulation of the telecommunications industry. It reflects the importance and viability of market incentives as a means of achieving our regulatory objectives and will provide television broadcasters with increased freedom and flexibility in meeting the continuously changing needs of their communities. Our action here, however, does not constitute a retreat from our concern with the programming performance of television station licensees.[2] Thus, as in related actions involving commercial radio and non-commercial broadcasting, we are by this Order retaining the obligation of licensees to provide programming that responds to issues of concern to the community. The quarterly issues/programs list will provide the public and the Commission with the information needed to monitor licensees' performance under this new regulatory scheme and thus permit us to evaluate the impact of our decision. Existing procedures such as citizen complaints and petitions to deny will continue to function as important tools in this regard. We believe that this approach will fully meet our current regulatory needs with respect to the programming performance of commercial television broadcasters, while permitting the elimination of unnecessary and often burdensome regulations.

4. Our discussion of the issues in this proceeding has been divided into five segments: programming, ascertainment, commercialization, program logs and an analysis of long form audit procedures. Appendix A contains the specific rule changes that result from this proceeding. A detailed evaluation of all comments filed in this proceeding appears in Appendix B. An analysis of the competitive status of commercial television can be found in Appendix C. The results of a comprehensive study concerning the levels of informational and local programming on commercial television for the year 1980 have been included as Appendix D.

II Analysis

A. Program Guidelines

1. Background

5. The guidelines which we are eliminating today originated as informal directions to the staff concerning the routine processing of television renewal applications. The directions indicated which otherwise uncontested applications should be referred to the full Commission for disposition and included both quantitative programming

[1] *Notice of Proposed Rule Making* in MM Docket 83-670, 94 F.C.C. 2d 678 (1983), 48 FR 37239 (August 17, 1983) (hereinafter "*Notice*").

[2] We do not imply that the programming obligations of broadcast licensees, as we have historically viewed them, are not properly subject to review and revision in appropriate proceedings. *See infra* para. 7 and n.7.

and commercialization standards.[3] The guidelines were amended and made public for the first time in 1973, in conjunction with a general revision of the Commission's delegations of authority to the former Broadcast Bureau.[4] As to program performance, the revised guidelines provided only that renewal applications demonstrating less than 10 percent non-entertainment programming could not be routinely processed by the staff. The current programming criteria were adopted in 1976 and require Commission action on any commercial television station renewal application reflecting less than five percent local programming, five percent informational programming (new and public affairs) or ten percent total non-entertainment programming.[5]

2. Proposals

6. The *Notice* contained three policy alternatives to the present regulatory system. Under Option I, all programming guidelines would be eliminated, but television broadcasters would operate under a general obligation to address issues of concern to their communities. Thus, the Commission would no longer routinely consider categories and amounts of programming in the uncontested renewal context. This option would also eliminate the promise versus performance standard. Option II would retain a process of Commission review at the renewal stage based upon performance in the existing program categories and current promise versus performance standard, but would ease the rigid application of the guidelines, thereby allowing licensees to experiment with non-entertainment programming. This could be done by either lowering the percentage standards in the delegations, or by permitting a licensee to explain to the staff the reason why its programming performance does not meet the guidelines. We also sought comment on a third policy alternative that relied solely on statutory requirements. Under this approach, there would be no programming obligation of any kind except for those programming requirements that are explicitly statutory in nature.[6] Accordingly, absent statutory violations, the Commission would no longer consider programming in the licensing of broadcast stations. In addition to the aforementioned policy alternatives, we stated that we would consider any other deregulatory proposal submitted in response to the *Notice*.

3. Discussion

7. Our review of the record herein convinces us that the current programming guidelines and the routine review of program performance in uncontested renewal proceedings that they facilitate are not necessary to the effective discharge of our licensing responsibilities. Accordingly, we adopt Option I as contained in the *Notice*, eliminating the programming guidelines entirely. In addition, the promise versus performance standard will no longer be applied by the staff in the uncontested renewal context. In reaching this conclusion, we reject Option II as contained in the *Notice*. While this option would relax the specific requirements of the guidelines, it would retain a category-based, quantitative approach to evaluating a licensee's programming performance. As will be discussed later in this document, we do not believe that such an approach is necessary or appropriate given our view of the television marketplace and the nature of licensees' underlying programming obligations. We also have elected not to pursue the statutory reliance option in this proceeding. We believe the issues raised by the statutory option are significant and warrant full examination by the Commission. This policy alternative, however, would affect the programming responsibilities of all broadcasters, not just commercial television licensees. Therefore, we intend to examine these issues elsewhere.[7]

8. Our decision to eliminate the processing guidelines is based on two fundamental considerations. First, our review of the record and study of station performance persuades us that licensees will continue to supply informational, local and non-entertainment programming in response to existing as well as future marketplace incentives, thus obviating the need for the existing guidelines. *See F.C.C. v. WNCN Listeners Guild*, 450 U.S. 583, 594 (1981) (hereinafter *F.C.C. v. WNCN); National Association of Regulatory Utility Commissioners v. F.C.C.*, No. 83–1225, slip op. at 109 (D.C. Cir. 1984) (hereinafter *N.A.R.U.C.* v. *F.C.C.); M.C.I. Telecommunications Corp. v. F.C.C.* 627 F.2d 322 (D.C. Cir. 1980). *See also infra* n. 33. Second, our reexamination of the current regulatory scheme reveals several inherent disadvantages, including: potential conflicts with Congressional policies expressed in the Regulatory Flexibility Act and the Paperwork Reduction Act,[8] imposition of burdensome compliance costs, possibly unnecessary infringement of the editorial discretion of broadcasters, and distortion of the Commission's traditional policy goals in promulgating and monitoring programming responsibilities. We now turn to a more detailed discussion of these issues.

(a) *Need for the Guidelines.* 9. *Existing Market Performance.* Our review of the programming performance of commercial television stations is comprised of three separate studies. This first focuses on overall station compliance with the existing guidelines from 1973 to 1979. The second study examines the average performance of UHF independent stations both before and after they were exempted from the existing programming guidelines in 1976. A final study consists of an econometric examination of programming behavior for 1980.

10. Overall station data indicate that during the six year period from 1973 to 1979, commercial television broadcasters allocated an average of 13.7 percent, 10.3 percent and 24.3 percent of their broadcast time to informational (news and public affairs), local and overall non-entertainment programming respectively.[9] These programming levels far exceed our present guidelines in every program category. Specifically, they represent performance at 274 percent of the guideline standard for informational programming, 206 percent for local programming and 243 percent for total non-entertainment programing.

[3] *Notations of General Agenda*, June 28, 1961. According to the notations, the staff could not act upon any applications which proposed any of the following:

(1) Greater than 85 percent commercial programming,

(2) Less than 5 percent local live programming,

(3) Greater than 90 percent network programming,

(4) Less than 10 percent sustaining programming between 6–11 p.m.,

(5) Greater than an average of 12 commercial spot announcements during an hour, and

(6) No programming in the following categories unless an adequate explanation was given: entertainment, religious, agricultural, educational, news, discussion (forum, panel, roundtable), and talks (all conversational not falling under one of the above categories).

[4] *See Order (Amendments to Delegations of Authority)*, 43 F.C.C. 2d 638, 640 (1973).

[5] See Order (*Amendments to Delegations of Authority*), 59 F.C.C. 2d 491, 493 (1976) and 47 CFR 0.283 (a)(7)(i)(A), (ii)(A).

[6] *See Notice supra* n. 1 at 37250 (discussing the program requirements envisioned by this policy alternative).

[7] We emphasize that we in no way prejudice this proposal. We conclude only that the major matters raised in this docket can and should be resolved here and that any further action on the statutory reliance alternative should await a more complete discussion in separate proceedings.

[8] Regulatory Flexibility Act, Pub. L. 96–354 (1980), 5 U.S.C. 601 *et seq.*; Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*

[9] *Notice*, at 37252, Table 1.

11. Moreover, the record indicates that there has been a trend toward increasing amounts of total non-entertainment programming on television. In 1973, commercial television stations devoted 22.6 percent of their time to this program category. By 1979, this amount had risen to 26.1 percent.[10] A similar trend exists for informational programming.[11] In 1973, 13.3 percent of television broadcast time was devoted to informational programming. By 1979, this average had increased to 13.9 percent.[12] By 1980, commercial television stations devoted 15.26 percent of their time to informational programming, more than three times the level set by the guidelines.[13]

12. Within the informational programming category, the data also reveal a nearly constant relationship between the amounts of news and public affairs programming presented over time. Between 1973 and 1979 the percentage of public affairs programming averaged 4.6 percent and ranged from 4.3 percent to 5 percent. During this same period, news programming averaged 8.9 percent and ranged from 8.6 percent to 9.2 percent.[14] Moreover, this relationship persisted despite the fact that there was no informational programming guideline prior to 1976 and, that even after the informational programming requirement was adopted, there was no guideline with respect to the specific amounts of news and public affairs programming. It would appear, therefore, that there has been a stable market demand over time for both news and public affairs programming and that commercial television stations have consistently met that demand.

13. Data supplied by NAB corroborate these results.[15] NAB found that the amount of time devoted to informational programming increased from 12.8 percent in 1973 to 17.3 percent in 1983. Total non-entertainment programming increased from 22 percent in 1973 to 29.2 percent in 1983.

14. While informational and overall non-entertainment programming have increased, locally produced programming has declined in percentage terms since 1973. The amount of time devoted to local programming by all commercial television stations declined .4 percentage points from 10.5 percent in 1973 to 10.1 percent in 1979.[16] Also, an analysis of 1980 programming data found that the amount of time devoted to local programming had declined to 9.52 percent. Again, NAB data confirm these results, reporting a decline from 11.3 percent in 1978 to 8.9 percent in 1983, a trend which existed for all markets.[17] Despite this percentage decline in local programming, however, the amount of broadcast time devoted to this category remains well above our guidelines.

15. Moreover, in evaluating the above data, it is important to note that the figures cited are percentage averages. They do not, therefore, reflect the significant increase in the absolute supply of programming in the relevant categories resulting from the substantial growth in the number of television stations over time. Since 1973, for example, the number of operating television facilities has increased by approximately 25 percent.[18] Thus, even in such categories as local programming, where there has been a relative decline in the percentage average performance of stations, the absolute number of broadcast minutes devoted to such programming may well have actually increased in many markets. As for total non-entertainment and informational programming, where the average percentage has risen, the growth in television outlets is yet another factor contributing to an overall increase in the supply of broadcast programming in these categories.

16. Our experience with the performance of television stations that are already exempt from the programming guidelines further supports our belief that the existing processing standards are unnecessary. Independent UHF stations were subject to the programming guidelines when they were first enacted in 1973. In 1976, however, the Commission exempted UHF independents from the program processing guidelines.[19] An examination of the programming performance for these exempted UHF stations reveals that elimination of the programming delegations had no material effect on the amount of informational, local and non-entertainment programs broadcast. Prior to the exemption, the average amount of time devoted to informational, local, and total non-entertainment programming amounted to 7.9 percent, 14.5 percent, and 22 percent respectively, whereas programming for the three years after the exemption amounted to 8.2 percent, 13.4 percent and 32.9 percent for the same program categories.[20] Thus, while the percentage of local programming declined somewhat in the post-exemption period, from 14.5 percent to 13.4 percent, it nonetheless remained at levels more than 2½ times that prescribed by the guidelines.[21]

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[10] The breakdown by various television stations for total non-entertainment programming for the years 1973 and 1979 was as follows: VHF affiliated stations increased from 23.6 percent to 25.3 percent; UHF affiliated stations increased from 20.5 percent to 25 percent; and UHF independents increased dramatically from 18.2 percent to 34.6 percent. The only decline in this program type occurred for VHF independents (20.6 percent to 18.3 percent).

[11] *Notice* at 37252, Table 6.

[12] *Id.* at Tables 2, 3, 4, and 5. The increase for the various television media for news and public affairs programming from 1973 to 1979 was as follows: VHF affiliates (14.4 percent to 15.5 percent); UHF affiliates (12.1 percent to 13.2 percent); and UHF independents (7 percent to 7.4 percent). A minor decrease in news and public affairs was noted for VHF independents (9.6 percent to 9.1 percent).

[13] *See* Appendix D for analysis of 1980 programming data.

[14] The percentage of time devoted to news and public affairs programming for the years 1973 through 1979 from sign-on to sign-off was as follows: 1973 (8.8 percent news, 4.3 percent public affairs); 1974 (8.6 percent news, 4.5 percent public affairs); 1975 (9.2 percent news, 5 percent public affairs); 1976 (9 percent news, 4.4 percent public affairs); 1977 (9 percent news, 4.6 percent public affairs); 1978 (8.8 percent news, 4.3 percent public affairs); and 1979 (9.1 percent news, 4.8 percent public affairs). Moreover, public affairs programming was presented during periods of high viewership. From 1973 through 1979 the amount of time devoted to public affairs programming from 6:00 p.m. to 11:00 p.m. was as follows: 1973 (5.1 percent); 1974 (2.5 percent); 1975 (5.3 percent); 1976 (3 percent); 1977 (2.9 percent); 1978 (3.3 percent); and 1979 (3.7 percent).

[15] NAB Comment, Appendix B, *NAB Television Programming Study, Final Report on Local Commercial Stations*, 1983. The study examined the programming of 107 local commercial stations in 29 markets, including stations in the top 50, 51–100 and 101+ markets, by analyzing 1982–1983 *TV Guide* listings for these stations. Data for years prior to 1982 were taken from previous NAB studies conducted by James A. Wollert and Michael Wirth in 1982, 1978 and 1976.

[16] *Notice* at 37252, Appendix B, Table 6. A comparison of 1973 programming percentages with 1979 percentages indicates an across-the-board decline in all television media. VHF affiliates (10.4 percent to 10.2 percent), VHF independents (17.9 percent to 14.6 percent), UHF affiliates (7.6 percent to 7.1 percent) and UHF independents (13.4 percent to 12.9 percent).

[17] *See* NAB Comments, Appendix B (local programming declined in all markets during this period (1978 to 1983) from 14.1 percent to 11.6 percent in the top 50 markets; from 8.9 percent to 8.4 percent in markets 51–100; and from 7.6 percent to 6.7 percent in the 101+ markets).

[18] *See* Appendix C (discussion of growth in number of television stations).

[19] *Amendment to Delegations of Authority, supra* n. 5, at 492.

[20] The data used in this analysis were taken from Table 5 of Appendix B in the *Notice*. Pre-exemption data were derived by calculating the mean average level of performance, in percentage terms, for the three years preceeding the 1976 exemption. The same method was used to calculate the mean average level of performance during the three year post-exemption period. Programming data for 1976 were eliminated since the exemption was granted during that year.

[21] The evidence does not suggest that declines in local programming are related to the presence or absence of the guidelines. For example, UHF independent stations, on average, devoted more time to local programming during the pre-exemption period than during the post-exemption period. The decline in local programming, however, was even

Continued

Moreover, informational and overall non-entertainment programming actually increased after the 1976 exemption and, as with local programming, was provided at levels far exceeding the processing standards.

17. A comparison of the post-exemption performance of the subject UHF stations with other television media reveals that UHF independents actually outperformed some of the television stations that remained subject to the guidelines.[22] For example, from 1977 to 1979, UHF independents devoted more time to local programming than either UHF or VHF affiliated stations.[23] Non-affiliated UHF stations also devoted more time to overall non-entertainment programming than all other commercial television stations.[24] We recognize that UHF independents programmed less news and informational programming than other commercial television media. It should be noted, however, that a similar situation existed prior to the 1976 exemption.[25]

greater for VHF independents during the same period. Thus, during the post-exemption period, UHF independent stations exhibited a decline of 1.1 percentage points in local programming, while VHF independents, which were subject to our guidelines, showed a decline of 2.8 percentage points, from 17.4 percent (pre-exemption period) to 14.6 percent (post-exemption period). If the presence or absence of regulation was the primary factor influencing local programming, then one would have expected the most significant decline in local programming to appear in the unregulated medium, *i.e.*, UHF independents. However, this was not the case.

[22] Data for this analysis were taken from Tables 1 through 5 of Appendix B in the *Notice*. The same method of calculating the mean average level of performance for television stations subject to the guidelines (VHF affiliates, VHF independents and UHF affiliates) was utilized in determining pre- and post-exemption performance. *See supra* n.20.

[23] During the years 1977 to 1979, UHF independents devoted an average of 13.4 percent of their time to local programming. During this same period UHF and VHF affiliated stations devoted only 6.9 percent and 10 percent of their time to local programming respectively.

[24] During this time period, UHF independents averaged 32.9 percent overall non-entertainment programming, as opposed to 24.2 percent for UHF affiliates, 19.2 percent for VHF independents and 24.8 percent for VHF affiliates.

[25] During the years 1973 to 1975, UHF independents devoted an average of 7.9 percent of their time to news and informational programming. During this same period UHF affiliates, VHF independents and VHF affiliates stations devoted an average of 12.3 percent, 10.1 percent and 14.8 percent of their time to informational news programming, respectively. This pattern continued after the 1976 exemption. For the years 1977 to 1979 UHF independents devoted an average of 8.2 percent of their time to informational programming. UHF affiliated 12.7 percent, VHF independents 9.7 percent and VHF affiliated 15.1 percent.

18. Finally, our conclusions that television stations' program performance is dictated by market incentives and is essentially independent of our processing guidelines is supported by a third analysis conducted by our own staff concering programming behavior of commercial television stations during 1980.[26] The study examined the impact of the guidelines on the presentation of informational (news and public affairs) and local programming by comparing the programming performance of exempted UHF independents to all other commercial television stations. Through the use of multivariate regression analysis, the study was able to control for various factors that may influence program performance such as, market size, number of competing stations in a local market, number of competing stations, network affiliation, station revenue and VHF/UHF status. By controlling these variables, the study was able to isolate the impact of the guidelines on the levels of programming. The study found that with respect to local programming, approximately 2 percentage points of the overall non-exempt station average seems attributable to the guidelines.[27] Thus, even in a worst case situation elimination of the guidelines would result in an overall level of station performance above the existing standard for local programming.[28] Moreover, the guidelines appear to have no impact on the levels of informational (news and public affairs) programming. Accordingly, it would appear that, absent the current guidelines, overall station performace for informational programming would remain at approximately 15 percent, fully three times the level required by current processing standards.

19. In summary, these three studies provide convincing evidence that existing marketplace forces, not our guidelines, are the primary determinants of the levels of informational, local and overall non-entertainment programming provided on commercial television. It appears, moreover, that these forces have consistently elicited a level of such programming well above the amounts arbitrarily set by our processing criteria. We are confident, therefore, that under current marketplace conditions such programming will continue to be available irrespective of our elimination of the guidelines.[29]

20. *Future Market Incentives.* We are confident, as well, that the market demand for informational, local and non-entertainment programming will continue to be met as the video marketplace evolves. Many new video technologies such as Subscription Television (STV), Multipoint Distribution Service (MDS), Satellite Master Antenna Television (SMATV), Low Power Television (LPTV), Direct Broadcast Satellite (DBS), Multi-Channel MDS (MMDS) and Instructional Television Fixed Service Stations (ITFS) have begun, or are just beginning, to assert themselves in the marketplace.[30]

[26] *F.C.C. v. WNCN*, supra para. 8, at 591. *See* Appendix D for a complete analysis of these data.

[27] *See* Appendix D, para. 29, *infra*.

[28] We do not believe that a 2 percentage point decline in locally produced programming is necessarily inconsistent with the public interest. This is especially true where the overall levels of local programming will remain at levels above the present guidelines. Moreover, as the Commission has noted in other contexts, the coverage of local issues does not necessarily have to come from locally produced programming. *See Deregulation of Radio*, 84 F.C.C. 2d 968, 999 (hereinafter "*Deregulation of Radio*"). *See also In re WPIX, Inc.*, 68 F.C.C. 2d 381, 402 (1978) (premise that local needs can be met only through programming produced by a local station lacks presumptive validity).

[29] A footnote in a study submitted by the NAB implied that the presentation of "public interest" programming may decline in a deregulatory environment. *See* Wirth, Bloch and Thompson, *Television and Radio Expenditure Behavior Under the Uncertainty of License Renewal* (April 1982) cited in NAB Comments, App. B. We do not believe that the statements made in the NAB study detract from our conclusions in this proceeding. The NAB study assumes that a relationship exists between the presentation of "public interest" programming and a licensee's perception of the difficulty in getting its license renewed. *Id.* at 7. Thus, in projecting the results of the data, the NAB study assumes that the presentation of "public interest" programming is an indirect cost of the license renewal process. *Id.* at 14. It is on this basis that the NAB study makes an assumption, which some might wish to cite as a conclusion, that "public interest programming" will decline in a deregulated environment. *Id.* at 20, n. 15. The study's own data, however, do not support such an assumption. To the contrary, the NAB study found the relationship between "public interest" programming and the total costs of license renewal was statistically insignificant. *Id.* at 10. In contrast, the staff studies upon which we rely measure the effect of the program processing guidelines on actual station performance. The data in these studies demonstrate that licensees, in the absence of the programming guidelines, will present programming at levels well above the guidelines. We believe that actual performance data contained herein provides a better indication of licensee behavior than an unverified assumption. Moreover, the NAB study does not define precisely the term "public interest" programming. The programming elements in the study appear to have consisted of public service announcements, local and informational programming. While we recognize that the presentation and production of programming in these categories can be expensive, it is incorrect to assume that such an expense is a "cost" that is not market-dictated. For example, the study appears to have included all informational programming, which includes news programming, as a cost of the licensing process. Such an assumption incorrectly ignores the market demand for news programming.

[30] *See* Appendix C.

While it is difficult to predict the success of these services, we expect that overall subscribership to these video technologies, excluding cable, will range between 25.7 million and 47 million households by 1990.[31] Cable television service already reaches some 29.9 million subscribers (1984 estimate)[32] and is expected to reach some 58 million by 1990.[33]

21. The emergence of these new technologies, coupled with the continued growth in the number of television stations, will create an economic environment that is even more competitive than the existing marketplace. Given the market-based demand for these types of programming evidenced by our studies of past broadcast performance, this increased level of competition can, in our view, only further ensure the presentation of sufficient amounts of such programming.[34]

22. A synthesis of the above-referenced data yields several significant findings with respect to the programming performance of commercial television station licensees. First, the data reveal that licensees are presenting levels of informational, local and non-entertainment programming that are far in excess of our guidelines. These figures indicate that non-entertainment programming is an important part of broadcasters' financial viability and other aspects of their overall operations and, thus, there are reasons other than regulatory oversight to engage in this programming. The overall performance data contained herein convince us that the current and future video marketpace will continue to supply this type of issue-oriented programming in response to a basic market demand.[35] We note, however, that there may be individual stations that are not meeting the guidelines with respect to all of the programming categories. We do not believe that such an occurence is inconsistent with the public interest since the overall data demonstrate that, on average, stations are performing well above the guidelines. It appears, therefore, that the failure of some stations to provide programming in some categories is being offset by the compensatory performance of other stations. In this respect, market demand is determining the appropriate mix of each licensee's programming. For example, a licensee may find it competitively appropriate to emphasize one type of programming within the guidelines rather than presenting programming in all categories. At the same time, other stations in the market may elect to present other types of programming. The net result of this shifting in the programming mix is that overall performance will exceed the guidelines even though individual stations are not presenting required amounts in all program categories.[36]

23. We believe that licensees should be given this flexibility to respond to the realities of the marketplace by allowing them to alter the mix of their programming consistent with market demand. Such an approach not only permits more efficient competition among stations, but poses no real risk to the availability of these types of programming on a market basis. This is particularly true in view of the continuing obligation of all licensees to contribute issue-responsive programming and their responsibility to ensure that the strongly felt needs of all significant segments of their communities are met by market stations collectively.[37] The current guidelines, while failing to have a significant impact on overall station performance, tend to restrict the freedom of individual licensees by requiring them to present programming in all categories. Such a requirement is unnecessary and burdensome in light of overall market performance.[38]

24. Given these considerations, we believe that the existing guidelines are unnecessary. In addition, the record reveals that the existing regulatory structure imposes burdens on both licensees and the public. In light of the economic conclusions reached herein, we believe changes to that structure are warranted.

(b) *Disadvantages of the Current Programming Guidelines.* 25. At the outset, we note that to the extent current levels of programming exceed regulatory standards the guidelines are simply no longer necessary. In this respect, we note that the Court of Appeals has held that regulations, originally adopted to correct a specific problem, may be capricious if the underlying problem no longer exists.[39] Moreover, retaining the guidelines in light of our conclusions concerning marketplace incentives would be inconsistent with Congressional policies established in both the Regulatory Flexibility Act and the Paperwork Reduction Act.[40]

26. Second, we note that the existing guidelines impose administrative costs on licensees. Although data from the previous analysis demonstrate that the existing programming amounts are largely a reflection of market forces rather than our guidelines, the compliance costs associated with these

[31] *Tentative Decision and Request for Further Comments* in BC Docket No. 82-345 (*Amendment of Syndication and Financial Interest Rules*), 48 FR 38020, 38037, Table 9 (August 22, 1983).

[32] *Television and Cable Factbook 1984*, (Cable and Services Volume) p. 1725.

[33] *Supra*, n. 31.

[34] To the extent that the video marketplace might evolve in the direction of a narrowcasting model, we believe our conclusion in the radio deregulation proceeding that adequate market incentives exist under such conditions to ensure appropriate levels of these types of programming is directly applicable here. *See Deregulation of Radio supra* n. 28 at 969. *See also* Owen, Beebe & Manning, *Television Economics* at 90 (1974).

[35] The data presented above were based on the amounts of informational, local and non-entertainment programming. As noted in our radio deregulation proceeding, issue-responsive programming can include programming described under current definitions and can consist of, but is not limited to, public affairs, public service annoucements, editorials, free speech messages, community bulletin boards and religious programming. *See Deregulation of Radio supra* n. 28 at 982-983. For example, the definition of public affairs programming may make this particular program category per se issue-responsive. *See* 47 CFR 73.1810(d)(iv). We believe, therefore, that information relating to the current programming categories also provides a more than adequate data base on which to rest a predictive judgment that there will be a continued supply of issue-responsive programming. *See F.C.C. v. WNCN Listener's Guild, supra* at 594-595 (1981); *N.A.R.U.C. v. F.C.C. supra* at para. 8.; *Office of Communications of the United Church of Christ v. F.C.C.*, 707 F.2d 1413, 1437 (D.C. Cir. 1983) (hereinafter *U.C.C. v. F.C.C.*); *N.A.A.C.P. v. F.C.C.*, 682 F.2d 993, 1001 (D.C. Cir. 1982); *M.C.I. Telecommunications Corporation v. F.C.C., supra* at para. 8 (predictive judgments of market developments are within the institutional competence of the Commission and are entitled to substantial judicial deference). While these categories provide an adequate data base, however, the concept of issue-responsive programming extends beyond the mere presentation of specified amounts of programming in discrete categories. *See* text, *infra* at para. 33.

[36] The *Notice* contained frequency distribution data indicating that some stations are performing below the guidelines. *See Notice* at 37253. These data do not necessarily suggest a market failure with respect to issue-responsive programming since they ignore the importance of market-based shifts in the programming mix.

[37] *Stone v. F.C.C.*, 466 F.2d 316 (D.C. Cir. 1972).

[38] A similar conclusion was reached in our radio deregulation proceeding. In radio deregulation, numerous outlets in each market had created the economic incentives to narrowcast to discrete audiences. We recognize that in this regard current video markets do not parallel the radio model. It is important to note, however, that the narrowcasting model is not a precondition to deregulation. For example, small radio markets were also deregulated even though they had not yet reached the narrowcasting model. We believe that in this regard the small radio market approach is analogous to the current video marketplace. Therefore, our decision herein, as in radio, turns on overall licensee performance in response to marketplace incentives. Thus, the existence of narrowcasting incentives is not necessarily related to the threshold decision to deregulate. The narrowcasting model, as opposed to broad-based programming incentives may, however, be relevant to a licensee's issue selection in the deregulated environment. *See Deregulation of Radio supra* n. 27 at 978; *see also* text, *infra* at pars. 34.

[39] *See Home Box Office v. F.C.C.*, 567 F.2d 9, 48 (D.C. Cir. 1977).

[40] *Supra*, n.8.

guidelines, with respect to formalized ascertainment and program logging requirements are not market dictated. The record here indicates that these costs are significant.[41] To the extent that these rules are not necessary to meet our regulatory objectives, we conclude that the costs incident to technical compliance and record keeping are inappropriate.

27. Third, we find that the present regulatory structure raises potential First Amendment concerns. Congress intended private broadcasting to develop with the widest journalistic freedom consistent with its public interest obligation.[42] Moreover, the public interest standard necessarily invites reference to First Amendment principles.[43] These concerns with the First Amendment are exacerbated by the lack of a direct nexus between a quantitative approach and licensee performance.[44]

28. To the extent that existing levels of programming are market-dictated, then it may be argued that the overall intrusive nature of the guidelines is not pervasive. This does not mean, however, that there is no current infringement on the editorial discretion of individual broadcasters.[45] For example, each licensee must still monitor its performance in light of this government-imposed standard. Further, the continued existence of the programming guidelines in the context of an evolving video services marketplace could conceivably constitue an unacceptable general level of infringement at some future time. In this regard, our action today provides a less intrusive means of meeting our regulatory objectives.[46] Accordingly, we believe that our new regulatory approach is more consistent with underlying First Amendment values.

29. Our final concern with the present regulatory scheme focuses on the way in which it operationally defines a licensee's programming obligation in quantitative terms. The Commission's traditional policy objectives with respect to programming have never been fulfilled by the presentation of mere quantities of specific programming. On the contrary, the Commission has consistently sought to avoid this type of regulatory approach.[47] Moreover, the Courts have recognized that quantity, in and of itself, is not necessarily an accurate measure of the overall responsiveness of a licensee's programming.[48] Instead, a licensee's programming obligation has always been described in terms of providing programming that responds to the needs of the community.[49] Thus, the existing quantitative structure significantly misrepresents the nature of a broadcaster's underlying programming obligation by incorrectly suggesting that the broadcasting of specified quantities of programming is enough to fulfill their traditional programming responsibilities. By restating the programming obligation in uncontested renewal proceedings in terms of issue-responsive programming, we are providing broadcasters with a more appropriate description of their programming obligation.

30. In summary, our analysis of the record with respect to overall station performance and our re-evaluation of the problems inherent in the existing regulatory scheme lead us to the conclusion that the programming guidelines should be eliminated.[50] As a result, we no longer believe that the public interest requires an evaluation of programming in the processing of uncontested renewal applications.[51] Moreover, we note that remaining procedures are more than adequate to bring to our attention the failings of any particular licensee. As we have stated in numerous proceedings, citizen complaints and formal petitions to deny provide an important monitoring function in our regulatory endeavors. We believe these procedures will continue to provide us with important information relative to an individual licensee's compliance. We also note that we are not eliminating a licensee's obligation to provide programming that meets the needs of its community. We shall now turn to a more detailed discussion of this obligation in the context of the video marketplace.

4. Licensee's Obligations

31. While we conclude that the existing guidelines should be eliminated, we are not in this proceeding relieving a licensee of all programming responsibilities. As we noted in the radio deregulation proceeding, the Commission's involvement in the area of non-entertainment programming has always been driven by a concern that issues of importance to the community will be discovered and addressed in programming so that the informed public opinion, necessary in a functioning democracy, will be possible.[52] Given our conclusion with respect to existing economic incentives, however, we believe that our new regulatory approach should place greater emphasis on the role of the marketplace in achieving our regulatory objectives. In addition, deletion of quantitative

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[41] *See* text, *infra*, at para. 51 for a complete discussion of the compliance costs associated with the formalized ascertainment and program logging requirements.

[42] *Columbia Broadcasting System, Inc. v. Democratic National Committee*, 412 U.S. 914 (1973).

[43] *F.C.C. v. National Citizens Committee for Broadcasting*, 436 U.S. 775, 795 (1978).

[44] *See U.C.C. v. F.C.C., supra* n. 33 at 1430 (quantity alone cannot be the measure of a licensee responsiveness); *National Black Media Coalition v. F.C.C.*, 589 F.2d 578, 581 (D.C. Cir. 1978) (hereinafter *N.B.M.C. v. F.C.C.*) (quantitative guidelines do not guarantee improved service).

[45] For example, a licensee that is currently presenting levels of programming at the limits of the guidelines may desire to alter its mix of non-entertainment programming. In this particular situation, our guidelines may infringe upon its editorial discretion by requiring it to present specified levels of non-entertainment programming that it would not otherwise air. *See* text, *supra* at para. 22 and n. 35.

[46] In the delicate area of the First Amendment we have an affirmative obligation to examine our polices in light of the means used to obtain our objectives and whether other less restrictive mechanisms can achieve the same results. *United States v. O'Brien*, 391 U.S. 367, 377 (1968). *See also Home Box Office v. F.C.C. supra* n. 39 at 48 (incidental restrictions on First Amendment freedoms must be no greater than is essential to the furtherance of that interest).

[47] *Report and Order* in Docket No. 19142, (*In the Matter of Children's Programming and Advertising Practices*), 49 FR 1704 (January 13, 1984); *Notice of Proposed Rule Making* in BC Docket No. 81-496, (*Revision of Programming Policies and Reporting Requirements Related to Public Broadcasting*), 87 F.C.C. 2d 716 (1982); *See also Commission Policy Concerning the Non-Commercial Nature of Educational Broadcast Stations*, 86 F.C.C. 2d 141 (1981), *recon. denied*, clarification and declaratory ruling granted, 90 F.C.C. 2d 895 (1982) (modification of over-the-air fundraising rules); *Report and Order* in BC Docket No. 78-335, (*Community Service Programming*), 82 F.C.C. 2d 130, 142 (1980); *Report and Order* in BC Docket No. 78-251, (*On the Airing of Public Service Announcements by Broadcast Licensees*), 81 F.C.C. 2d 346, 366 (1980); *Memorandum Opinion and Order* in Docket No. 20682 (*Changes in the Entertainment Formats of Broadcast Stations*), 60 F.C.C. 2d 858 (1976), *recon. denied*, 66 F.C.C. 2d 78 (1977), *rev'd WNCN Listeners Guild v. F.C.C.*, 610 F.2d 838 (D.C. Cir. 1979), *rev'd sub nom., F.C.C. v. WNCN, supra* at para. 8; *En Banc Programming Inquiry*, 44 F.C.C. 2303, 2314 (1960).

[48] *See U.C.C. v. F.C.C., supra*, n. 35 (quantity alone cannot be a measure of a licensee's responsiveness).

[49] For example, a station with programs addressing public issues and aired during high viewship time but amounting to only three percent of its weekly programming may be doing a superior job to a station airing six percent non-entertainment programming, little of which deals with community issues and which is broadcast when the audience is small.

[50] *See Black Citizens for Fair Media v. F.C.C.*, 719 F.2d 407 (D.C. Cir. 1983) *cert. denied* (No. 83-1498, June 18, 1984) (Commission may infer compliance given that the inference is rebuttable and the regulatory environment provides strong incentives for operation in the public interest).

[51] *Greater Boston Television Corporation v. F.C.C.* 44 F.2d 841, 852 (D.C. Cir. 1970) (agency's view of what is in the public interest may change without a change in circumstances as long as it has supplied reasoned analysis indicating that prior policies are being deliberately changed and not casually ignored.)

[52] *Deregulation of Radio supra* n. 28 at 977.

guidelines as to programming responsibilities comports more closely with the Commission's programming concerns.

32. In light of these considerations, we believe that, in this context the only programming obligation of a licensee should be to provide programming responsive to issues of concern to its community of license. Accordingly, a commercial television broadcaster will remain subject to an obligation to provide programming that is responsive to the issues confronting its community. Moreover, licensees can be expected to demonstrate their compliance with this requirement by using the issues/programs list as discussed below.

33. A licensee, in the exercise of its good faith judgment, will be able to address issues by whatever program mix it believes is appropriate in order to be responsive to the needs of its community.[53] This includes, but is not limited to, programming described under current definitions of non-entertainment programming.[54] Moreover, licensees will also have the freedom to decide what amounts of such programming will be offered. Stations should continue to be guided by the needs of the community and their reasonable good faith discretion in selecting issues to be covered and appropriate programming responsive to those issues.

34. The significance of our new regulatory scheme lies not only in its impact on the programming behavior of licensees in today's video marketplace, but also in its flexibility in accommodating the natural economic incentives of the developing video marketplace. For example, as the number of video outlets increases, a television licensee may, in response to economic incentives, begin to direct its programming towards a narrower audience.[55] Unlike the existing guidelines, the new regulatory approach fosters this development by allowing the licensee to consider the programming of other television stations in its market in fulfilling its programming responsibilities.[56]

35. Having discussed the basic programming obligation being adopted by our action today, we believe it is appropriate to discuss the impact of this action within the contexts of uncontested renewals, petitions to deny and comparative proceedings. At the outset, we envision no significant change in petitions to deny or comparative proceedings.

36. *Renewal Standard.* In general, the basic renewal standard will continue to consist of an obligation that a licensee, during its prior license term, addressed community issues with responsive programming and complied with all other legal requirements. A licensee need only have addressed community issues with whatever types of programming, that in its reasonably exercised discretion, it determined was appropriate to those issues. With respect to uncontested applications, our determination in this proceeding permits us to make the renewal judgment called for by section 309 of the Communications Act of 1934, as amended, on a presumption of compliance with this standard.[57] Accordingly, we will no longer routinely review a licensee's programming in the uncontested renewal context.

37. *Petitions to Deny.* Individual licensees remain obligated to provide programming that is responsive to the community. Therefore, programming will remain a relevant issue in proceedings arising from petitions to deny. While overall programming remains a consideration in petitions to deny, eliminating the guidelines will affect the relevancy of certain types of programming issues. Since we are not concerned with the quantity of specified program categories, arguments based solely on the failure to present amounts of nonentertainment programming will not be appropriate.[58] Petitioners raising programming issues will have to demonstrate that an individual station is failing to address issues facing the community in its programming.[59] The focus of an allegation in this context should not be on the mere amount of programming presented. We have no wish to return to a simple quantitative approach. Moreover, we believe the obligation of a licensee in this context is to contribute to the overall information flow in its market. Thus, while this obligation is not negated by the existence of other issue-responsive programming in the market, it may be affected by the amounts and types of programming provided by other television broadcasters. The basic responsibility to contribute to the overall discussion of issues confronting the community is a non-delegable duty for which each licensee will be held individually accountable.

38. Similarly, petitioners may make allegations in a petition to deny that an individual station has failed to address issues of particular relevance to a significant segment of the community. Such a petition may be brought even in cases where a licensee has provided some issue-responsive programming.[60] We believe that a station confronted with this type of petition to deny should be able to respond by pointing not only to its own programming that may have addressed such issue, but also to other television stations available in the community that could reasonably have been relied upon to address such issues.[61] Of course, a licensee will not

[53] Of course, broadcasters cannot engage in intentional discrimination in the selection of issues to be addressed in their programming. *See Deregulation of Radio supra* at 978. *See also LaMar Life Broadcasting Co.*, 38 F.C.C. 1143, 1154–55 (1965), *rev'd and remanded on other grounds sub nom., Office of Communications of the United Church of Christ* v. *F.C.C.*, 359 F.2d 994 (D.C. Cir. 1966).

[54] We envision no departure from the definitions of issue responsive programming established in the radio deregulation proceeding. *See Memorandum Opinion and Order* in B.C. Docket No. 79–219, 87 F.C.C. 2d 797, 807 (1981). As in radio deregulation, such programming can consist of, by way of example and not limitation, public affairs, public service announcements, editorials, free speech messages, community bulletin boards and religious programming. *Deregulation of Radio supra* at 982–983. Indeed, programming in any of the categories contained in the *1960 Programming Statement* could be issue-responsive. *See U.C.C.* v. *F.C.C. supra.* We note, however, that generally, entertainment programming is not issue-responsive. *See Report and Order* in BC Docket No. 78–335 (*Community Service Programming*) *supra* n. 47 at 150.

[55] *See* Owen, Beebe & Manning, *Television Economics* at pp. 49–90 (1974).

[56] In this context, the term "television stations" includes both commercial and non-commercial television stations. We emphasize, however, that the existence of a non-commercial television station in a market does not obviate a licensee's obligation to provide programming that is responsive to issues facing the community. *See Deregulation of Radio supra* n. 28 at 1068.

[57] We note that current postcard renewal procedures do not require submission of programming data. Question 5 of the renewal short form, concerning compliance with the Commission's rules relative to the public inspection files, encompasses the obligation to provide issue-responsive programming. *See Report and Order* in the BC Docket No. 80–253, (*Revision of Applications for Renewal of License of Commercial and Non-Commercial AM, FM, and Television Stations*), 46 FR 26236 (May 11, 1981). The existence of short form renewal procedures in a deregulated environment has received judicial approval. *See Black Citizens for Fair Media v. F.C.C., supra* n. 50. Elimination of the programming delegations, however, does call into question the continued need for current long form audit procedures for commercial television stations. *See* text *infra* at para. 80.

[58] The petition to deny procedure is governed by statute. *See* 47 U.S.C. 309(d). However, the types of issues which are considered relevant in this process are subject to change by the Commission. *Deregulation of Radio, supra* at 990.

[59] Petitions to deny must still contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be *prima facie* inconsistent with the public interest. 47 CFR 73.3584(a).

[60] *See Stone v. F.C.C., supra* n.37. *See also Alianza Federal de Mercedes v. F.C.C.*, 539 F.2d 736 (D.C. Cir. 1976), *Deregulation of Radio, supra* at 991.

[61] It is in this context that we believe our action today will serve to increase the number of issues placed on the public's agenda, thereby advancing the fundamental goal of diversity. Under existing regulations licensees cannot look to other stations in determining which issues to address. Allowing licensees to look to other television stations in

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have to demonstrate that programming was available in the community in an amount proportional to the complaining group's representation of the community.[62] Since all individuals have general interests as well as special interests, we believe it is inappropriate to expect special interest programming to be proportional to special interest populations.

39. The focus of our inquiry in the petition to deny context can be expected to be whether the challenged licensee acted reasonably in choosing the issues it addressed in its programming. Assessing the reasonableness of a licensee's decision will necessitate an *ad hoc* review to examine the circumstances in which the programming decision was made.[63] The examination will focus on the licensee's evaluation of the programming of other television stations and its own responsive programming in light of the needs of its community. In any event, in the face of a petition to deny which makes a *prima facie* case that a licensee has been unreasonable, the burden will be upon the licensee to demonstrate that the exercise of discretion was appropriate in the circumstances. Of course, all other potential grounds for petitions to deny that are not affected by this proceeding will remain as valid grounds for such petitions.

40. *Comparative Proceedings.* We recognize that at the present time the Commission has before it a pending *Further Notice of Inquiry* in BC Docket No. 81–742, 47 FR 46117 (October 1982) concerning comparative renewal standards. Our action today in no way prejudges any issues raised in the context of that proceeding. Until these issues are resolved, however, we believe it is appropriate to discuss the impact this decision will have on the existing comparative process. As in radio, two crucial questions arise with regard to comparative proceedings. The first issue concerns whether elimination of the guidelines will adversely affect a licensee's legitimate renewal expectancy. The second, and more fundamental concern, is the way in which issue-responsive programming will be evaluated in the comparative context. In this regard, we note that this proceeding will not depart from current comparative evaluation with respect to non programming factors or in the current manner of evaluating other types of programming which do not fall within our new issue-responsive scheme.

41. The existing programming guidelines are utilized solely for the routine processing of *uncontested* renewal applications. Many commenters, however, expressed concern that elimination of the guidelines would impact adversely on a licensee's "legitimate renewal expectancy" in the comparative renewal context. As we concluded in the radio deregulation proceeding, there is no nexus between the programming guidelines and the granting of a renewal expectancy. In that context, compliance with the programming guidelines has never been utilized as a measure for determining substantial or minimal program performance. On the contrary, the fundamental inquiry in granting a comparative preference is whether the licensee has presented programming that addressed the issues facing its community. The Commission has consistently refrained from adopting quantitative standards in the comparative renewal context, preferring to review comparative hearings on an *ad hoc* basis.[64]

42. We conclude that elimination of the programming guidelines will not affect existing programming considerations in either the competing new applicant or the comparative renewal contexts. The standards for evaluating competing new applicants are set out in the *1965 Policy Statement on Comparative Broadcast Hearings.*[65] While programming may be a consideration in these proceedings, it is but one of several elements that may be of decisional significance.[66] Moreover, programming issues are raised only where there are material and substantial differences between competing proposals.[67] When programming becomes an issue, however, the Commission's evaluation is not based on the mere compliance with quantitative criteria. Instead, the Commission determines which programming proposal would best meet the needs of the community. Accordingly, elimination of the programming guidelines will not affect the way in which programming is evaluated in the competing new applications process.

43. Apart from the criteria established in the 1965 *Policy Statement*, comparative renewal proceedings raise the issue of how much weight should be given to an incumbent's past programming performance.[68] The procedures for evaluating applications in the comparative renewal context were solidified in the Commission's *Cowles Broadcasting* decisions.[69] In *Cowles*, the Commission concluded that an incumbent licensee could be granted a renewal expectancy for past meritorious service. The "expectancy" amounts to a comparative preference which is weighed against other factors such as diversification, integration and licensee misconduct.[70] The strength of the comparative preference depends on the merit of the incumbent's past programming.[71]

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determining which issues to address, coupled with the responsibility to contribute issue-responsive programming may increase the absolute number of issues receiving coverage on television. The Court of Appeals recognized the pro-diversity aspects of deregulation in reviewing the radio deregulation order.

"On this view, then, radio stations must specialize to prosper, and audiences benefit by the increased diversity of program offerings across the market—a benefit that offsets the loss of more diverse programming on any individual station. *U.C.C.* v. *F.C.C.* at 1434."

We believe this logic is applicable to the instant proceeding. However, we recognize that significant cross-market diversity benefit may not be fully realized until video markets mature and move towards a narrowcasting model.

[62] *See Stone v. F.C.C., supra.*

[63] Such *ad hoc* evaluations have been made by the Commission in other areas. *See Fairness Doctrine Primer*, 40 F.C.C. 2d 598, 599 (1964); *Fairness Report*, 48 F.C.C. 2d 1, 9 (1974); *Deregulation of Radio, supra* n. 28 at 992.

[64] *See Report and Order* in BC Docket No. 19154, 66 F.C.C. 2d 419 (1977) (terminating proceeding commenced in 1971 relative to adopting a quantitative standard for determining substantial service). The decision not to adopt such a quantitative standard was upheld by the Court of Appeals. *N.B.M.C. v. F.C.C., supra* n.44.

[65] *Policy Statement on Comparative Broadcast Hearings*, 1 F.C.C. 2d 393 (1965).

[66] *Id.* The primary factors in the comparative analysis as defined in the *1965 Policy Statement*, are (1) diversification of control, and (2) best practicable service to the public. *Id.* at 394. The "best practicable service" rubric covers the integration of ownership with management, minority ownership, and the local residence, broadcast experience and civic activities of the owners. *Id.* at 395–99.

[67] *Id.* at 397. *See Johnston Broadcasting Co. v. F.C.C.*, 175 F.2d 351, 359 (D.C. Cir. 1949) (decisional significance accorded only to material and substantial differences between proposed program plans.)

[68] *See Policy Statement on Comparative Hearings Involving Regular Renewal Applicants*, 22 F.C.C. 2d 424 (1970), *rev'd Citizens Communications Center v. F.C.C.*, 447 F.2d 1201, 1214 (D.C. Cir. 1971); *Report and Order* in BC Docket No. 19154, 66 F.C.C. 2d 419, *aff'd N.B.M.C. v. F.C.C., supra.*

[69] *In re: Cowles Broadcasting Inc.*, 60 F.C.C. 2d 372 (1976) *recon. denied* and clarified 62 F.C.C. 2d 953 (1977), *recon. denied* 40 RR 2d 1627 (1977), vacated and remanded *sub nom. Central Florida Enterprises Inc. v. F.C.C.*, 598 F.2d 37 (D.C. Cir. 1978) *cert. denied*, 441 U.S. 957 (1979) on remand, *recon. denied* 86 F.C.C. 2d 993 (1981) *aff'd Central Florida Enterprises Inc. v. F.C.C.*, 683 F.2d 503 (D.C. Cir. 1982).

[70] *Cowles Broadcasting Inc.*, 86 F.C.C. 2d at 1012.

[71] *See e.g., Deregulation of Radio supra* at 984; *Victor Broadcasting, Inc. v. F.C.C.* No. 82–1964, slip. op. (D.C. Cir. 1983). The generic questions of how the Commission should label and define that level of service that would give rise to a legitimate renewal expectancy are currently under examination in BC Docket No. 81–742, in response to a *Further Notice of Inquiry* in that proceeding. Some commenters suggested adoption of quantitative programming standards as either

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44. Our action today allows a commercial television station licensee to consider the programming of the other television stations in its market when selecting its issue-responsive programming. Accordingly, an applicant's proposed programming or past programming performance may properly reflect such considerations.

B. Ascertainment

1. Background

45. Currently, applicants for television licenses, and those seeking renewal of existing licenses, are required to follow specific ascertainment procedures set forth in the *Primer* [72] and *Renewal Primer*.[73] Specific standards are established for determining the composition of the area to be served, consultation with community leaders and members of the general public, enumerating of community problems and needs, evaluation of the problems and needs, and relating proposed programming to the evaluated problems and needs. In addition, those seeking renewal must maintain an ongoing ascertainment process during their license terms, possess a community leader checklist, maintain information of the composition of the community in the public file, place documentation of ascertainment procedures in the station public inspection file, and annually file a list of not more than ten problems and needs of the station's service area along with a list of programs treating those problems and needs.

2. Proposals

46. In the *Notice*, the Commission set forth two proposals relative to formal ascertainment requirements. Option I called for the elimination of formal ascertainment obligations. All references to ascertainment would be deleted from Commission rules and the *Primers* would be abolished. Option II called for the retention of an ascertainment requirement but would allow licensees to use any reasonable means to do so. The adequacy of a station's procedures would not be questioned absent a complaint that the licensee failed to meet its programming obligation.

3. Discussion

47. The Commission herein adopts Option I as set forth in the *Notice*. We believe that the public interest no longer requires adherence to ascertainment procedures. In conformance with the programming obligations set forth above, commercial television licensees, applicants for new television licenses, for the assignment or transfer of existing licenses or applicants for major modifications of existing facilities may determine the issues in their community that warrant consideration by whatever means they consider appropriate. The Commission will not request standardized documentation and submission of these efforts.

48. Ascertainment procedures were never intended to be an end in and of themselves. Rather, these procedures were intended as a means of ensuring that licensees actively discovered the problems, needs and issues facing their communities, thereby positively influencing the programming performance of stations by affecting the process of program decision-making. Yet, we have no evidence that these procedures have had such an effect.[74] Indeed, under existing requirements there is no guarantee that once a concern is ascertained by formal or informal means, programming responsive to that concern will be presented.[75] Moreover, we believe that licensees become and remain aware of the important issues and interests in their communities for reasons wholly independent of ascertainment requirements, and that our existing procedures are, therefore, neither necessary nor, in view of their significant costs, appropriate.

49. The current figures for non-entertainment programming categories show percentages far beyond those sought under the guidelines.[76] These figures indicated that non-entertainment programming is a financially important part of the broadcaster's revenue and that there are reasons other than regulatory oversight to engage in this programming. Commercial necessity dictates that the broadcaster must remain aware of the issues of the community or run the risk of losing its audience. In short, present market forces provide adequate incentives for licensees to remain familiar with their communities. Moreover, future market forces, resulting from increased competition, will continue to require licensees to be aware of the needs of their communities. Given this commercial reality, we believe that the need for our ascertainment regulation has declined and will continue to decline, and that the Commission should eliminate it.[77]

50. We note in this regard that ascertainment is not mandated by the statute and is not an exclusive way to assure that licensees remain aware of their communities. Indeed, the Commission has recently relaxed ascertainment requirements in several areas. Ascertainment procedures are no longer required in the case of commercial radio,[78] or in the case of small markets,[79] and we are today eliminating ascertainment requirements for non-commercial stations.[80] In addition, the Commission has also refrained from imposing ascertainment requirements upon alternate video technologies.[81]

51. The costs of ascertainment are numerous. The Commission estimates that elimination of ascertainment requirements will result in annual savings of 66,956 work hours to the industry and 761.5 work hours to the Commission.[82] A study conducted by

mandatory or voluntary benchmarks for measuring meritorious performance. Our action today in abolishing the numerical processing guidelines does not signify any predetermination of the issue of the desirability and/or necessity for quantitative standards to be applied for purposes of assessing a legitimate renewal expectancy in the context of a comparative challenge. Should the Commission be required to address these questions during the pendency of this proceeding, we shall consider them on a case-by-case basis. Of course, the Commission would take cognizance of the fact that licensees may consider the programming of other stations in the market as they select their own issue responsive programming.

[72] *Ascertainment of Community Problems*, 27 F.C.C. 2d 650 (1971).

[73] *First Report and Order* in Docket No. 19715 (*In the Matter of Ascertainment of Community Problems by Renewal Applicants*), 57 F.C.C. 2d 418, 441 (1975), *recon. granted in part*, 61 F.C.C. 2d 1 (1976).

[74] *See Ascertainment of Community Problems by Renewal Applicants, supra* at 460 (dissent of Commissioner Robinson).

[75] *See Deregulation of Radio, supra* n.28 at 996.

[76] *See* paras. 10–15, *supra*.

[77] Such a determination is consistent with the purposes and intents of Congress to eliminate unnecessary government regulation. Regulatory Flexibility Act, Paperwork Reduction Act of 1980, *supra* n.8.

[78] *Second Report and Order* in BC Docket 79–219 (*Deregulation of Radio*), 49 FR 19019 (May 4, 1984).

[79] *Small Market Ascertainment Exemption*, 86 F.C.C. 2d 798 (1981) *Aff'd sub. nom. National Black Media Coalition v. F.C.C.* 706 F.2d 1224 (D.C. Cir. 1983).

[80] *Report and Order* in BC Docket No. 81–496 (*Revision of Programming Policies and Reporting Requirements Related to Public Broadcasting Licensees*), —— F.C.C. 2d —— (Adopted June 27, 1984).

[81] *Subscription Television Service*, 90 F.C.C. 2d 341, 358 (1982); *Report and Order* in BC Docket No. 78–253 (*Inquiry into Future Role of Low Power Broadcasting*) 47 FR 21468, 21491 (May 18, 1982); *Report and Order* in Gen Docket No. 80–603 (*Inquiry into Development of Regulatory Policy in regard to Direct Broadcast Satellites*), 90 F.C.C. 2d 676 (1982); *see generally* 47 CFR Part 76, Cable Television Service.

[82] These figures, developed by the mass Media Bureau for the Administrative impact statement in this proceeding, assume that licensees will still ascertain community interests and concerns absent formal ascertainment procedures. Based on this assumption, the figures presented are 50 percent of the actual hour savings estimated by the Mass Media Bureau connected with the elimination of formal ascertainment procedures.

Michael O. Wirth found the annual mean cost of ascertainment for the licensee to be $6.574.[83] An informal survey conducted by NAB found the range of costs to be from $2.425 to $8.986.[84]

52. Other costs to the public, the licensee, and the Commission must be considered as well, such as the expense of litigation over the formalized requirements of ascertainment. The Commission has previously characterized its experience with ascertainment in the adversarial arena as "litigation over trivia."[85] As we observed in the *Notice*, the *Pike and Fisher Radio Regulation Digest* currently contains over sixty pages of ascertainment annotations, most relating to mechanistic aspects of the process.[86] Furthermore, ascertainment hearings unnecessarily delay service to the public. Even without actual litigation, it is clear that substantial resources are expended to make certain that a formalistic challenge is avoided.[87]

53. Finally, we find that to the extent the licensee is compelled to follow specific procedures, resources are diverted and the opportunity for licensee discretion is foreclosed. The resources which the licensee is forced to expend to satisfy procedural requirements are lost from other potentially beneficial activities, such as program production in response to determined needs.[88]

4. Conclusion

54. We do not believe that the benefits of the ascertainment requirements justify the costs of this procedure. While ascertainment does provide the licensee with knowledge of the community, it is clearly not the exclusive means of acquiring this knowledge, and is certainly not the most efficient. Licensees, like other citizens, are exposed to newspapers, newsletters, town meetings and other community activities, all of which provide indications of those issues that are important to the community. Broadcasters do not operate in a vacuum and, as discussed above, it is in the economic best interest of the licensee to stay informed about the needs and interests of its community. Given these considerations, as well as the continuing obligation of all licensees to provide issue-responsive programming, we believe that ascertainment requirements can now be abandoned with little or no risk of adverse effects on the programming performance of television licensees.[89] Accordingly, in all future proceedings, the focus of our inquiry shall be upon the responsiveness of a licensee's programming, not the methodology utilized to arrive at those programming decisions. If the programming presented by the licensee satisfies its obligation, the ascertainment efforts of the station are irrelevant.

C. Commercial Guidelines

1. Background

55. The Commission's concern with commercial practices has been shaped by two primary considerations: the desire to prevent the abuse of scarce broadcast resources through excessive commercialization, and a reluctance to adopt rigid quantitative standards.[90] As the *Notice* observed, our regulation of commercial practices has been characterized by the concern that licensees avoid abuses with respect to the total amount of time devoted to advertising as well as the frequency with which programming is interrupted for commercial messages.[91] In our 1973 *Order (Amendments to Delegations of Authority)*,[92] we adopted the 16 minute commercial guideline at issue herein. It was our intention in adopting a guideline rather than a rule, that licensees be given some flexibility in fulfilling their public interest responsibility as it relates to commercialization. However, it has been suggested that given the penalty for exceeding the guideline, it has the practical effect of a rule. In addition, the evidence demonstrates that levels of commercialization have remained significantly below the 16 minute ceiling imposed by the guideline.

2. Proposals

56. The commercial standard at issue herein is contained in § 0.283(a)(7) of our rules. Under this rule, the authority to review proposed levels of commercialization in new applications, renewals or transfers, is delegated to the Mass Media Bureau, except in the case of

> [c]ommercial TV applicants for a new station, or assignment or transfer, or renewal of license, proposing to exceed 16 minutes of commercial matter per hour, or during periods of high demand for political advertising, providing for exceptions permitting in excess of 20 minutes of commercial matter per hour during 10 percent or more of the station's total weekly hours of operation.

Those applications which propose to exceed this guideline must be reviewed by the Commission.

57. In the *Notice*, we proposed two specific options for modifying this procedure as well as a general statutory model. We sought comments on these proposals and invited commenters to offer alternatives. The three options proposed in the *Notice* were:

(1) The elimination of all rules and policies restricting the amount of commercial time and reliance on marketplace forces to regulate levels of commercialization;

(2) the amendment of the commercial time restrictions to give broadcasters more discretion and encourage experimentation but retention of some oversight authority; and

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[83] The study, using 1979 data from 43 randomly selected stations, was presented to the Economics Division of the Western Social Service Association Annual Conference, Denver, Colorado (April 22, 1982) and entitled "Television and Radio Expenditure Behavior Under the Uncertainty of License Renewal." While the mean cost of ascertainment is found to be $6.574, the standard deviation related to cost is $7.370 signifying that the costs of ascertainment are quite varied. 68 percent of these surveyed have costs of ascertainment between 0 and $13.944.

[84] These figures, included in the NAB comment to this proceeding, are the result of a telephone survey conducted in 3 television markets in October, 1983. The average station in the top 50 market surveyed estimated it would spend 27 percent less money and 29 percent less time absent formal procedures. The average station in the 51–100 market estimated savings at 25 percent less money and 18 percent less time while the average for the 101+ market was 29 percent less money and 23 percent less time absent formal procedures.

[85] *Revision of Application for Construction Permit for Commercial Broadcast Station*, 50 RR 2d 381, 382–383 (1981).

[86] *Notice* at 37247

[87] Counsel must be consulted to assure that formalities have been satisfied. Many of the commenters noted that a major savings from the elimination of formal ascertainment would be a reduction in attorney's fees.

[88] Many of those questioned in the informal NAB survey noted they would continue an "ascertainment" procedure but foresaw significant savings in the efficiencies they could realized absent formal requirements.

[89] We note as well that licensees remain obliged to ensure the market availability of programming addressing the strongly felt needs of significant segments of their communities. *See Stone v. F.C.C.*, *supra* n.37.

[90] The *Notice* cited the following examples of Commission consideration and rejection of proposals to adopt quantified commercial requirements: *Notice of Proposed Rule Making*, 28 FR 5158 (May 23, 1963) (looked toward the adoption of rigid commercial standards but chose not to adopt such standards); *Commercial Advertising Standards*, 36 F.C.C. 45 (1964) (refused to initiate rule making regarding overcommercialization citing lack of public reaction and possible First Amendment problems); *TV Overcommercialization* 49 RR 2d 391 (1981) (concluding that best form of regulation was self-imposed voluntary restraint).

[91] *Report and Statement of Policy Re: Commission en banc Programming Inquiry*, 44 F.C.C. 2303 (1960):

> With respect to advertising material, the licensee has the additional responsibility . . . to avoid abuses with respect to the total amount of time devoted to advertising continuity as well as the frequency with which regular programs are interrupted for advertising messages.

[92] 43 F.C.C 2d 638 (1973)

(3) the general statutory model recommending reliance solely upon whatever applicable requirements were explicitly contained in the Act.

Comments submitted expressed preferences all along this regulatory continuum.

3. Discussion

58. The record in this proceeding provides convincing evidence that marketplace forces can better determine appropriate commercial levels than our own rules. In addition, such reliance provides a significantly less intrusive and less expensive alternative than our current regulatory scheme. Based on our decision today, the above-noted commercial guidleline is herein eliminated. The Commission will no longer consider levels of commercialization in the processing of license applications. Furthermore, we will no longer entertain petitions to deny based on allegations of overcommercialization. Finally, we will rescind our policy banning program length commercials.[93]

(a) *Market Incentives.* 59. The *Notice* in this proceeding included an analysis of the number of commercial minutes aired on commercial television stations in three states during a recent license renewal period.[94] The data showed that network affiliates averaged 10.87 minutes of commercial matter per hour when the entire broadcast day was considered.[95] The *Notice* also found that 99.67 percent of all broadcast hours studied were within the guideline. A study proffered by NAB in its comments submitted in this proceeding also found commercialization levels significantly below the guideline.[96] Using a sample of 166 VHF stations (136 network affiliates and 30 independents), NAB found that network affiliates averaged 10.4 minutes of commercials per hour while independents averaged 9.6, for an overall average of 10.3 commercial minutes per hour. In either case, the data convincingly demonstrate that marketplace forces, and not the guideline, are the decisive factor in determining appropriate levels of commercialization for commercial television stations.

(b) *Burdens of Existing Regulation.* 60. Based on the foregoing evidence, we can no longer continue to justify either the direct costs imposed by adherence to the commercial guideline—the paperwork burden of record keeping, reviewing and monitoring—or its more indirect costs such as possible anti-competitive effects or stifling commercial experimentation and intrusion into the realm of commercial speech protected by the First Amendment.

61. The direct burdens imposed by the guideline are straightforward and do not require further illumination herein. However, we believe that closer examination of the indirect costs of our guideline will help to clarify our actions today.

62. *Competitive Effect.* A significant danger posed by our commercial guideline is that it may impede the ability of commercial television stations to present innovative and detailed commercials. In addition to creating a potential disadvantage to video and non-video services currently in operation, our regulation may also interfere with the natural growth and development of broadcast television as it attempts to compete with future video market entrants. We believe that this risk can no longer be justified in view of our conclusion that the desired result is produced by primary reliance on marketplace forces.

63. *First Amendment Concerns.* In addition to potential anti-competitive effects, we are concerned about becoming involved in the regulation of program content and of the attendant potential chilling effect on commercial speech which the guideline might exert. The Supreme Court has granted significant First Amendment protection to commercial speech.[97] Moreover, the continued existence of very broad governmental regulations is inconsistent with the Supreme Court's mandate in *United States v. O'Brien* that regulation in constitutionally sensitive areas use the least restrictive means suitable to achieving its legitimate ends 391 U.S. at 377 (1978).[98] The record in this proceeding, including the date and economic analysis performed herein, demonstrates that marketplace forces should effectively regulate commercial excesses. That evidence, in addition to the absence of any indication that elimination will otherwise harm the public interest, provides sufficient cause to eliminate the commercial guideline.

(c) *Other Considerations.* 64. The empirical data presented in the *Notice* demonstrate to our satisfaction that commercial levels will be more effectively regulated by audience selection and market forces than by the guideline. The data presented by NAB in its comments in this proceeding corroborate this finding. However, several commenters suggest that because most of these data were collected while the NAB Code was still in force, its results might be misleading. While this suggestion of possible basis must be considered, we note that not all television stations subscribed to the Code and that those subscribing were not subject to vigorous NAB enforcement. However, the relevant data are sufficiently dramatic to demonstrate that the levels of advertising are not dependent on the NAB Code or Commission guidelines. Thus, it is our conclusion, based on the extent to which actual performance fell below the guideline, that it is competition, not enforcement of the guidelines or the NAB Code, that most effectively regulates current levels of commercialization.

65. Another concern raised by commenters in this proceeding was that elimination of the guideline might increase commercial "clutter"—the number of consecutive advertisements in each commercial break. Currently the Commission does not regulate this aspect of commercialization. However, it is our opinion that eliminating the guideline will not significantly change the behavior of licensees in this area. We believe that (1) audiences are likely to avoid stations with excessive clutter,

[93] Similar action was approved by the Court of Appeals for the D.C. Circuit in the radio deregulation proceeding. "[T]he Commission acted well within its discretion by concluding from the record and its own experience that it is the marketplace and not regulation that has kept down the level of commercialization. The Commission hypothesized that since audiences avoid radio with excessive advertising, those stations would become less attractive to advertisers, and therefore, would lose advertising revenue. Thus, at present and in the future, a self-regulating market mechanism will prevent overcommercialization. In the absence of any statutory mandate obligating the Commission to maintain these processing guidelines, this court must give substantial deference to such policy judgments and predictions of future industry behavior." *U.C.C. v. F.C.C., supra* n.35 at 1438.

[94] *See Notice, supra* n.1 at 37254–55, Appendix C.

[95] The *Notice* also cited a less exact estimation of 13.5 commercial minutes obtained per hour of network programming, by simply adding the network and local commercial averages. However, this figure fails to account for variations in the amount of commercial time throughout the broadcast day. The above-noted average of 10.87 is more statistically accurate because it is calculated by adding the average number of local commercial minutes aired by an affiliate per day to the average number of network commercial minutes and then dividing by the daily average number of broadcast hours.

[96] The NAB study, cited in Appendix C of its comments, covers the period from 1978 to 1983.

[97] *See Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748 (1976); *Bates v. State Board of Arizona*, 433 U.S. 350 (1976); and *Bigelow v. Virginia*, 421 U.S. 809 (1975).

[98] *See also Home Box Office, Inc. v. F.C.C., supra* n.39 at 48.

thus making those stations less attractive to advertisers; and (2) advertisers are likely to avoid such stations because their advertisements are less effective within the clutter of other commercial matter.

66. Finally, several commenters objected that market forces will not be adequate to control overcommercialization because of the fractured economic relationship between the licensee and its audience. Suggesting that licensees in fact market their product primarily to advertisers rather than audiences, these parties suggested that elimination of the guideline would increase commercial loading and ultimately result in greater advertiser control over programming. As noted, however, the record does not support the assumption that elimination of the guidelines will lead to increased commercial loading. Moreover, to the extent the concerns raised by these commenters are directed to the fundamental, advertiser supported nature of commercial television, we would readily concede that the advertiser supported nature of the medium has some effect on program content. Again, however, there is no concrete evidence that elimination of the commercial guideline will lead to an increase in the programming power of advertisers to the detriment of the public interest.

4. Conclusion

67. By our action today, the current commercial guideline is eliminated. It is our intention that this change promote licensee experimentation and otherwise increase commercial flexibility. We are taking this step because we are convinced that commercial levels will be effectively regulated by marketplace forces and because we do not believe that elimination of the guideline will otherwise harm the public interest. In sum, it seems clear to us that if stations exceed the tolerance level of viewers by adding "too many" commercials the market will regulate itself, *i.e.*, the viewers will not watch and the advertisers will not buy time.[99]

D. Program Logs

1. Background

68. Since the beginning of broadcast regulation, some types of program logging requirements have existed. Under present rules the Commission requires television broadcasters to maintain a contemporaneous listing of all programs broadcast.[100] The program type and source must also be set forth. Program logs must be maintained for a period of two years.[101] Television licensees are required to make these logs available for public inspection if the requester of the information meets certain procedural safeguards.[102] Although, a copy of the program logs for a composite week are to be submitted to the Commission by those renewal applicants selected to complete the long form audit, as a general matter, the logs are not to be filed with this agency.[103] When filed, the logs are perused by the Commission to determine whether the licensee has programmed in accordance with the promises made in its previous license application.

2. Proposals

69. As mentioned in the *Notice*, according to a 1978 GAO report, the Commission's logging requirements constituted the largest government burden on business in terms of total burden hours.[104] According to calculations made by Commission staff, previously indicated in the *Notice*, the burden imposed on commercial television licensees by our program log requirements exceeds 2,468,000 hours per year.[105] Because the Commission's actual utilization of the program logs is minimal, and therefore we felt the burdens imposed by our present requirements might not be justified, their elimination was proposed. In addition, since our program logging requirements are intended as documentation of a licensee's programming and commercialization practices, if these policies are amended or eliminated, retaining the present logging requirements might be unnecessary.

70. We were mindful in the *Notice* that in the radio deregulation case, the Court of Appeals questioned the Commission's action eliminating the program log requirements and replacing them with an issues/programs list.[106] Although upholding the Commission's action deleting guidelines regarding non-entertainment programming and commercial levels and eliminating community ascertainment requirements for commercial radio stations, the court inquired into whether a revised log would be a more appropriate mechanism than the issues/programs list for meeting the informational needs of the Commission and the public. The court asked whether, in view of the new regulatory scheme for radio, this annual list could provide a sufficient gauge of a station's overall public service performance. Therefore, we proposed in the *Notice* in the instant proceeding to explore those options raised by us on remand in the radio deregulation proceeding. In the radio deregulation *Second Report and Order, supra* n. 78, the Commission resolved to retain the issues/programs list obligation. However, it modified this duty in two respects. First, it eliminated the limitation that no more than 10 issues be listed. Second, the Commission required that these lists be prepared and made available quarterly rather than annually.[107] Commenters in the instant case were also invited to address the question whether a revised program logging rule by itself would satisfactorily meet the Commission's information collection requirements. In raising these questions for comment, we cautioned the parties to keep in mind the Commission's goal of carefully tailoring any reporting or logging rules to assure the collection of truly needed information while minimizing the burdens imposed on those submitting the information.

3. Discussion

71. After carefully reviewing the record in this proceeding, we have concluded that the best method of documentation suitable and adequate to our new regulatory scheme for television broadcasting is a quarterly issues/programs list requirement.[108] This list is

[99] We note that our action today does not prejudge the issues raised in the complaint filed by Action for Children's Television. *See, e.g., In the Matter of Continental Broadcasting Network, Inc. (WXNE-TV Boston) et al.* (filed October 11, 1983), the complaint filed by The National Association for Better Broadcasting against *KCOP-TV* Los Angeles (filed April 5, 1984) and other related pleadings.

[100] *Amendment of Program Logging Rules for Television Broadcast Stations*, 5 F.C.C. 2d 185 (1966).

[101] *See* § 73.1840 of the Commission's Rules.

[102] *Program Logs*, 44 F.C.C. 2d 845 (1974), *recon. denied*, 45 F.C.C. 2d 781 (1974).

[103] For the Commission's adoption of a streamlined and simplified license renewal procedure, *See Revision of Application for Renewal of License of Commercial and Noncommercial AM, FM, and Television Licensees*, 49 RR 2d 740, (1981) *recon. denied*, 50 RR 2d 704 (1981). *Aff'd sub nom. Black Citizens for a Fair Media v. F.C.C., supra* n. 50.

[104] GAO, *Federal Paperwork: Its Impact on American Business*, pp. 43–44 (1978).

[105] There is no less reason for that number to have changed since its original calculation, less than a year ago.

[106] *U.C.C. v. F.C.C., supra* n. 41.

[107] In the *Further Notice of Proposed Rule Making* in BC Docket No. 79–219, 48 FR 33499 (July 22, 1983), we stated that our tentatively preferred reporting option involved an exemplary annual issues/programs list with from five to ten issues of concern to the community plus some form of log specifying the date, time, duration and issue addressed for all those programs aired that are responsive to community issues. We also indicated that the issues/programs list alone might be sufficient to oversee and implement our newly instituted policies.

[108] By the action taken herein, we no longer require a commercial television broadcaster to

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to be placed in a station's public inspection file and it should contain, in narrative form, a brief description of at least five to ten issues to which the licensee gave particular attention with programming in the past three months with a statement of how each issue was treated.[109] The list also is to include information pertaining to the date and time of broadcast and the duration of listed programming. While this list is intended to be exemplary in nature, quarterly submission should provide a sufficient record for making a public interest evaluation.

72. In evaluating the merits of the various options proposed, we have focused on the costs to be imposed on commercial television licensees and the benefits to be gleaned by the public and the Commission. Although an annual issues/programs list minimally burdens broadcasters, it is unclear that it provides adequate information for the Commission and the public to judge a station's overall public service performance. On the other hand, the proposed comprehensive log would significantly burden broadcasters and yet may not provide the most useful information to evaluate a station's public interest programming. *See* para. 76, *infra*.

73. As to costs of logging, commenters in this proceeding asserted that logs containing information relevant to the new regulatory scheme would require involvement of management level staff and therefore would be substantially more costly and burdensome than the simple traditional logs, which can be maintained by clerical staff. We have no cause to question these assertions, and they seem reasonable. The issue, therefore, is whether there is clear need under our new regulatory scheme for logging which is substantially more costly and burdensome than that presently required.

74. As noted by the court in the radio deregulation proceeding, the Communications Act does not compel the Commission to retain the programming log requirements. We are no longer interested in amounts of programming in categories such as "news" and "public affairs" because we have eliminated programming guidelines. Furthermore, we have eliminated commercial guidelines which could require the maintenance of logs for substantiation. Therefore, we see no need to require documentation of non-entertainment programming other than issue-responsive programming. Thus, retaining the present logging obligations no longer serves any regulatory purpose. We have found that marketplace forces at work today will elicit adequate amounts of non-entertainment programming, without regulatory intervention. If a some time in the future, there is significant market failure with respect to such programming, we are certain this will be brought to our attention by such means as audience complaints. Having been alerted to any problem which arises, we can document its scope by any of several means, such as special studies, investigations and temporary logging requirements and take whatever regulatory action is needed. We do not believe that to guard against the mere possibility that at some future time adequate amounts of non-entertainment programming may not be broadcast, we should now impose a costly general logging requirement on our licensees.

75. The Court of Appeals found it reasonable to conclude that a logging requirement designed to make available certain information relevant under one regulatory scheme might be useless if transplanted unchanged to a new regulatory scheme. We have considered the court's suggestion, made in the context of the radio deregulation proceeding, that a revised log might be a more appropriate mechanism than the issues/programs list for meeting the informational needs of the Commission and the public. However, we believe that the issues/programs list technique is best equipped to elicit the kind of purposeful programming information relevant to our current regulatory concerns. A logging requirement might be devised which could be useful in monitoring licensees' fulfillment of their programming obligation.[110] However, we believe the better alternative source of information for this purpose is the issues/programs list. The new regulatory scheme imposes a basic issue-responsive programming responsibility on commercial television licensees. An issues/programs list is a more useful vehicle to record a licensee's effort in this regard. An exhaustive log, perhaps necessary under the old regulatory requirements, is not needed to document the current program obligation which is directed to issues of concern to the community rather than to categories or amounts of programs.

76. The most significant source of issue-responsive information under the new regulatory scheme will be the issues/programs list. These lists will certainly contain more relevant information than traditional logs, which usually do not identify issues and issue-responsive programming. Since we are not limiting the number of issues on these lists, we anticipate that broadcasters will probably use them to adequately document their significant issue-responsive programming, because doing so will serve their own self interest.

77. In the context of a routine license renewal, the existence of the issues/programs list in the station's public file will give the Commission sufficient assurance that the station has met its issue-responsive programming responsibility during the past license term to grant license renewal on that issue. In other contexts, such as when a programming issue is raised in a petition to deny or in a comparative renewal, these lists will serve as a significant source of information for any initial investigation by a member of the public or by the Commission. If in a particular case, a station's issues/programs lists do not provide sufficient information to resolve a substantial question of fact, the Commission may ask, as it has in the past, for more information from the licensee. In a contested license renewal the burden of proving that programming relevant to public issues has been provided is on the licensee. A broadcaster must demonstrate, if called on to do so, in a hearing or otherwise, that it has met its responsibility in this regard.

78. Another source of information regarding the performance of our television licensees is the public. We note that programming logs have in the past been one source relied on by

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place a "problems-programs" list in its public inspection file. Specifically, this yearly listing was to contain no more than ten significant problems and needs of the area served by the station during the preceding 12 months. In relation to each problem cited, licensees were to indicate and describe illustrative programs which were broadcast in response to those problems. See §73.3526(a)(9).

[109] In *Deregulation of Radio*, we required licensees to describe how they determined the issues to be ones facing their communities. In reviewing the adequacy of the commercial radio issues/programs list in the *Second Report and Order*, we concluded that this particular aspect of the obligation conflicted with our prior decision that the methodology utilized by licensees to become aware of the issues facing their community is not of concern to us. This is true as well in the instant proceeding. Consequently, we will not require television broadcasters to describe and explain the means by which they ascertain each issue to be one facing their community. The burden incident to such a requirement is not warranted, for it is programming and not the process of ascertaining community issues that is of interest to us.

[110] We are aware that the system of record keeping adopted herein will require the involvement of management-level personnel. While this may appear, in some respects, to be more burdensome than a rote logging requirement, the adoption of a quarterly issues/programs list will reduce the actual time devoted by licensees to record keeping by more than 1.9 million work hours.

petitioners to deny renewal of existing licenses. We also note, however, that petitions to deny have been and can be expected to continue to be documented by other means. For example, petitioners can begin consulting the published newspaper or magazine entertainment guides which give detailed lists of individual station offerings and often include brief summaries of program topics. In addition, petitioners to deny can provide their own documentation by monitoring the service of the station. Any need for such monitoring would of course impose some burden on petitioners, but it would only be that of supplementing, in a particular case, the documentation available in the issues/programs lists of the station in question and others in its market. When such supplemental documentation is needed and supplied, it should be a helpful indicator of any need for reassessment of our new regulatory scheme. However, if experience in the future indicates that the public interest would be served by easing the documentation burdens of petitioners to deny at the cost of imposing logging requirements on television licensees, we can revisit this issue.

4. Conclusion

79. In sum, we believe that a quarterly requirement, with no limitation on the number of issues addressed,[111] will ensure that availability of an information base sufficiently broad to prevent misjudgments due to a limited sample size or overly narrow selection by licensees in preparing an annual list. The quarterly, no limit issues/programs list is capable not only of providing data needed to evaluate a licensee's individual performance but can be utilized to monitor the effect of the action taken earlier in this document deregulating the commercial television broadcast service. We believe this approach is the best means of meeting our information needs while minimizing the recordkeeping burdens on licensees.

E. Long Form Audit

80. In our *Notice* we stated that in proposing to revise the regulatory scheme for television licensees it was also appropriate to reconsider the information needs of the Commission.[112] The burdens imposed by our present requirements may be viewed as overly burdensome. One such information requirement is the random long form renewal audit of commercial television licensees, eliminated for commercial radio stations but maintained for a random five percent of commercial television stations.[113] The long form audit was preserved in television to assure that the licensees would conform with current requirements and more significantly because no regulatory revision had occurred in television as it had in radio.

81. In the case of radio we determined that significant changes had occurred in the radio marketplace such that detailed regulation of non-entertainment programming, ascertainment, commercialization, and program logging requirements was no longer needed to preserve the generalized obligations of stations to operate in the public interest. Since these guidelines had been eliminated in the case of commercial radio, we determined that a long form audit would serve no purpose and would in fact dilute the intended effect and impact of the radio deregulation proceeding.[114]

82. In the present proceeding we have similarly reviewed our information requirements in commercial television. We have determined that the current and future video marketplace will provide sufficient incentives. Detailed regulation related to non-entertainment programming guidelines, ascertainment, commercial guidelines, and program logging are no longer required. A simplification of procedures in these areas still provides us with adequate information to make a determination whether a licensee is in violation of any statutory requirements. As in radio, we believe that absent regulations in these areas a long form audit will serve no useful purpose.[115] Therefore, the long form audit is hereafter eliminated for commercial television licensees.

83. The Commission will continue to conduct random FOB technical inspections and check the public inspection files of commercial television licensees for completeness. Elimination of the long form audit does not alter the substantive obligation of commercial television licensees to serve the public interest. While the short form renewal application carries with it a presumption of service in the public interest, the presumption is rebuttable by responses which indicate statutory or regulatory violations. Petitions to deny or complaints alleging violations could also serve to rebut a presumption carried by the short form renewal application.[116]

F. Administration of Deregulation

84. The policies enunciated herein, along with the relevant rule changes set forth in Appendix A, will become effective thirty days from the publication of this document in the **Federal Register**. After the effective date of these policies, application for new stations, as well as application for the assignment, transfer, renewal and/or modification of existing stations, will be modified by subsequent Commission action, in accordance with the provisions of this *Report and Order*, and all such applicants will be required to file only the information requested herein.

1. New Applications

85. Because the policies enunciated herein will affect the future operation of commercial television broadcast stations, we believe that they should also be applied to applications filed before the effective date of this *Report and Order* but still before the Commission for consideration.[117] Therefore, upon the effective date of this *Report and Order*, those portions of applications for new facilities which have been obviated by this action will be considered immaterial to the Commission's determination of that application. We will not physically return those portions of the applications, and it will not be necessary for applicants to file amendments to conform with the revised wording of the applicable form. For example, the ascertainment and programming portions of applications already on file should adequately respond to the revised questions. If additional information is needed, especially with

[111] Some community issues may be of such significance that they are repeated on subsequent issues/programs lists. Such a decision is left to the licensee's discretion and open to public and Commission scrutiny in their judgment on the broadcaster's good faith efforts to program to meet community issues. We also note that responsive programming may consist of numerous and diverse broadcasts in answer to any one issue.

[112] *Notice, supra* n.1 at 37248.

[113] *Radio Broadcast Services: Revision of Applications for Renewal of License of Commercial AM, FM, and Television Licensees*, 46 FR 26236 (May 11, 1981).

[114] *Id.* at 26241.

[115] Form 303–C also inquires into television network affiliation agreements. This information is duplicative. Reporting of these agreements is separately compelled by § 73.3613 of the Commission's rules. It is part of the ownership report (FCC Form 323 or 323–E) which still must be filed and is unaffected by this proceeding.

[116] With the elimination of Form 303–C, licensees will no longer be required to present a separate list of programs designated for children 12 years or under. Our action in this regard, however, in no way changes licensees' programming obligations with respect to children. It is part of the licensee's general public interest obligation to examine the program needs of children and to be ready to demonstrate its attention to those needs. *See In the Matter of Children's Programming and Advertising Practices*, 49 FR 1704 (January 13, 1984).

[117] These procedures cover application for new facilities, applications for modifications of existing facilities and the buyer's portions of applications for assignment or transfer of existing stations.

regard to proposed programming, the Commission's staff will contact the applicant. Thus, modifications of applications already on file will not be necessary.

86. We further believe that when these policies become effective they should apply to pending applications for new facilities that have been designated for hearing or are in any further stage of the hearing process. Therefore, if issues which are obviated by this action have been specified and/or tried, Administrative Law Judges and the Review Board are directed to resolve those issues in accordance with the policies enunciated herein. Thus, the issues should be deleted in either an interlocutory order or in the decision, as appropriate. In directing this course we wish to emphasize no intention to foreclose consideration of related issues not directly affected herein. Thus, issues concerning *alleged* misrepresentations relating to ascertainment will not be extinguished. However, there would be no need to resolve issues on the sufficiency of ascertainment based upon alleged failures to follow the steps detailed in the *Primer*.

2. Renewal Applications

87. The administration of these policies to renewal applications is complicated by the fact that such applications encompass both the licensee's past performance and proposals for the future. Certainly, the portions of renwal applications which relate to future proposals should be treated in the same manner as new applications. Accordingly, the procedures and directions set forth above will govern the consideration of the prospective portions of renewal applications.[118]

88. The retrospective portions of renewal applications and the seller's portion of assignment and transfer applications relate to conduct during the time when the licensee was expected to adhere to rules and policies which have been eliminated herein. It is not our intention to relieve licensees of those obligations after the fact. On the other hand, we do not believe it would be reasonable to continue to require licensees to file information on the diminishing portion of the past license term which was governed by the old policies. Accordingly, we will continue to require the filing of, and we will consider, the retrospective portions of renewal applications until the effective date of the *Report and Order*. Thereafter, licensees will file renewal applications in accordance with the reformed application to best set forth in further action by the Commission in accordance with the provisions of this *Report and Order*. Thus, although we will not require routine filing of materials related to past ascertainment, commercialization or programming performance, these issues could be raised in a petition to deny or on the Commission's own motion. This is the case because violations of a past regulation at the time when it was in effect may be relevant to a licensee's qualifications to retain its license, even if the subject regulation was modified or eliminated in this proceeding.

[118] This will also apply to the buyer's portion of assignment and transfer applications.

III. Conclusion

89. Our action today constitutes a significant step in the deregulation of commercial television. It is predicated on the recognition that marketplace dynamics, not our regulations, are the primary determinants of licensee performance with respect to programming, commercialization and ascertainment. In light of these conclusions, we have re-examined the current regulatory scheme and conclude that it imposes unnecessary burdens on both licensees and the public. We believe that the new regulatory approach adopted here, will provide licensees with the flexibility necessary to respond to the needs and demands of their communities.

90. We feel confident that existing and future marketplace forces will ensure the presentation of programming that addresses significant issues in the community. Moreover, the record keeping requirements adopted here will provide us with the information necessary to monitor the performance of our new regulatory scheme. In addition, there are other formal and informal procedures readily available to bring specific problems to our attention. Accordingly, we believe that the existing regulatory scheme is no longer necessary to assure operation in the public interest.

Regulatory Flexibility Analysis

I. Need for and Purpose of Rule

91. The Commission has concluded that the programming and commercialization guidelines and the ascertainment and logging requirements imposed on commercial television stations burden both the broadcasters and the Commission without any commensurate benefits. The proposed elimination of these various requirements will enable broadcasters to satisfy their fundamental obligations with greater alacrity. We have also concluded that existing and potential marketplace forces can satisfactorily govern these areas.

II. Summary of Issues Raised by Public Comment in Response to the Initial Regulatory Flexibility Analysis, Commission Assessment, and Changes Made as a Result

A. *Issues Raised.* 92. In regard to programming guidelines, many of those commenting questioned whether non-entertainment programming levels would remain high absent the existence of minimum guidelines. Similar issues were raised regarding commercialization and ascertainment. Absent guidelines would commercialization increase and would ascertainment continue absent the specific procedures called for in the *Primer?* In the area of logs, many commenters questioned whether adequate information would be provided to the Commission and the public, absent present logging requirements.

Assessment:

93. The Commission concludes that the arguments supporting the relaxation of programming and commercialization policies and ascertainment and program log requirements pertaining to commercial television stations are persuasive.

94. We conclude that current and future marketplace forces can govern these matters satisfactorily. Additionally, by eliminating these formalistic requirements commercial broadcasters may be able to provide more efficient service to their communities of license.

Changes made as a result of such comment:

95. Responding to comments, we now eliminate our guidelines relating to programming and commercialization, our formal ascertainment requirements, and relax our program log requirements.

Significant alternatives considered and rejected:

96. In addition to allowing commercial television stations to make their own decisions in the area of commercialization, programming and ascertainment, the *Notice* proposed modifications to the existing guidelines and requirements instead of elimination. The *Notice* also proposed to solely rely upon specific statutory requirements in determining whether licensees have met their public interest responsibilities. These alternatives were rejected because the Commission concluded that it was best to rely to an extent upon current and future marketplace forces to satisfy the public interest

responsibilities of commercial television broadcasters. The statutory option was further rejected because it compelled consideration of ancillary issues not necessary for our current purpose and requiring further comments.

97. Accordingly, it is ordered, That Parts 0 and 73 of the Commission's Rules and Regulations are amended, effective September 24, 1984, as set forth in Appendix A.

98. It is further ordered, That the *Ascertainment Primer* and the *Renewal Primer* shall no longer be applicable to commercial television broadcast applicants or licensees and that in their place the above stated policy regarding ascertainment of issues shall apply to such stations.

99. It is further ordered, That FCC Form 303–C is eliminated.

100. It is further ordered, That FCC Forms 301, 302, 314 and 315 will be amended by separate Commission action, in accordance with the provisions of this *Report and Order.*

101. It is further ordered, That the Secretary shall cause a copy of this *Report and Order* to be published in the FCC Reports.

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

103. Authority for the action taken herein is contained in Sections 4(i), 5(c), and 303(r) of the Communications Act of 1934, as amended.

104. For further information concerning this *Report and Order,* contact David L. Donovan, Marcia C. Alterman, Freda Lippert Thyden, Thomas S. Walsh, Mass Media Bureau, (202) 632–7792.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

1. 47 CFR 0.283 is amended by removing and reserving the following paragraphs: paragraphs (a)(6); (a)(7)(i)(B), (a)(7)(ii), (a)(7)(ii) (A) and (B), (a)(8), (a)(8), (i) and (ii) and by revising paragraph (a)(7)(i)(A) to read as follows:

§ 0.283 Authority delegated.

(a) * * *

(7) *Programming: Program content and ascertainment of community needs.*

(i) Applications for new stations or assignments and transfers.

(A) Commercial AM and FM proposals and commercial TV proposals of applicants for new stations and of assignees and transfers that have not submitted a narrative statement of their proposed programming.

* * * * *

2. 47 CFR 73.1225 is amended by revising paragraphs (d)(2) and (d)(2)(i) to read as follows:

§ 73.1225 Station inspections by FCC.

* * * * *

(d) * * *

(2) *For noncommercial educational AM, FM, and TV stations.*

(i) Program logs.

3. 47 CFR 73.1810 is amended by removing and reserving paragraphs (a), (b), (c) and (d) to read as follows:

§ 73.1810 Program logs.

(a)–(d) [Reserved]

* * * * *

4. 47 CFR 73.1820 is amended by revising paragraph (a)(1)(iii) to reads as follows:

§ 73.1820 Station log.

(a) * * *

(1) * * *

(iii) An entry of each test of the Emergency Broadcast System procedures pursuant to the requirement of Subpart G of this Part and the appropriate EBS checklist. All stations may keep EBS test data in a special EBS log which shall be maintained at any convenient location; however, such log should be considered a part of the station log.

* * * * *

5. 47 CFR 73.1850 is amended by revising paragraph (a) to read as follows:

§ 73.1850 Public inspection of program logs.

(a) The program logs of noncommercial AM, FM, and TV licensees shall be made available for public inspection and reproduction at a location convenient and accessible to the residents of the community to which the station is licensed. All such requests for inspection shall be subject to the procedural requirements in paragraph (b) of this section. Where good cause exists, the licensee may refuse to permit such inspection. (See paragraph 64, the Public and Broadcasting Manual). The licensee shall remain responsible for the safekeeping of the logs when permitting inspections.

§ 73.3500 [Amended]

6. 47 CFR 73.3500, Application and report forms, is amended by removing the entry for Form 303–C and its title, Renewal Application Audit Form for Commercial TV Broadcast Stations.

7. 47 CFR 73.3526 is amended by revising paragraphs (a), (a)(8) and (e), by adding a Note following paragraph (a)(8), by removing paragraphs (a)(9), (a)(10), (a)(11) and (a)(12) and by redesignating paragraphs (a)(13) and (a)(14) as (a)(9) and (a)(10) respectively, to read as follows:

§ 73.3526 Local public inspection file of commercial stations.

(a) *Records to be maintained.* Every applicant for a construction permit for a new station in the commercial broadcast services shall maintain for public inspection a file containing the material described in paragraph (a)(1) of this section. (Every permittee or licensee of an AM, FM or TV station in the commercial broadcast services shall maintain for public inspection a file containing the material described in paragraphs (a) (1), (2), (3), (4), (5), (6), and (7) of this section. In addition, every permittee or licensee of a TV station shall maintain for public inspection a file containing the material described in paragraphs (a) (8) and (9) of this section;) every permittee or licensee of an AM or FM station shall maintain for public inspection a file containing material described in paragraph (a)(10) of this section. The material to be contained in the file is as follows:

* * * * *

(8) For commercial TV broadcast stations every three months a list of at least 5 to 10 community issues addressed by the station's programming during the preceding 3 month period. The list is to be filed by the tenth day of each calendar quarter (e.g. July 10, October 10, January 10 and April 10) and should include a record of programming for the 3 preceding calendar months (e.g. the list filed by October 10 would be a record of programming from July 1 through September 30). The list shall include a brief narrative describing how each issue was treated. The description of the program should include, but is not limited to, the time, date and duration of each program, the title, and the type of programming in which the issue was treated, (e.g. public service announcements, a call-in program with a public official, etc.). These lists are to be retained for the entire license renewal period.

Note.— The first quarterly filing is to include at least the past three months of a station's programming performance. If the last annual issues/programs list was filed more than three months prior to October 1, 1984, the licensee must place in its public inspection file an issues/programs list encompassing the period of time between its last annual filing and October 1, 1984.

* * * * *

(e) *Period of retention.* The records specified in paragraph (a)(4) of this section shall be retained for periods specified in § 73.1940 (2 years). The

manual specified in paragraph (a)(6) of this section shall be retained indefinitely. The letters specified in paragraph (a)(7) of this section shall be retained for the period specified in § 73.1202 (3 years). The issues/programs list specified in subparagraphs (a)(8) and (10) of this section shall be retained for the term of license (5 and 7 years, respectively). The records specified in paragraphs (a)(1), (2), (3) and (5) of this section shall be retained as follows:

* * * * *

§ 73.4010 [Amended]

8. 47 CFR 73.4010, Advertising time—amount of, is removed in its entirety.

§ 73.4080 [Amended]

9. 47 CFR 73.4080, Commercials, program length, is removed in its entirety.

§ 73.4220 [Amended]

10. 47 CFR 73.4220 Promise versus performance: Commercial announcements, is removed in its entirety.

Appendix B—Summary of Comments

I. An Overview of the Comments

1. The *Notice* in this proceeding generated considerable response. The Commission received twenty-six formal comments,[1] eleven formal reply comments,[2] and numerous informal comments.[3] As discussed at greater length in the text below, commenters expressed preferences all along the regulatory continuum identified in our *Notice*. Generally speaking, industry commenters tended to favor deregulation while public interest groups supported retention of the existing structure. However, numerous other viewpoints were expressed and parties often recommended hybrid versions of the options proposed in the *Notice*, or supported deregulation in some areas while favoring continued regulatory intervention in others.

II. Programming Guidelines

A. Introduction

2. The *Notice* requested comment on two policy options to modify the non-entertainment programming guidelines. Under Option I, the non-entertainment guidelines would be deleted but the Commission would retain the obligation of licensees to address issues of concern in their communities. This programming obligation would parallel that adopted for commercial radio stations in the recent radio deregulation rule making. Under Option II, the Commission would retain current programming policies but amend the current delegations to allow broadcasters more programming flexibility.

3. Comments ranged from absolute support for Option I to complete rejection of any changes in the present regulations. Among those commenting in favor of Option I were ABC, ALF, CBS, PBD, MWK, NTIA, NAB, NBC, Tribune, PNS, and WRGB. Those filing comments generally against the proposals contained in the *Notice* were: ACT, COF, Eagle, Geller, UCC, TRAC, USCC, Pierce and PMC.

4. Several commenters took intermediate positions. For example, NTIA generally supported the elimination of programming guidelines except for those concerning local programming. DLA said that the proposed deregulation would be of minimal significance given the court's interpretation of our radio deregulation order in *Office of Communication of the United Church of Christ* v. *F.C.C.*, 707 F. 2d 1413 (D.C. Cir. 1983) *(hereinafter "U.C.C. v. F.C.C.")* Accordingly, DLA did not object to the existing guidelines provided the Commission reaffirmed the broad discretion of licensees to determine the manner of compliance. PNS generally supported deregulation, but sought a uniform and quantitative programming standard for renewal purposes. ABC and MWK, while generally supporting deregulation, also requested further proceedings to adopt an "optional programming standard" for purposes of license renewal.

5. No commenter specifically supported Option II as contained in the *Notice*. Parties supporting Option I generally took the position that Option II did not go far enough with respect to deregulating the industry. Alternatively, those opposing deregulation objected to Option II as merely reducing the efficacy of regulation that should instead be strengthened.

B. Marketplace Definition

6. The *Notice* requested specific comments on the relevant product and geographic markets. Many of the comments did not define explicitly the relevant product market. Most of these parties, however, implicitly defined such a market in discussing the amount of competition facing television. Parties finding a competitive market usually included new and emerging technologies such as cable, STV, MDS, LPTV and DBS in their analysis. Those parties finding a lack of competition generally considered only the television broadcast market.

7. Several parties adopted a broad definition of the relevant product market. CBS, for example, concluded that the Commission should include "all reasonably interchangeable entertainment/information products and services that strive for a fraction of consumers time." ABC basically adopted the Commission's definition of the marketplace but also included electronic publishing and the private operational fixed microwave service. Comments filed by Tribune and by PDB appear to have adopted the concept of a video marketplace which would include the new video technologies. NAB concluded that there is a "telecommunications marketplace" that consists of all electronic media including radio and the new technologies. NBC appears to have arrived at a similar conclusion by adopting a "media market approach."

8. Several parties urged a narrower definition of the relevant product

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[1] Formal comments in this proceeding were submitted by the following parties: Action for Children Television (ACT), American Association of Advertising Agencies (AAAA), American Broadcasting Companies, Inc. (ABC), American Legal Foundation (ALF), Channel 57 Corporation (CFC), Choosing Our Future (COF), Columbia Broadcasting System, Inc. (CBS), John W. Detar (Detar), Direct Marketing Association (DMA), Cosmos Broadcasting Corporation, Cox Communications, and Multimedia, Inc. (DLA), Eagel Forum (Eagle), Henry Geller and Donna Lampert (Geller), Long Island Coalition for Fair Broadcasting (LIC), Television Station Licensees (MWK), National Association of Broadcasters (NAB), National Broadcasting Co., Inc. (NBC), National Center for the Law and the Deaf and National Association of the Deaf (NCL), National Telecommunications and Information Administration (NTIA), Mark Pierce (Pierce), Evening News Association, Gannett Co., Inc. Gaylord Broadcasting Company, and Lee Enterprises, Incorporated (PBD), Post-Newsweek Stations, Inc. (PNS), Public Media Center (PMC), Telecommunications Research and Action Center, Black Citizens for Fair Media, Chinese for Affirmative Action, Committee for Community Access, National Association for the Advancement of Colored People, National Committee for Better Broadcasting, National Council of Laraza, and Citizens Communications Center (TRAC), Tribune Broadcasting Co. (Tribune), United Church of Christ (UCC), United States Catholic Conference (USCC), and WRBG, Inc. (WRBG).

[2] Formal reply comments in this proceeding were submitted by the following parties: ACT, ABC, Association of National Advertisers (ANA), COF, Detar, MWK, NAB, National Black Media Coalition (NBMC), NTIA, TRAC, and UCC.

[3] The Commission received almost 400 informal comments in response to the *Notice*. Those which were relevant to our proposed action were considered accordingly. However, a substantial majority of the informal comments objected to this proceeding in the belief that this docket was designed to eliminate the Fairness Doctrine and the "rules of decency." While we recognize that one of the options proposed in the *Notice* may tangentially affect existing Fairness obligations, it should be noted that elimination of the Fairness Doctrine is not the focus of this proceeding. The Commission has recently adopted a *Notice of Inquiry* to consider the Fairness Doctrine. We believe it more appropriate to consider the issues raised by these pleadings in the context of the *Notice of Inquiry*.

market. TRAC, for instance, defined the relevant market as the television broadcast market. In reaching this conclusion, TRAC found that the television market was unlike other services because: (1) Television programming is a "free" public good and not susceptible to substitution by other pay media, (2) television information is of a timely nature, (3) television broadcasting must be regulated in the public interest, and (4) television has no viable competition from the new technologies. Comments filed by the USCC, PMC, Geller and ACT also took the position that new video technologies were not viable substitutes for over-the-air broadcasting. Also, UCC said that the Commission's reliance on the *Report* prepared by The Office of Plans and Policy was not justified because the *Report* was not based on empirical measurement of any market. UCC suggested that the Commission stay the present proceedings in order to develop a proper marketplace measurement for video competition. TRAC, said that there are no data measuring the "cross elasticity between television and its substitutes."

C. Competitive Incentives

9. Almost all of the parties favoring elimination of the programming delegations found that the marketplace provided adequate incentives for the production of informational, local and non-entertainment programming. Most of these parties relied on the data supplied by the Commission in its *Notice*. NAB provided its own data which suggested that in 1983, the total amount of non-entertainment programming was almost three times that recommended by the Commission's guidelines. Specifically, NAB found that in 1983, commercial television stations devoted 17.3%, 8.9% and 29.2% of their programming time to informational, local and non-entertainment programming respectively. With the exception of local programming, this represents an overall increase in such programming over the last decade. NAB data also indicated that commercial television broadcasters exceeded the non-entertainment programming guidelines in all markets. Thus, parties favoring elimination of the delegations concluded that competitive forces, and not Commission regulations, are responsible for the current levels of non-entertainment programming.

10. Several industry commenters said that the television industry itself was sufficiently competitive to allow deregulation. For example, NAB noted that between 90 and 97 percent of television households receive four or more stations and at least 65 percent receive seven or more stations. ABC, citing the Commission's data from its "Financial Interest and Syndication" proceeding [4] noted that the network share of the television audience declined in 1982 from 90% to approximately 80%. In addition to finding competition in television broadcasting, these parties suggested that new technologies, including cable TV, STV, MDS, SMATV, LPTV, DBS, MMDS, video disc players and video recorders will provide over-the-air commercial television with significant competition in the future.

11. The position of these parties was summarized by NAB as follows:

> We do not contend that narrowcasting has completely taken hold in the over-the-air television market. But we concur with the Commission's conclusion that traditional television and the new players in the video marketplace have more than begun to compete for the same viewers. Under the pressure of heightened competition from a variety of sources, television licensees will be forced to take account of the diversity of their audience and the programming offered by other video delivery systems reaching their community.

12. Parties opposed to deregulation generally agreed that the existing television marketplace is not sufficiently competitive to support programming deregulation. Furthermore, they argued that many new and emerging technologies are not yet available in the marketplace, and their commercial viability is uncertain at best. TRAC warned that even if these new services achieve such viability, they will not be viewed by the public as substitutes for free television. Rather, TRAC argued, the new pay technologies will compete among themselves as a supplement, not an alternative, to commercial over-the-air television. Finally, PMC suggested that an economic marketplace is incapable of maintaining the marketplace of ideas necessary to the operation of a democratic society.

D. Alternative "Non-Market" Justifications for Elimination of Non-Entertainment Programming Delegations

13. The *Notice* propounded several non-market alternative justifications for deregulation. ABC and NTIA agreed that the Commission need not find a competitive market to justify the elimination of programming delegations.

14. Several alternative justifications were explored in the comments. Parties favoring deregulation argued that television should be regulated in the same manner as the new technologies. CBS noted that, unlike the new competing technologies, over-the-air television stations are subject to government-imposed program regulation. CBS contended that this will discourage investment and innovation in television broadcasting, and Tribune said it could restrict television from competing with the new technologies. These commenters and others argued that the law requires the Commission to provide a reason for such disparate treatment.

15. Parties opposed to deregulation generally supported the distinction between regulation of television and of new technologies. TRAC argued that because the new technologies are not yet commercially viable their relative lack of programming regulation did not place television at a competitive disadvantage. TRAC also found that the lack of regulation of new technologies is based on their "unique attributes" and the need for flexibility in their initial stages of development. Geller also observed that cable TV, television's most significant competitor, is burdened by public service requirements resulting from the franchising process which are more burdensome than the programming delegations at issue herein.

16. Parties supporting deregulation agreed that the benefits of the programming guidelines did not outweigh their costs. In particular, these commenters identified societal costs associated with the infringement on the editorial discretion of broadcasters. These parties also noted the monetary costs associated with verifying compliance with these standards.

17. Opponents of the proposal noted the societal benefits associated with non-entertainment programming. ACT, for example, discussed the societal benefits of children's educational programming. One commenter said that the television broadcasters benefit from the guidelines because they provide some renewal certainty by defining what constitutes minimally acceptable programming in the public interest.

18. Several parties argued that the program delegations amounted to substantive regulations of content, thereby exacting First Amendment costs. At least one party noted that given the efficiency of the marketplace, the public interest was being met by less intrusive means. Accordingly, they argued that First Amendment concerns justified elimination of the delegations. Alternatively, those opposing deregulation argued that elimination of

[4] *Tentative Decision and Request for Further Comments* in BC Docket No. 82-345, *(Amendment of Syndication and Financial Interest Rules)*. 48 FR 38020 (Aug. 22, 1983).

the guidelines would violate listeners' First Amendment rights to hear diverse sources of information.

19. Most of the parties supporting the elimination of the programming delegations found that deregulation would further the policies of the *Regulatory Flexibility Act* (Pub. L. 96–354, 5 U.S.C. 601 *et. seq.*) and the *Paperwork Reduction Act of 1980* (Pub. L. 96–51, 44 U.S.C. 3501 *et. seq.*) These commenters noted that elimination of the "unnecessary regulations" would provide greater flexibility to broadcasters to meet community needs and reduce paperwork burdens.

20. Opponents of deregulation argued that the regulations were necessary and therefore the elimination of the delegations would not further the goal of eliminating *unnecessary* regulations. TRAC argued that if broadcasters were already programming above the guidelines then the regulations were not too burdensome and broadcasters already had the flexibility to make appropriate editorial adjustments in their programming. UCC claimed that the goals of the Paperwork Reduction Act had already been met by the Commission.

E. Authority of the Commission To Eliminate Non-entertainment Programming Guidelines

21. Several commenters opposing deregulation argued that the Commission may not eliminate longstanding regulations unless it has taken a "hard look" at the material facts and issues involved. *U.C.C.* v. *F.C.C., supra* at 1425. These parties argued that no hard data demonstrate that elimination of the programming delegations is in the public interest. Moreover, they observed that the television market cannot be compared to the radio market, because the level of competition in radio far exceeds that in television.

22. Parties supporting deregulation argued that while the radio market is different, there are sufficient competitive incentives in the video marketplace to justify deregulation of television. In addition, they noted that the Commission has the authority to rely on future projections of industry performance in formulating policy. *F.C.C.* v. *WNCN Listeners Guild,* 450 U.S. 582, 594 (1981).

F. Specific Types of Programming

23. Commenters supporting the elimination of the programming delegations argued that there would be no decline in news and informational programming. They stressed that broadcasters are now providing more local news and informational programming due to increased competition. Parties opposing the elimination of the guidelines argued that news and informational programming will decline. These commenters said the guidelines, not the market, are primarily responsible for the current levels of news and informational programming.

24. Those parties supporting deregulation argued that there would be no decline in local programming. These parties noted that many of the new technologies are not local in nature. As a result, over-the-air broadcasters will shift to local programming, particularly in the area of news and informational programming, as a response to an increasing "nationally" oriented entertainment market.

25. Commenters opposing the elimination of these delegations said there has been a decline in local programming since 1973, and argued that the market will not ensure the production of sufficient amounts of local programming. For example, NTIA, which supports the elimination of the informational and non-entertainment guidelines, suggested retaining a local programming requirement. NTIA and Geller insisted that local programming is the foundation of the Commission's regulatory scheme.

26. Parties in favor of eliminating the programming delegations argued that programming to minority interests would not suffer any adverse consequences. NAB, for example, said that in typical markets with few television stations, licensees have a strong incentive to identify issues of concern to many different groups in order to attract broad audiences in their service area. CBS argued that all minority interests will be met and noted that the Commission did not dictate the content of broadcasters' non-entertainment programming under existing guidelines.

27. Commenters opposing the elimination of the guidelines argued that licensees will still attempt to maximize their audience at the expense of diverse interests. These commenters said that because there is no direct pricing mechanism in television, a licensee is unable to measure the intensity of viewer demand. As a result, no matter how intense the demand for minority programming, these interests will not be satisfied. ACT said there has been a complete market failure with respect to children's programming. TRAC argued that the problem is exacerbated by the fact that the new pay services, which would normally respond to intense demand, may be too expensive for middle and low income people. In sum, these commenters took the position that marketplace incentives merely respond to consumer preferences and not to the needs of the community.

G. Alternate Proposals

28. Several industry commenters addressed the relationship between the programming delegations and renewal standards. Most of these parties requested the adoption of a policy either in this proceeding or in a separate renewal proceeding which would reduce the "uncertainty" surrounding the Commission's approach to renewal. Many favored a policy that would allow broadcasters to adhere to program guidelines on a "voluntary" basis if doing so would provide certainty in the renewal context.

29. PNS and CBS argued that the Commission should abolish comparative renewal. Absent elimination of comparative renewal, PNS argued for the adoption of a uniform standard which would apply to comparative renewal proceedings and petitions to deny. Meeting the proposed standard would give the licensee a presumption of sufficient programming service, and if the standard was not met a licensee still would be allowed to demonstrate if and why it is entitled to license renewal. If the Commission failed to adopt such a standard, PNS suggested that the Commission combine all non-entertainment programming categories and not distinguish among news, public affairs, and local programming. ABC and MWK said that if a renewal standard is not adopted, licensees, sensing renewal uncertainty, would merely adhere to existing guidelines, thereby negating the intended effect of deregulation. They said that the Commission would eventually be forced to return to some form of quantitative standard, perhaps even resurrecting *ad hoc* evaluation.

30. Several opposing commenters took the position that the guidelines were an integral part of the comparative renewal process and said that elimination of clear guidelines would amount to an abdication of the Commission's public interest obligation. These parties argued that the failure to consider programming in renewal violates the public interest requirement of Section 309(h) of the Act.

31. The Commission's proposal to regulate according to the "statutory basics" of the Act failed to generate significant support. Broadcasters were generally concerned with the renewal uncertainty surrounding this proposal and suggested that the Commission conduct a separate proceeding on this issue that would *not* interfere with the

current proposal to eliminate programming delegations. Citizen groups generally opposed this statutory approach, arguing that the Commission construed its statutory obligations too narrowly. These parties pointed out that the Communications Act mandates a consideration of the public interest and that the Commission is required to award licenses only to those who best serve the needs of their communities.

32. Several alternate proposals were offered. NTIA suggested that the Commission should conduct a periodic review of deregulation of licensees in various markets. COF suggested the adoption of citizen's viewer forums to provide broadcasters with community input into their programming choices.

H. Reply Comments

33. Eleven parties filed reply comments in this proceeding. NAB, ABC, and MWK restated their initial positions supporting the elimination of the programming guidelines. TRAC, UCC, ACT, COF and NBMC continued to oppose elimination of the programming delegations.[5] NTIA continued to generally support elimination of the guidelines with the exception of a specific obligation to broadcast local programming.

34. Apart from the NAB filing, no new data were submitted relative to the proper product and geographic market. NAB submitted an additional study conducted by Glassman-Oliver Economic Consultants Inc., which concluded that the local market was the relevant product market. Parties opposing elimination of guidelines continued to limit the product market to over-the-air commercial television.

35. All parties reasserted their initial positions with respect to the existence of competitive incentives in the marketplace. NAB, however, submitted an additional study which examined the programming of 189 commercial and public television stations in 30 markets. The study concluded that the average commercial broadcast market aired 14.8 hours of informational 7.2 hours of local, and 32.5 hours of total non-entertainment programming per week. The study also found that cable television provided an additional 16.6 hours of informational and 30.5 hours of total non-entertainment programming.

36. Opponents of deregulation continued to argue that the television market was not sufficiently competitive to eliminate the guidelines. ACT and TRAC cited the NAB's own study for the proposition that public affairs programming would decline with the elimination of the guidelines.

37. Commenters supporting deregulation took the position that a fragmented market, similar to that found in radio, was not a condition precedent to deregulation. Opponents of deregulation argued that a competitive market was a necessary prerequisite for the elimination of the guidelines. Supporters of deregulation also noted that the delegations were not statutorily based and therefore not essential to the Commission's obligation to regulate in the public interest.

38. Opponents of deregulation also questioned the costs associated with the current delegations. They noted that NAB data included the costs of producing and broadcasting public affairs and informational programming. These parties argued that if this type of programming was a product of the marketplace, then it should not be considered a part of the regulatory costs. Accordingly, they concluded that once this item is taken out of the cost equation, regulatory costs become de minimus. These commenters also noted that those supporting deregulation underestimated the substantial societal benefits associated with the guidelines.

39. Opponents of deregulation argued that minority interests would suffer with deregulation. NBMC argued that there is a segment of society, the "information poor", that depends on free over-the-air television. In the absence of regulation, the needs of these individuals would not be met since they cannot afford the "pay" alternatives. Commenters supporting deregulation argued that the market would supply programming to meet the needs of these people. Moreover, they noted that television broadcasters would still be obligated to broadcast in the public interest.

III. Ascertainment

A. Introduction

40. In the area of ascertainment, the *Notice* solicited comments on whether the competitive nature of the video marketplace has made the current level of regulation unnecessary. The *Notice* proposed two options and invited comments related to the options, as well as alternative proposals. Option I called for the complete elimination of formal ascertainment obligations. Option II called for the retention of an ascertainment obligation but would allow licensees to use any reasonable method in making their determinations. Commenters were additionally invited to comment on the costs and benefits of complying with the current requirements and, if some procedure is retained, whether the licensee should be required to place its ascertainment efforts in a public file or submit them to the Commission.

41. Comments on the ascertainment proposals presented in the *Notice* ranged from support for its elimination to assertions that both the substantive and procedural ascertainment requirements be retained. Several commenters also presented alternate proposals. Many broadcasters supporting deregulation suggested creation of "voluntary" standards that could be relied upon in license renewal proceedings.

B. Arguments in Favor of Relaxation of Ascertainment Rules

42. Broadcasters presented strong support for elimination of the formal ascertainment requirement. Many such commenters said that ascertainment procedures have become an end in themselves, and contended their formalism and rigidity have had the opposite effect of that intended, actually obscuring the licensee's ability to be responsive to community issues. NAB, ABC and others, noted that broadcasters were able to respond to community needs for nearly forty years before any formal ascertainment procedures were adopted and there is no reason to believe that they would not continue to be responsive if such requirements were eliminated. Broadcasters also pointed out that formal ascertainment is not specifically required by the Communications Act, and thus can be eliminated by the Commission.

43. Many industry members contended that marketplace forces would provide an adequate substitute to ascertainment procedures and obligations. NAB submitted data developed by the NAB Research and Planning Department, to supplement data presented in the *Notice*, indicating that broadcasters present more informational, local, and non-entertainment programming than required by the Commission guidelines.

44. ABC, NAB, and NTIA cited these data as indicia of responsiveness to audience demand rather than to information gathered in ascertainment studies and thus concluded that this programming behavior is compelled by commercial necessity in a competitive marketplace. They also contended that the expanding video marketplace will continue to compel programming responsive to the community absent formal ascertainment. NAB stated that absent formal requirements, large stations will, out of necessity, continue

[5] NBMC did not file an initial comment in this proceeding.

to engage in informal ascertainment in order to familiarize themselves with the broad array of interests characteristic of their communities of license. According to NAB, the fact that fewer television stations serve a community means that television stations aim to attract broader audiences, necessitating a continuing effort to identify issues of concern to the many groups each licensee seeks to serve. NTIA reasoned that since size and type of audience are directly related to station revenue, broadcasters have significant financial incentives to determine the needs and interests of the community.

45. While all commenters favoring the elimination of formal ascertainment procedures found them unnecessarily burdensome, most suggested retaining the substance of the requirement. CBS, for example, asserted that the purpose behind the rule—licensee responsiveness to issues of concern to the assigned community—should remain an element in reviewing the public interest value of a station's service. CBS urged adoption of a minimum record keeping requirement in the form of an issues/programs list annually placed in the public file. CBS further suggested that such a list utilize broader issue-responsive programming categories that would potentially include news inserts and entertainment programming which adequately address community needs and concerns. CBS also suggested that a station should be allowed to consider the programming offered by other stations in its community and assess the particular composition of its audience in determining what programming is desirable. NBC urged that broadcasters be allowed to use any reasonable method in determining audience needs and interests and asserted that if challenged, the licensee should be allowed to show any and all measures it has taken to ascertain community needs.

46. NTIA agreed that the Commission should eliminate the current formal ascertainment requirement but suggested that ascertainment be made voluntary. Broadcasters who choose to ascertain would then be allowed to use that fact in comparative hearings. Broadcasters facing a programming challenge would be granted a presumption of adequate programming after presenting evidence of having completed formal ascertainment. The burden would then shift to the challenger who then would have to "make a showing based on product, not process."

47. Similarily, ABC and MWK expressed concern with the interplay of deregulation and comparative hearings. ABC asserted that deregulation should not be accomplished "without the concurrent development and adoption of a standard which, if voluntarily followed, would provide the licensee a basis for legitimate renewal expectancies." Without such guidance, ABC feared that renewal uncertainty would cause many licensees simply to adhere to existing requirements negating the purpose of deregulation.

48. While UCC generally questioned the rationality and timeliness of this proceeding, it supported the idea of retaining an ascertainment obligation but eliminating the specific procedures. UCC also urged that ascertainment documentation be kept on public file and be submitted to the Commission with license renewal applications.

C. Cost Data and Analysis

49. The cost of ascertainment relative to its benefit was cited as a major reason for the elimination of formal ascertainment procedures. For example, CBS reported that it recently spent over $10,000 in connection with the preparation by an outside research firm of the general public survey for the renewal of WCAU-TV, Philadelphia, in spite of the fact that the general survey studies had yielded no new information to the station for many years.

50. The NAB commissioned a study in which station personnel from twelve commercial television stations in three different market types (top 50 markets, 51–100 markets, and 101 plus markets) were questioned. The interviews, conducted by telephone, posed various questions regarding the costs and benefits of formal ascertainment. In the three market types surveyed, the annual ascertainment cost was approximately $9,000 in the top 50 markets, $2,400 in the 51–100 market, and $4,000 in the 101 plus markets. The projected annual cost for an average television station of meeting the ascertainment requirements in 1983 was estimated at $2,690. When asked about the likelihood of continuing some type of ascertainment if the formal requirements were eliminated, most stations said that some type of community outreach would occur because it was sound business practice and of value to the station's public image. However, four of the five top 50 market stations conceded that they would not do a general public survey.

51. Stations gave the following estimates of cost savings if the formalized ascertainment requirement was eliminated. The average station in the top 50 markets estimated it would spend 27% less money and 29% less time in ascertaining community needs; the average stations in the 51–100 markets estimated spending 25% less money and 18% less time; and the average station in the 101 plus markets estimated spending 29% less money and 23% less time. Seven stations indicated the reduction in costs and time would result from fewer leaders being surveyed; one station planned to eliminate ascertainment entirely; and two stations indicated the reductions would primarily result from the elimination of the need for legal counsel to review ascertainment materials.

52. Aside from actual dollar costs, the NAB study asserts that there are other costs related to ascertainment. Several stations indicated that the general regulatory burden and the fear of being penalized for failure to fulfill aspects of ascertainment are also costs of ascertainment. Stations also said that they would be better able to "customize" their own community outreach programs and thus reduce the costs if formal ascertainment requirements were eliminated. Although some stations conceded that ascertainment may heighten awareness of community problems and increase the public's access to the media, the NAB study concluded that the benefits are quite small since market forces would continue to assure that some form of ascertainment is perpetuated.

D. Arguments Opposing the Relaxation of Ascertainment Rules

53. A number of commenters opposed any reduction in current ascertainment requirements and procedures. The substance of this opposition stemmed primarily from the following contentions: 1) the marketplace is an inherently inappropriate substitute for regulation of the broadcast industry; 2) the television market is not sufficiently competitive to support deregulation at this time; and/or 3) the Commission's cost/benefit analysis of ascertainment undervalues the benefits of ascertainment. A few commenters questioned the propriety of a television deregulation proceeding at this time and suggested alternatives to the present ascertainment requirements.

54. Several commenters contended that the market does not necessarily respond to the public interest requirements of the Communications Act or the policies of the Commission. PMC and TRAC contended that in the past the Commission recognized the difference between community problems, needs, and interests and "program preferences" and that this distinction should not now be eliminated. Removal of regulations like ascertainment, they argued, moves

Commission policymaking away from the public interest and public trusteeship theories and toward a finding that licensees hold a vested property right in the license. PMC reiterated that the license is a public resource, and that affirmative public interest obligations and licensee accountability to the viewing public are required by the Act. Further, it said that entertaining a broad audience and serving the community are two distinct goals, and that the Commission has a clear role to insure that the latter goal is met by each licensee.

55. In addition, these commenters said that the Commission analysis of the television marketplace is insufficient to support a significant relaxation of the ascertainment requirement. Specifically, PMC argued that insufficient empirical data had been presented to permit the assumption that broadcasters would behave competitively under the marketplace approach. TRAC observed that the market reaction in television will likely be quite different from that in radio. In radio, TRAC asserted, there are many stations, discrete audiences and therefore less need for formal ascertainment. In contrast, TRAC contended, the market structure in television allows for fewer stations and a potentially "captive audience." This allows broadcasters to be successful in broadly addressing audience desires without specific familiarity with the problems, needs and interests of the community. TRAC thus concluded that is only through some positive effort, like ascertainment, that the licensee can fulfill its public interest obligations to its community of license. While supporting some modification in ascertainment procedures, UCC agreed that the television marketplace is generally not sufficiently mature to rely upon market forces.

56. Other commenters contended that reliance upon market forces in the past has not proven reliable. ACT said that the continuing market failure in the children's television market has proved that reliance upon self-regulation and market forces is not a viable alternative, at least for children's programming. Similarly, NCL alleged that the marketplace has failed to supply adequate service to the 16 million hearing-impaired Americans. They cited the continuing refusal of some licensees and one network to "close caption" as proof that market forces are not reliable. In addition, NCL noted that although the Commission has determined that the handicapped must take the initiative in present ascertainment procedures, this poses particular problems for the hearing-impaired because this public input is often accomplished by telephone surveys and call—in shows.

57. In assessing ascertainment on cost/benefit grounds, commenters opposing elimination contended that costs only exceed benefits when the benefits are undervalued. UCC said that significant benefits are acquired from the current procedures by the Commission in its statutory oversight function, by the broadcaster in indicating what sorts of procedures and programming will earn a renewal expectancy, and by the public in acquiring the means to measure and assess the broadcaster's service. TRAC asserted that while ascertainment has some costs it should simply be characterized as part of the cost of doing business using a public good.

E. Alternatives

58. Many commenters opposing the elimination of formal ascertainment suggested alternatives to the present procedures. TRAC suggested a return to reliance on the general policy as stated in the Commission's *1960 Policy Statement*, using the procedure in the *Primer* as an example of how to comply with that policy. TRAC said that retaining the *Primer* as a guide would stress the importance of discovering and responding to problems, and would allow the broadcasters the opportunity to fine tune the procedure. Eagle argued that adoption of either option in the *Notice* would absolve broadcast licensees of any responsibility to their communities. Instead of eliminating ascertainment, Eagle suggested that the requirement be made "more realistic and helpful to members of the community who are concerned about the media." COF proposed that broadcasters be required, on a rotating basis, to provide an hour of prime time per month for "citizen-viewer forums" where citizens could directly voice their program needs and interests to broadcasters.

F. Reply Comments

59. Several reply comments were received by the Commission. NAB again cited a market structure which received little benefit from formal ascertainment. In a further economic study commissioned by NAB, broad product cross-elasticity, significant competition within local geographic markets, and above guideline performance were seen as persuasive evidence that licensees have incentives to ascertain.

60. NTIA, ABC, and MWK renewed their support for the elimination of formal ascertainment requirements. So long as the public interest standard is retained, ABC and MWK contended that public interest programming would continue. ABC and MWK also supported the development of an optional definition of "operation in the public interest." ABC suggested that among the factors to be considered should be the amount of non-entertainment programming presented (a single category), and the quantification of "substantial service." ABC and MWK suggested the development of this standard should be dealt with in a separate proceeding. NTIA reiterated its support for the continuation of voluntary ascertainment and the use of such voluntary documentation at renewal.

61. Other commenters reiterated their opposition to any action. Responding to NAB, TRAC said that the cost of ascertainment hardly seemed burdensome and pointed out that figures from other parts of the station budget were not presented to demonstrate the relative cost of ascertainment. TRAC further alleged that NAB figures were developed by non-random telephone interviews which, by NAB's own admission, are unrepresentative of the commercial television population as a whole.

62. Both TRAC and NBMC pointed out the difficulty of making an accurate cost/benefit analysis where costs are easily quantifiable and benefits are difficult to value. NBMC said the Commission has ignored the needs of the information poor, those unable to afford pay services, by relying upon a broader program delivery marketplace to create the impetus to ascertain fully community needs. NBMC further said that television stations are responsible for serving widely diverse groups whose needs they cannot possibly ascertain without formal requirements.

63. UCC stated that it continued to believe there is no need for formal ascertainment procedures, but they also supported the alternative suggested by TRAC—to return to the original requirement of the *1960 Policy Statement* and retain the present rules as an optional guideline for broadcasters in meeting their ascertainment obligation.

IV. Commercial Guideline

A. Introduction

64. In the area of commercial practices, the *Notice* solicited comments on whether the increasingly competitive nature of the television marketplace has made the present level of regulation unnecessary. Commenters were asked specifically to consider both the product market (*i.e.* substitutable alternatives)

and the spacial or geographic market. The *Notice* proposed two options, invited comments on action anywhere along the regulatory continuum the options defined, and invited alternative proposals. The proposed options were: I) the elimination of all rules and policies restricting the amount of commercial time and reliance on marketplace forces to regulate levels of commercialization; and II) the amendment of the commercial time restrictions to give broadcasters more discretion and encourage experimentation but retention of some oversight authority.

65. Comments submitted expressed preferences all along the regulatory continuum defined by the *Notice*. The determining factor in each case was usually dependent upon how the commenter defined the relevant market and associated assumptions on the level of competition within that market.

B. Comments Supporting Elimination of the Guideline

66. The elimination of all consideration of commercialization and reliance on regulation through the operation of the marketplace, Option I in the *Notice*, received the unanimous approval of broadcasters submitting comments in this rule making and the endorsement of a majority of commenters overall. Parties supporting the adoption of Option I tended toward a broad definition of the video marketplace, including commercial broadcast television, cable television, STV, MDS and video cassette recorders and disc players. Many commenters felt the fledgling LPTV, DBS and MMDS services should be included in the competitive matrix as well. CBS and ALF encouraged an even broader definition of the relevant market to include all entertainment and information alternatives on the theory that broadcast television competes against every alternative form of leisure activity available to a potential viewer. Commenters supporting the adoption of Option I claimed that competition in the video marketplace would effectively control the level of commercialization and prevent abuses. NTIA suggested that competition need only function as well as government regulation to be preferred while CBS claimed that any alleged benefit of the guideline was illusory absent a finding of harm from specific levels of commercialization. Tribune stated that the "right" level of commercialization should be determined by the video marketplace and not the Commission, and that different stations could serve the public interest and the needs of a specific audience at different levels of commercialization.

67. In addition to marketplace factors, several commenters also suggested that the commercial guideline and policies should be eliminated because they violate the First Amendment protection of commercial speech and force the Commission to become over-involved in the regulation of program content.

68. CBS, NTIA, and AAAA raised the possible effects of increased commercial "clutter" in response to elimination of the processing guideline. CBS and NTIA asserted that marketplace forces would protect the public while AAAA suggested the need for monitoring by the Commission to insure that excessive clutter would not adversely affect the public interest.

69. Several commenters supported the idea that Option I would give broadcasters increased flexibility to experiment with new or unconventional advertising formats. NAB suggested that broadcasters' current inability to present innovative and detailed commercials has placed them at a significant disadvantage to competing video services.

70. Finally, a few comments warned that the commercial guidelines and policies are anticompetitive. Specifically, CBS claimed that they potentially depress available commercial time below advertiser demand thus driving up its cost and ultimately resulting in increased consumer prices and the inability of smaller business concerns to afford the purchase of broadcast time.

71. Several commenters specifically noted that the elimination of the guideline should include elimination of the Commission's ban of program length commercials.[6] Some suggested that the ability to more fully inform consumers is in the public interest, whether or not the information is technically an advertisement. The comments filed by DLA suggested that program length commercials might help minority-owned stations to obtain a secure revenue base. Some commenters noted that to avoid confusion, the *Order* should specifically address this issue.

C. Comments Supporting Retention of the Guideline

72. The prevalent theme of those commenters supporting retention of the commercial guideline, either in its present form [7] or with some modification,[8] was that the market is not as competitive as the *Notice* suggests. Many of these parties asserted that the relevant market should be narrowly defined as commercial broadcast television. They observed that new services such as DBS, LPTV and MMDS are not yet viable and may never be a significant factor in the video marketplace. For example, TRAC questioned whether any of the alternative modes of program delivery would ever compete with the networks, and said it is more likely that new media would compete among themselves "for the right to provide the consumer with discretionary viewing services beyond traditional network programming."

73. The idea that cable television should be included in the definition of the relevant market was advanced by several commenters. However, these parties warned that cable would not reduce network dominance sufficiently to make the market workably competitive. In addition to the concentration of ownership in cable, they emphasized that increasing the number of outlets would not necessarily similarly increase the number of voices.

74. Many commenters, endorsing continued regulation, said that the relevant video market, unlike radio, was not sufficiently competitive to operate in the public interest without Commission regulation of commercialization. The study analyzing commercial behavior by licensees, reported in the *Notice*, drew criticism from these parties because it covered a period when the NAB Code was still in effect. ACT also alleged that the use of statistical averages concealed commercial abuses among a significant minority of licensees. PMC contended that if, as the study suggested, most licensees now operate below the 16 minute commercial guideline, then the guideline posed little regulatory burden. ACT agreed, noting the absence of any evidence that compliance with the guideline was attributable to the effect of market forces rather than to the standard.

75. Parties opposing elimination of the commercialization guideline argued that market forces cannot assure that the public interest will be served. TRAC suggested that because of the role of advertising in commercial television there is no direct relationship between the buyer and seller, *i.e.* the viewer and licensee, and thus there is no effective demand mechanism for public interest programming. The guideline, they said, provides a ceiling so licensees won't waste a valuable public resource by engaging in over-commercialization. ACT stressed that the public interest generally focuses on programming and

[6] ABC, Detar, DMA, DLA, MWK and NBC.
[7] Eagle UCC, ACT, and Pierce.
[8] TRAC, UCC, USCC and PMC.

that eliminating the guideline would allow licensees to increase commercials at the expense of programmed time. Several commenters agreed that fostering increases in commercialization would subordinate the public welfare to the financial gain of licensees, particularly in the absence of any showing of a positive correlation between commercial time and public service.

76. Commenters opposing elimination of the commercial guideline predicted increased commercialization on all broadcast television stations. They charged that present abuses occurring with the guideline in effect, particularly in the area of program length commercials directed at children, would be greatly magnified without it.

77. Thus, those commenters favoring retention of some form of commercial guideline, concluded that commercial regulation facilities the Commission's public interest determination without violating the licensee's First Amendment rights. They asserted that the market is not sufficiently competitive to regulate itself, and that complete broadcaster control of commercialization is not otherwise warranted, thus Option I of the *Notice* should be rejected.

78. In addition to the above-noted comments, ACT urged special consideration of the issues unique to children's programming. It said that complete market failure in that area mandates special treatment of commercialization. Specifically, ACT charged that the "change-the-dial" theory of viewer control cannot be applied to children who often don't understand the "selling" purpose of advertisements. Furthermore, ACT charged that Option I, by its failure to differentiate children from adults with reference to its treatment of commercialization, is inconsistent with the fiduciary's duty of care owed to children and therefore violative of the public trust. ACT recommended a reduction in the level of commercialization directed at children, and further regulation of whatever commercialization is permitted. They also urged reaffirmation of the prohibition against program length commercials for children.

D. Alternate Proposals

79. Several commenters proposed additional alternatives or partial variations to the proposals considered in the *Notice*. TRAC suggested retention of the 16 minute commercial ceiling as a daily average but proposed allowing 25% of programming to include up to 20 minutes of commercials as long as that 25% was not during children's or public service programming. NTIA suggested requiring a party filing a petition to deny or a competing applicant to bear the burden of proof that a renewal applicant's commercial time record is inconsistent with the public interest. PNS emphasized the need for quantitative renewal standards to create a legitimate renewal expectancy. Finally, UCC argued that since the role of the Commission is to assist Congress, the Commission should simply refrain from any action herein until Congress has concluded its legislative revisions in broadcasting.

E. Reply Comments

80. Reply comments submitted in this proceeding reflected the same consensus as the comments discussed above. Most parties simply reiterated their earlier stated position on commercial practices. NBMC, which did not submit an earlier pleading, endorsed the elimination of commercial time standards. NBMC suggested that the guidelines prevent the broadcast of programming which might benefit minorities, such as job-a-thons, because they are considered to be program length commercials. They noted, however, that the market definition should not include pay video as a substitute for free television and should not equate television and radio because unlike radio, no commercial television stations are primarily programmed to serve black audiences and none of the eight Black-owned television stations is in a Top 50 market.

81. In addition to NBMC, NAB also endorsed Detar's request for the explicit elimination of the Commission's ban on program length advertisements while NTIA suggested that such action should be considered in a separate proceeding.

82. Several parties addressed the concerns of AAAA. UCC agreed as to the danger posed by excessive clutter and the need it created for a monitoring mechanism, while MWK argued that clutter is not a legitimate concern of the Commission. TRAC noted its agreement with AAAA that market forces could not prevent excessive commercialization and chastised broadcasters for seeking a scheme which would include regulation by marketplace plus a guaranteed renewal expectancy. Finally, ACT claimed that the Commission needed to obtain reliable data on whether the public wants limits on commercials before it could properly regulate in this area.

V. Program Logs

A. Introduction

83. On the program log issue, the Commission noted that the program record keeping requirements adopted here would relate directly to substantive changes adopted in this docket. The *Notice* solicited comments on the specific program record keeping requirements adopted in the radio deregulation *Report and Order* and considered in the *Further Notice* in that docket and the propriety of applying those to television licensees.[9] Alternatively, commenters were asked to address whether a revised program logging rule, by itself, would satisfactorily meet the Commission's information collection needs. Commenters were asked to assess the Commission's information needs in light of the various substantive proposals in the *Notice*, taking fully into account the cost of imposing specific requirements. In this regard, commenters were asked to tailor their recommendations to assure the retrieval of only truly needed information in order to minimize the burden imposed on licensees.

84. Commenters fell into roughly two broad categories of interests and approaches. The first group included a large number of industry members who advocated a streamlined approach to reporting and emphasized the need to give licensees the greatest possible flexibility in determining the reporting format.[10] The second, somewhat smaller, group consisted of public interest groups and other organizations that generally supported a status quo approach and emphasized the public's interest in monitoring station activity through data produced by the current logging requirements.[11]

B. Comments Supporting a Streamlined Reporting Requirement

85. All of the commenting broadcasters, and NAB, NTIA, and ALF agreed on two preliminary issues: (1) That the current logging requirements are too burdensome to justify the small benefits derived, and (2) that television

[9] The radio deregulation proceeding required a yearly issues/programs list to be on public file. However, *U.C.C.* v. *F.C.C.* supra, remanded the case to the Commission on the logging issue and instructed the Commission to reassess its information needs. Thus, the Commission issued a *Further Notice of Proposed Rulemaking ("Further Notice")*, BC Docket No. 79-219, adopted June 29, 1983, to reconsider this matter.

[10] For example: NAB, PNC, Tribune, ABC, CBS, NBC, PBD, WRGB, CFC, NTIA, DLA, and ALF.

[11] For example: AAAA, CCC, UCC, ACT, Geller, USCC, Eagle, and LIC.

and radio should have the same reporting requirements.

86. NAB's comment included a study, the Wirth Report, which found that the logs are primarily a tool for tracking commercial spots and, thus, the most important benefit from current logging practices accrues to the stations themselves. The Wirth Report also found that there is an "overwhelming disinterest" by the public in the logs and cited the Commission's own minimal use of the data. Broadcasters said that the high level of competition in the television market makes any regulatory distinction between radio and television inappropriate for reporting requirements. Those in favor of a streamlined approach also advocated greater licensee flexibility in reporting and most advanced the proposition that the Commission accept information from readily available sources such as *TV Guide*, newspaper listings and slow speed video tapes.

87. Broadcasters addressing the two-tier logging proposal in the *Further Notice* generally disagreed with the proposition that such detailed reporting is required by *U.C.C.* v. *F.C.C. supra*. The *Further Notice* outlined a system requiring a yearly exemplary issues/programs list with at least 5–10 issues which would be supplemented by a quarterly list of all issue-responsive programming aired including the time, date, length, and the issue addressed in each program. ABC, NBC, CBS and other commenters argued that this approach goes too far and that less burdensome alternatives would satisfy the Court of Appeals. ABC said:

> While it may be necessary to develop a slightly more detailed record of issue-oriented programming than the annual issues/programs list, the court's order plainly does not require an effective reinstitution of daily logging. If the court was critical of the Commission's sole reliance on the issues/programs list it was only because that list is limited to highlighting 5–10 issues per year. The court did not disapprove of the concept, only the relatively limited nature of the existing requirement.

88. Broadcasters also argued that the detailed quarterly report and the annual exemplary log considered in the *Further Notice* would constitute a duplicative exercise, a "regulatory overkill." WRGB maintained that the status quo would be preferable to this alternative. The television networks said that the running tabulation of a quarterly issues/programs log would be particularly burdensome to those stations that devote large blocks of time to news and information features because they would have to identify each issue covered during long programs such as "Good Morning America" and the "Today Show."

89. Most of the commenting broadcasters suggested that the Commission adopt a slightly expanded version of the issues/programs list originally considered in the radio deregulation docket. They suggested that this be issued annually or, at most, semi-annually. PBD and DLA proposed a record of all issue-oriented programming, giving the time, date, duration and issue addressed with no requirement to log commercials. DLA said that this would actually increase the amount of program information available to the Commission and the public since the current requirements do not call for any program content information. ALF urged the Commission to require licenses to include in their public files only information showing that they have identified and addressed issues of concern in their communities, leaving the licensee free to determine the format best suited to their individual needs. NAB agreed with the two-tier record keeping approach of the *Further Notice* but suggested that the report be required semi-annually instead of quarterly. It agreed that licensees should have maximum flexibility in recording this information to minimize regulatory costs and to enable licensees to tailor the method to suit their own business purposes. NTIA, consistent with their proposal to require local programming, would require a record of such programming.

C. Comments Supporting Continued Logging Requirements

90. The "public interest" category of commenters unanimously agreed that logging requirements play a critical role in the public's ability to participate in the licensing process and that the contemplated two-tier "streamlined" logging requirements would be inadequate for such purposes. Most said that the burden of logging on licensees is minimal because broadcasters would maintain logs for their own purposes, regardless of the Commission's requirements. These commenters weighed this minimal licensee burden of maintaining the logs against their public interest value in monitoring station performance and concluded that logging should be maintained.

91. Many of these commenters, including Geller, ACT, UCC, and USCC, analyzed the question using a public trustee theory of regulation and thus found that the logs are necessary for the public to measure the performance of licensees. They argued that the logging requirements are statutorily grounded because individual station accountability is required to meet the public interest standards in the Act, including especially Sections 307 and 309 governing license renewals. Several of these commenters said that the Commission justified the short form renewal decision by relying on public participation to inform the Commission of public interest violations, and that without logging there is no way for the public to do so effectively. Similarly, PMC asserted that logging is critical in light of the heavy reliance on the petition to deny process in identifying licensees not fulfilling their public interest obligation. It also said that the lack of comprehensive programming information would be even more important if ascertainment guidelines are eliminated because the cumulative effect of adopting both proposals would be to place a station's performance beyond public reach. UCC said that it is impossible to analyze the logging issue until the programming requirements are determined, therefore logging should be considered in a subsequent proceeding.

92. Other commenters had additional reasons to maintain the logs. AAAA, representing the interest of advertisers, said that the logging rules should be maintained to provide "proof of performance" and to supply the Commission with reliable data for making policy judgments. ACT said that the Commission should require an annual chart that would report the amount and target age of programming designed for children. Geller argued in favor of logging all critical public interest programming in categories that would reduce the burden on the public of analyzing the current "raw logs."

D. Reply Comments

93. In reply, proponents of television deregulation once again argued that the current program logging requirements are unnecessary as well as overly burdensome and should be reduced. They contended that a limited record keeping procedure tied to community issue programming is all that is needed and favored on issues/programs list. A few commenters submitted, however, that some form of logging should be maintained so that the Commission can determine if a station is using its license in the public interest. In this regard, NTIA commented favorably on NBC's suggestion that a "slow tape" be considered an acceptable program record whereas NAB stated that an illustrated complement of issue-responsive programming should supplement the issues/programs list. In response to the allegation made by some commenters that the FCC program

logging rules provide a wealth of information concerning a station's responsiveness to the community, NAB argued that these regulations actually require nothing concerning program content.

94. NAB, as well as other commenting parties, particularly opposed UCC's suggestion that a new program record keeping requirement not be considered until after the completion of the Commission's determination as to what program requirements will be placed upon television broadcast licensees. NAB contended, as did NTIA, that any program record keeping requirement should be relevant to a television station's programming responsibility. They submitted, however, that a two-step approach was not necessary to accomplish these related goals and that UCC's suggestion of a separate proceeding to resolve this matter was impractical. NTIA commented that the alteration of the logging requirements would flow directly from changes made in the guidelines and logically should be implemented at the same time the pertinent regulations are changed.

95. There was also concurrence with NTIA's recommendation that program record keeping requirements be made as simple as possible. NAB commented favorably on NTIA's suggestion that a station be allowed to furnish, as documentation of public interest performance, a listing of program clippings from a local newspaper program guide, as long as the station were to verify the accuracy of such listings. It was thought that supplemental program records of broadcast licensees should be able to include newspaper and *"TV Guide*-type" listings.

96. Those opposing the deregulation of television commented, in respect to the program log issue, that the courts have repeatedly recognized the underlying obligation of broadcasters to address community needs in programming. Therefore, they asserted, the Commission must continue to collect information necessary to further this statutory requirement. They also argued that the FCC must retain sufficient program log requirements to protect the public's right to participate in broadcast licensing and to allow the Commission to evaluate the effect of its regulatory revisions on the television industry. ANA found it to be inconsistent to award the exclusive use of a frequency to a television broadcaster on the condition that the public interest standard be observed without at the same time requiring that the broadcaster maintain, for public inspection, reasonable and reliable evidence of what the broadcaster actually aired. NBMC argued that because the monitoring of station imposes costs which are extraordinarily high, the NBMC argued logging in some form is essential. Indeed, it submitted, the petition to deny process would be meaningless without logs. NBMC contended that if the public is to be relied upon to initiate all complaints resulting in heightened scrutiny by the Commission of licensee performance, it must at least be provided with the basic information required for making the reasoned analysis of compliance with the statute and the Commission's rules. A related problem, NBMC noted, could arise in the case of a challenged station which would be unable to defend itself against a challenge because it maintained no records. Such a licensee could, NBMC argued, justifiably accuse the Commission of allowing it to feel that keeping records was unnecessary since none had been required.

97. NBMC concluded that a log containing information on programs and announcements which are non-entertainment in nature, with their dates, times, durations and issues discussed, would be sufficient if it also included information on the spokespersons appearing in the programs. Without this information, it was asserted, it would be impossible to determine whether a station had excluded Blacks and other minorities from discussion of public issues. Commenters suggested that this information should be retained for at least two license terms in the public file, segregated from information on commercials and entertainment programming so as to facilitate non-burdensome access by the public.

98. As to whether a log is burdensome to broadcasters, NBMC responded in the negative. It submitted that this information is already regularly maintained by program producers so there is no additional burden to broadcasters. Furthermore, TRAC argued that NAB's study indicated that an average station in a Top-50 market would reduce its logging expense by only .06 percent if current logging requirements were eliminated. TRAC indicated it was at a loss to understand how elimination of a regulation which broadcasters would allegedly continue to follow could result in a meaningful cost savings. However, TRAC alleged that unless logging requirements are maintained, licensees will not maintain logs for sufficient time to allow public or Commission monitoring of overall performance over a license term. ACT supported TRAC's contentions and argued that trivial savings would result from eliminating logging rules.

99. ACT submitted that our present logging requirements should be retained to further the statutory goal of standardization of paperwork. It argued that program logs are maintained, in large part, for public use and the public use of any informational system is plainly facilitated by standardization of paperwork. Also, ACT disputed NAB's conclusion that the public is benefitted by the Commission's logging requirements in only a small way, noting that NAB's conclusion is not based on any data from members of the public or from regular public users of program logs.

100. UCC reiterated its belief that the logging component of this proceeding should follow any final action regarding non-entertainment programs, commercial guidelines and ascertainment rules. Only then, it argued, would commenters and the Commission be able to assess this issue, taking into account the record-keeping requirements relative to the Commission's changes.

Appendix C—Analysis of Video Marketplace

1. During the past decade there has been tremendous growth in the video marketplace. Rapid development has occurred not only in over-the-air television, but also in cable television and new video technologies.[1] Currently, approximately 90 percent of all television households receive four or more television signals [2] and 65 percent of television households receive seven or more signals.[3] This is a dramatic increase in signal availability since 1964 when only 26 percent of television households received seven or more signals and only 78 percent received four or more signals.[4] When the

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[1] *See* Stern, Krasnow and Senkowski, "The New Video Marketplace and The Search for a Coherent Regulatory Philosophy," 32 *Cath. U. L. Rev.* 529 (Spring 1983) (for a thorough discussion of the emerging video marketplace.)

[2] *F.C.C. Staff Report on Cable TV Cross Ownership Policies*, November 17, 1981, pp. 62–64. Tables 1 and 2 report this figure as 90.26 and 89.75 depending on assumptions, Table 3 states 90 percent receive 3 or more television stations, again using different assumptions.

[3] *Notice of Proposed Rule Making* in MM Docket No. 83–670 (Revision of Programming and Commercialization Policies, Ascertainment Requirements and Program Log Requirements for Commercial Television Stations) 48 FR 37239, 37243 (August 17, 1983) (hereinafter "*Notice*").

[4] *Id.*

contribution of cable television is considered, the average household now receives approximately 9.8 signals, an increase of 44 percent since 1970.[5] The following discussion is intended to provide a brief outline of both the current video marketplace and our expectations as to future development. We shall analyze the market by focusing on the three major participants in the current video marketplace (1) over-the-air television, (2) cable television and (3) the new video technologies.

(a) Over-the-Air-Television

2. Over-the-air television broadcasting, both commercial and non-commercial, has continued to expand since the adoption of the guidelines in 1973. There are currently 178 more commercial television stations than in 1973, representing an increase of 25 percent from 700 to 878 as of March 31, 1984.[6] Equally significant has been the overall expansion of non-commercial television stations. The number of non-commercial television stations increased from 229 in 1973 to 285 as of March 31, 1984.[7]

3. Of particular significance has been the growth of independent television stations which have increased from only 90 stations in 1970 to 179 in 1983.[8] The most rapid expansion has been in the number of UHF independents from 59 stations in 1970 to 154 stations in 1983.[9] Independent stations are currently located in 86 different television markets accounting for 78 percent of all television households.[10]

4. The growth in over-the-air television is expected to continue, as there is additional room for expansion in the industry. There are currently 39 vacant commercial VHF channels and 90 vacant UHF channels.[11] Eleven of the commercial VHF vacancies and seventeen of the commercial UHF vacancies are in the top 50 markets.[12] At least one estimate has stated that the number of television households will reach 97 million by 1990.[13]

5. The rise of independent television stations, coupled with an increase in the absolute number of television stations, offers a more competitive environment than existed at the time we adopted our delegations. Network dominance has been seriously challenged. In 1982, the network's share of the audience fell from 90 percent to 80 percent.[14] During this time period, independent television stations captured a 17 percent share of the audience.[15] In addition, the networks currently account for only 54 percent of the total video product purchased for television.[16]

6. Consideration must also be given to the rapid rise of non-commercial television. A majority of the nation's families now watch public television with a weekly audience of 43 million families in 1983.[17] The percentage of families viewing public television is 69 percent higher than it was five years ago.[18] At least one estimate has placed non-commercial television's potential growth at approximately 10 percent of the overall audience share.[19]

(b) Cable Television

7. In addition to the net increase in competing television stations, over-the-air commercial television broadcasters must take into account the rapid growth in the cable television industry. In 1952 there were only 70 operating cable systems with an estimated 14 thousand subscribers. In 1973, the year we adopted the delegations, there were 2,991 operating systems with an estimated 7.3 million total subscribers.[20] Recent Arbitron data places cable penetration at 39 percent or slightly more than 32.5 million homes while Neilson's most recent estimate places penetration at 40.5 percent or approximately 34.1 million homes.[21] At least one estimate has placed subscribership at approximately 29 million homes.[22] Future projections of growth in the cable industry estimate that penetration will reach 60 percent by 1990 with basic subscribership at approximately 58 million.[23]

8. Some commenters have argued that subscription rates rather than cable penetration rates should be the proper measure of the growth of cable television. Such a distinction ignores the most important aspect of the industry's development. Cable is already affecting the programming menu of over-the-air television to the extent that broadcasters are already altering their programming to prevent erosion of their audience.[24] It has been estimated that all other factors being equal, cable growth alone could reduce the total network dominance from 78 percent of the audience to 72 percent by 1990.[25] Moreover, cable television has become a significant component in the further distribution of non-commercial public television.[26] It appears therefore, that over-the-air commercial television will continue to face significant competition from the cable television industry. The substitutability of cable television for over-the-air television will not only increase the number of viewing options, but it will also affect the type of programming that appears in over-the-air advertiser supported commercial television.[27]

(c) Alternative Video Technologies

9. While cable currently provides the most significant competitive spur to over-the-air television, new and developing technologies such as STV, MDS, SMATV, LPTV, DBS and Multi-Channel MDS will play a significant role in the programming decisions of commercial television broadcasters in the future. The following table provides a reasonable estimate of the contribution of these technologies in the near future.

AVAILABILITY OF VIDEO OPTIONS[26]

[In millions]

	1970	1975	1983	1990 estimates
Broadcast TV (TV HHs)	59	70	83	97
Cable TV (subscribers)	5	10	28	58
Pay Cable (subscribers)		0.5	23	45
STV (subscribers)			1.4	5
MDS (subscribers)			0.5	3.2
SMATV (subscribers)			0.15	0.5–0.8
LPTV (TV HHs)				10
DBS (subscribers)				11

[5] *Tentative Decision and Request for Further Comments* in BC Docket No. 82-345 (Amendment of Syndication and Financial Interest Rules), 48 FR 38020 (August 22, 1983) (hereinafter "*Tentative Decision*").

[6] *See Notice* at 37251 (1973 data); 1984 data taken from "Broadcast Station Totals for March 1984", F.C.C. *News Release* April 18, 1984. There are currently 344 commercial UHF stations and 534 commercial VHR stations.

[7] *Id.* 1984 data include 112 VHF and 173 UHF non-commercial stations.

[8] *See, Tentative Decision*, at 38025, citing *Television Factbook*, Services Volume 50, 1981-82, pp. 75-a, 83-a; *Cablevision*, April 11, 1983, p. 69.

[9] *Id.*

[10] *Id.*

[11] *Television Channel Utilization*, FCC Release No. 2266 (February 8, 1984).

[12] *Id.*

[13] *See* Tentative Decision at 38037.

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] FCC Report, *Temporary Commission on Alternative Financing for Public Telecommunications*, Appendix V, October 1983.

[18] *Id.*

[19] *Broadcasting*, February 20, 1984, p. 66.

[20] *Notice*, at 37252, App. A Table 3.

[21] *Broadcasting*, March 5, 1984, p. 11.

[22] *Cablevision*, December 5, 1983, p. 134.

[23] *Tentative Decision*, at 38036.

[24] *Broadcasting*, March 5, 1984, pp. 56-57.

[25] *Broadcasting*, December 12, 1983, p. 35.

[26] Report, *Temporary Commission on Alternative Financing for Public Telecommunications*, Appendix V, October 1983.

[27] *See*, Levy and Pitsch *Statistical Evidence of Substitutability Among Video Delivery Systems*, April 1984, p. 30. The study, while focusing on the substitutability of VCR's, television and cable television, concludes that over-the-air television and pay cable systems are substitutes.

AVAILABILITY OF VIDEO OPTIONS [28]—Continued

(In millions)

	1970	1975	1983	1990 estimates
Multichannel MDS (subscribers)				6-12

[28] *Tentative Decision* at 38037

As the above data demonstrate, these alternate video technologies, excluding cable, will account for approximately between 25.7 million to 42 million subscribers by 1990. Therefore, these technologies will comprise anywhere between 11.38 percent to 17.35 percent of the viewing audience.

10. These new technologies are already asserting themselves in the marketplace. For example, there are currently 272 low power television stations (LPTV) in operation.[29] Moreover, the Commission has received more than ten thousand applications for these stations. Thus far approximately 356 applicants have been licensed or granted construction permits. When fully developed this service could add an additional 4000 new television stations.[30] Because of their inexpensive nature, we expect these stations to develop in areas that have heretofore been unserved.

11. Another new technology beginning to emerge into the marketplace is Direct Broadcast Satellite service. This service has already commenced operation in some areas of the country. It is estimated that there are currently 500,000 backyard earth stations and that number is increasing at a rate of 30,000 per month.[31]

12. In addition, Multipoint Distribution Service (MDS) is making significant inroads into the video marketplace. There are currently approximately 530,000 subscribers to this system and it could potentially reach a subscriber base of over 15 million.[32] As of June 1983, there were approximatley 103 MDS systems in operation.[33]

13. We believe that these technologies will provide a competitive spur to existing video markets that are primarily composed of television and cable television services.[34] It is of course difficult to predict with any degree of certainty the precise market structure of the future video marketplace. We believe however, that the additional competition provided by the new technologies, as well as continued growth in both traditional over-the-air and cable television, will ensure the continued presentation of programming that responds to community needs.

[29] Broadcast Station Total for March 1984. *FCC News Release No. 3690*, April 18, 1984.

[30] *Notice* at 37245.

[31] *Broadcasting*, February 20, 1984, p. 67. *See also, Direct Broadcast Satellite Television Corporation*, 91 F.C.C. 2d 953 (1982); and *CBS, Inc. et al.*, 92 F.C.C. 2d 64 (1982).

[32] Paul Kagan Associates, Inc., *Census of MDS TV* (June 30, 1983) (August 24, 1983).

[33] *Id.*

[34] In addition to these technologies, video cassette recorders are making significant inroads into the marketplace. There are approximately 10 million VCR's now in the market. This figure is expected to triple by 1988. *See Broadcasting*, February 6, 1984, pp. 12, 38.

An Empirical Study of the Determinants of News and Public Affairs and Local Programming Choices of Commercial Television Broadcasters

May 1984.

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I. Introduction

1. For nearly four decades, the programming choices of commercial television broadcasters have been the object of concern for the Federal Communications Commission. In a 1946 internal Commission document, *Report on Public Service Responsibility of Broadcast Licensees*, public interest and local interest programming were identified as primary responsibilities of television broadcasters. However, no quantitative standards were established at that time. In 1961, the Commission adopted formal processing guidelines for license applications which included quantitative standards on such programming as commercial, local live, network, and public affairs. These delegations, as they were termed, were codified and published in *Delegations of Authority*, 43 FCC 2d 638 (1973), and in *Delegations of Authority*, 59 FCC 2d 491 (1976).[1] In the latter, two new categories were added to the extant delegations:

In addition to the nonentertainment programming standard, the guidelines provide that applications proposing less than 5% local programming and less than 5% informational programming will be referred to the full Commission. The local guideline was added in recognition of the importance of every broadcast facility's function as a locally oriented transmission service. The informational guideline was meant to reaffirm the special contribution to an informed public opinion made by news and public affairs broadcasts * * *. Unaffiliated UHF stations are exempt from the programming guidelines.[2]

While arguments were presented supporting the importance of both News and Public Affairs [NPA] and local programming, no reasons were cited as to why the Commission would expect broadcast markets to (in at least some instances) provide insufficient programming of these types.[3]

2. Since both Local and NPA programming are presumably of positive value to the viewer, a broadcaster would rationally provide both in order to maximize viewership. The need for Commission intervention in these regards must therefore rest implicitly, if not explicitly, on some presumption of market failure. A number of such market failures are possible. For example, the average viewer's valuation of these programming types might be less than that of society's, perhaps due to viewer tastes or ignorance. (We note, however, that such efforts to encourage additional provision of these fares could be easily thwarted by viewer censorship.) Alternatively, market power may exist to varying degrees across local markets, however, it has not been established that the exercise of such power would necessarily result in *less* public interest programming. None of these examples of market failure have been shown to be relevant in this industry. It is perhaps for this reason, *i.e.*, no apparent market failure, that elimination of the guidelines is presently being considered by the Commission. While the case for doing so may appear otherwise sound, it is still important to consider the analytical aspects of the issue so as to permit the Commission to make a more informed and justifiable decision.

3. Accordingly, this study was undertaken for the purpose of better understanding and thereby accurately

[1] For a full historical account of these Commission actions as well as the appropriate citations see *Notice of Proposed Rule Making* in MM Docket 83-670, 48 FR 37239 (August 17, 1983), at 37240-37242, (hereafter, *"Notice"*).

[2] *Id.*, at 37240.

[3] In fact, the Commission found that for 1973 data, the newly established guidelines were being met by 93% of all VHF affiliates, 83% of all VHF independents, and 78% of all UHF affiliates. (*Id.*, at 37240).

predicting the public interest programming choices made by commercial TV broadcasters under various conditions. This is accomplished by first formulating a theoretical model of the typical broadcaster's programming decision-making, and then using that as a basis for empirically determining the relative importance of various factors, including the Commission's programming guidelines. Several alternative estimations are performed using 1980 data on 594 broadcast stations, of which 44 are UHF-independent stations. It is the latter subset of guideline-exempt stations which permits the empirical determinations that: (1) the 5% guideline on local programming has a small (but statistically significant) positive impact on the provision of such fare, and (2) the 5% NPA guideline is statistically insignificant in its influence on the provision of news and public affairs programming. Furthermore, the research allows one to predict that the complete elimination of the guidelines will create virtually no danger that either of these programming quantities will fall below the current 5% standard.

4. The remainder of this paper is organized as follows: Section II will provide background information on the commercial television broadcasting industry, as well as develop a theoretical framework which is descriptive of the typical broadcaster's decision-making process with regard to public interest programming. In Section III, a general regression equation will be formulated for both Local and NPA programming, as functions of several independent variables which are descriptive of the firm or its market. The remainder of that section will present and contrast the results of several alternative specifications of the regression equation, as well as discuss the robustness and confidence that can be attached to these results. Finally, in Section IV, the policy implications of the previous section are evaluated with regard to the guidelines, economies of scale, and the role of competition.

II. Background

A. Industry Structure and Performance

5. The commercial television broadcast industry is one which has been characterized by substantial growth in the last three decades. In 1955, there were 439 commercial stations, 294 VHF and 117 UHF.[4] As of April 1984, there were 537 VHF, 347 UHF and 884 total broadcast licenses (excluding 272 low power outlets), according to Commission reports. For the 1980 sample employed in this paper, there are 434 VHF and 160 UHF outlets. Out of the total of 594 stations, only 65 are independents while 44 are UHF-independents.

6. With regard to public interest programming, the national averages of Local and NPA programming for all 663 commercial stations in 1979 were 10.1% and 13.9%. These values are well above the Commission's 5% guideline for each.[5] For the 1980 data sample used in this paper, the corresponding Local and NPA figures were 9.5% and 15.3%, which differ from the 1979 figures (cited above) primarily due to the omission of 29 specialty (e.g., religious) stations from the sampling. Indeed, there is relatively little volatility in these national averages in the 1973–1979 period, with local programming varying between 9.9% and 10.6% and NPA varying 13.0% to 14.5%.[6]

7. Upon disaggregating these stations into sub-categories, one sees patterns which are of particular interest. With regard to Local programming, network affiliates generally provide less than independent stations, while on average, VHF's provide more than UHF's. This pattern is changed somewhat for NPA programming, where network affiliates provide more than independents, although VHF's provide more than UHF's.

8. With regard to compliance of stations with the programming guidelines, Table I presents 1980 frequency data by type of stations according to percent of broadcast time devoted to public interest programming. Since this was a composite-week sampling (*i.e.*, one Monday, Tuesday, *etc.* taken randomly during the year), the variances of the frequency distributions can be expected to be higher than for comparable distributions of *annual* averages, hence, it probably depicts an exaggeration of the incidence of guideline violations. Such violations occurred in 6.5% of all stations for Local Programming and in less than 1% for NPA. Of the 97 stations which were UHF independents (and hence exempt) at least 30% were below the 5% guideline in each category. Note that all station types were above guidelines on average, though the margin of excess (over the 5%) varied from a low of 1.9% for UHF network stations providing Local programming to a high of 11.8% for VHF network stations providing NPA.

TABLE I—1980 FREQUENCY DISTRIBUTION OF LOCAL AND NPA PROGRAMMING BY TYPE OF STATION[1]

Percent of broadcast time	Local programming (type of station)				News and public affairs (Type of station)			
	VHF Net	VHF Ind	UHF Net	UHF Ind	VHF Net	VHF Ind	UHF Net	UHF Ind
0 to 5	5.3	6.5	16.0	30.9	0.2	6.5	1.6	33.0
5 to 10	53.1	32.3	74.4	30.9	1.4	54.8	2.4	41.2
10 to 15	30.2	25.8	8.0	14.4	28.3	32.3	56.8	14.4
15 to 20	9.5	12.9	1.6	8.2	54.8	6.5	37.6	8.2
20 to 25	1.6	6.5	0	4.1	14.4	0	1.6	0
>25	0.2	16.1	0	11.3	0.9	0	0	3.1
Mean[2]	10.2	15.3	6.9	12.8	16.8	8.8	14.4	8.1
Number of violations[3]	23	2	20	(30)	1	2	2	(32)
Total stations	431	31	125	97	431	31	125	97

[1] Source: Programming data supplied by broadcast licensees on FCC Form 303-A for 1980.
[2] These calculations were performed on an incomplete sampling of the data used in the remainder of the table (*i.e.*, 570 out of 684 observations) due to a random computer omission.
[3] UHF independent stations cannot technically violate the guideline since they are exempt.

B. Broadcasters' Programming Decision-making

9. Like any other firm, a broadcaster seeks to maximize its present and future profits. Any decision variable, such as entertainment programming, quality of picture or sound, locally-oriented programming, or NPA, will be chosen so as to maximize profits (by equating the marginal return to the marginal cost of the last unit). Presumably, each of the above variables will boost viewership and hence, advertising revenues, but of course will do so only at a cost. In addition, public interest programming such as local and NPA directly affects the probability of winning license renewal, and so is likely to receive an added emphasis in the broadcaster's decision-making.

10. Theoretically, a broadcaster can be assumed to face a simple (undiscounted) time stream of profits:

$$[R_0(x,y)-C_0(x,y)] + u_1(y)[R_1(x,y)-C_1(x,y)] + \ldots + u_n(y)[R_n(x,y)-C_n(x,y)]$$

[4] *See Notice* at 37251.

[5] *Id.* at 37252.

[6] *Id.* at 37254.

where the R_i represents advertising revenue in the i^{th} period and C_i represents the associated level of total cost, where both R_i and C_i are functions of the decision variables, x and y. While x is comparable to such decisions as the mix of entertainment programming, the holding of promotional contests, and the quality of the video or aural signal, y can represent such attributes as the quantities of local, NPA, and childrens' programming which not only would affect profit but would contribute to u_i, the probability of gaining renewal for the i^{th} period. Simplifying the above profit stream expression to

$$\pi = \pi_0 + u_1\pi_1 + \ldots + u_n\pi_n$$

and performing a maximization with respect to x and y, one obtains first-order conditions

$$\frac{\delta\pi}{\delta x} = \frac{\delta\pi_0}{\delta x} + u_1\frac{\delta\pi_1}{\delta x} + \ldots + u_n\frac{\delta\pi_n}{\delta x} = 0$$

$$\frac{\delta\pi}{\delta y} = \frac{\delta\pi_0}{\delta y} + u_1\frac{\delta\pi_1}{\delta y} + \ldots + u_n\frac{\delta\pi_n}{\delta y} + \pi_1\frac{\delta u_1}{\delta y} + \ldots + \pi_n\frac{\delta u_n}{\delta y} = 0.$$

Solving these equations simultaneously yields the profit-maximizing levels of both x and y. It can be easily verified using the traditional second-order conditions for this maximization and the assumption that y contributes positively to renewal probability (*i.e.*,

$$\frac{\delta u}{\delta y} > 0),$$

that while the broadcaster will rationally choose x so that the marginal revenue equals marginal cost on the last unit, the regulated attribute y will be chosen such that the marginal cost of the last unit is greater than the marginal revenue. Not surprisingly, the regulation effectively brings about a provision of y above that which would otherwise maximize profit.

11. In extending this abstract theory to a model to be empirically estimated, one needs first to identify all "exogeneous" firm, market and regulatory factors which contribute to revenue, cost or the renewal probability. (These factors or variables are exogeneous and not endogeneous in the sense that they are not determined by the broadcaster as were x and y in the above example.) Examples of appropriate firm and market variables which are exogeneous are UHF/VHF status and size of the local market, respectively. Upon determining those exogeneous variables which seem relevant (and for which reliable data exists), individual regressions are then performed on each of the endogeneous variables under study, in this case, the amounts of local and NPA programming. The results can then be utilized to not only ascertain which factors are in fact influential in the broadcaster's programming decisions, but also to predict the broadcaster's response to an altered regulatory environment.

III. The Empirical Study

A. The Model and the Data

12. One of the first tasks in performing an empirical study such as this is to identify those exogeneous variables which can be expected to be influential in the determination of the endogeneous variables of interest. The absence (or unreliability) of data for some variables can then impose restrictions on the number of variables employed and the number of observations, thereby potentially reducing the significance of the results.

13. In general, the amounts of local programming (LOCPROG) and News and Public Affairs (NEWSPUBA) provided by a given station are hypothesized to be functions of the following variables:

MKTNWC=largest net weekly circulation in the market of the station (in 1000's of TV households)
NLOCSTN=number of stations in the local market
NCOMPSTN=number of competing stations (local plus distant signals)
UHFDUM=dummy variable (VHF=0; UHF=1)
INDDUM=dummy variable (network affiliate=0; independent=1)
GUIDEDUM=UHFDUM * INDDUM=dummy variable (UHF independent=1; otherwise=0)
STNREV—station revenue (in $1000).

The dependent variables, LOCPROG and NEWSPUBA, are measured in terms of percent of total broadcast time (6AM to midnight) for each of the 594 stations in this cross-section sampling. The exact definitions of these programming categories are found on the FCC reporting form (#303–A) from which the two data sets were obtained. Specifically, each category is described as follows:

A Local Program is any program originated or produced by the station, or for the production of which the station is primarily responsible, employing live talent more than 50% of the time. Such a program, taped, recorded or filmed for later broadcast shall be classified as local. A local program fed to a network shall be classified by the originating station as local. All non-network and non-syndicated news programs may be classified as local. Programs primarily featuring syndicated or feature films, or other non-locally recorded programs shall not be classified as local, even though a station personality appears in connection with such material. However, identifiable units of such programs which are live and separately logged as such may be classified as local (e.g., if during the course of a feature film program a non-network 2-minute news report is given and logged as a news program, the report may be classified as local).

News includes reports dealing with current local, national and international events, including weather and stock market reports, and commentary, analysis, or sports news when they are an integral part of a news program.

Public Affairs Programs are programs dealing with local, state, regional, national or international issues or problems, including, but not limited to, talks, commentaries, discussions, speeches, editorials, political programs, documentaries, mini-documentaries, panels, roundtables and vignettes, and extended coverage (whether live or recorded) or public events or proceedings, such as local council meetings, congressional hearings and the like.[7]

The 594 observations were drawn from the 48 continental states (plus Anchorage, AK), and excluded subscription stations, satellite stations, and stations which were on-air only part of the year or for which financial reports were delinquent. The delineation of the "local market" for each observation (station) conformed for the most part with the Arbitron classification of television markets.[8]

14. The independent variable, MKTNWC, is included as an explanatory variable of the regression as a proxy for size of market in terms of potential viewing population. Several rationales for this inclusion can be cited, including simple casual empiricism that more of this programming seems to occur in larger markets. Alternatively, it can be hypothesized that there are more opportunities (if not interest as well) for

[7] *See* FCC *1980 Annual Programming Report*, Form #303–A, October 1980.

[8] *See* Arbitron's *1980–81 Television Markets and Rankings Guide*.

local entertainment, local news, and local public affairs programming in large as opposed to small broadcasting markets. The actual measure for market size chosen was the largest net weekly circulation figure of all stations in the local market; this is effectively the total number of television households which view the most popular station for at least 5 minutes in a given week.

15. The next two variables, the number of local stations (NLOCSTN) and the number of competing stations (NCOMPSTN), are alternative measures of commercial television competition where the latter differs from the former by the number of distant signals which are significantly viewed. In particular, a station was counted as a competing station if its net weekly circulation in the observation station's home county constituted 50% or more of all television households of that county.[9]

16. Dummy variables are used to distinguish UHF from VHF stations (with UHFDUM) and to distinguish network affiliated stations from independents (with INDDUM). In addition, a third dummy, GUIDEDUM, is introduced to distinguish independent UHF stations from those stations which are subject to public interest programming guidelines. It is this latter variable which allows determinations of the efficacy of these regulations.

17. Finally, the variable, station revenue (STNREV), serves as a proxy for scale of public interest programming activity, or, alternatively, for size of the broadcasting firm. The inclusion of this proxy is justified *a priori* because of the expectations (1) that unit costs of producing such material would decline with the quantity produced and broadcasted, or (2) that such programming (to be of good quality) would require large fixed costs which are best afforded by larger stations.[10]

B. Version I

18. The primary specification (Version I) of the regression equations for both LOCPROG and NEWSPUBA has the general form:[11]

$$a + b * \ln(MKTNWC) + c * NLOCSTN + d * NCOMPSTN + e * UHFDUM + f * INDDUM + g * GUIDEDUM + h * \ln(STNREV) + u.$$

Upon performing an ordinary least squares estimation, the following result is obtained for local programming:

LOCPROG = −7.61 +0.716 * ln(MKTNWC) (2.25)
−0.0317 * NLOCSTN (0.19)
+0.342 * NCOMPSTN (2.45)
−1.23 * UHFDUM (3.13)
−0.346 * INDDUM (0.42)
−2.03 * GUIDEDUM (2.08)
+1.445 * ln(STNREV) (4.99)

[R^2=0.40; F=58.2; mean=9.52; S.E.=3.33]

Note that t-statistics are reported in parentheses beneath their respective coefficients. The t-statistics for the NLOCSTN and INDDUM coefficients suggest that the two are not statistically different from zero. Reestimating the equation without NLOCSTN, but retaining INDDUM[12] yields:

LOCPROG = −7.49 +0.693 * ln(MKTNWC) (2.35)
+0.325 * NCOMPSTN (3.04)
−1.23 * UHFDUM (3.15)
−0.367 * INDDUM (0.45)
−2.02 * GUIDEDUM (2.07)
+1.44 * ln(STNREV) (5.00)

[R^2=0.40; F=68.0; mean=9.52; S.E.=3.33]

Note that all coefficients are of the expected sign and (except for INDDUM), are significantly different from zero at a 2.5% level.

19. Repeating the same procedure for news and public affairs, one obtains

NEWSPUBA = +5.77 −0.160 * ln(MKTNWC) (0.70)
+0.0450 * NLOCSTN (0.38)
+0.215 * NCOMPSTN (2.15)
−0.877 * UHFDUM (3.11)
−9.92 * INDDUM (16.96)
−0.248 * GUIDEDUM (0.35)
+1.27 * ln(STNREV) (6.14)

[R^2=0.67; F=176.3; mean=15.26; S.E.=2.39]

One cannot reject the hypothesis that the coefficients of ln(MKTNWC), NLOCSTN and GUIDEDUM are (each) equal to zero at even a 10% level of significance.

20. Upon re-estimating the above equation without these variables, one obtains:

NEWSPUBA = +5.75 +0.233 * NCOMPSTN (3.15)
−0.960 * UHFDUM (3.72)
10.14 * INDDUM (27.97)
+1.18 * ln(STNREV) (9.86)

[R^2=0.68; F=309.5; mean=15.26; S.E.=2.38]

Note that while the independent dummy and the UHF dummy variables are respectively the most and the third most significant explanatory variables, the guidelines dummy (which is the interaction of these two) proves to be not statistically significant in the estimation. Hence, the guidelines, while exerting some influence on local programming, have virtually no discernible impact on news and public affairs.

C. Version II

21. The use of station revenue proxy for scale in order to account for economies of scale may potentially introduce an econometric methodological error. While STNREV is being treated as an exogeneous variable in the determination of LOCPROG and NEWSPUBA, it is in fact endogeneously determined to varying extents by all of

[9] For data source of NLOCSTN, see Arbitron's *1980–81 Television Markets and Rankings' Guide*. In addition, for data source of NCOMPSTN, see Arbitron's *1980 County Coverage Report*, (except Georgia observations which used 1979 report).

[10] Admittedly, a potential econometric problem arises in utilizing this proxy as an exogeneous variable, as is discussed and analyzed more extensively below in the presentations of Versions II and III of the estimation.

[11] The natural logs of MKTNWC and STNREV were used due to the *a priori* expectation that the marginal influence of each variable would decline with the magnitude of each. This was given support upon regressing the alternative specifications (with and without logs) and comparing the results.

[12] The omission of INDDUM changes the magnitude of the GUIDEDUM coefficient by an amount (approximately 0.32) comparable to the INDDUM coefficient. Since GUIDEDUM is the interaction of UHFDUM and INDDUM and since GUIDEDUM and INDDUM are highly correlated, this is not surprising. For these reasons, INDDUM is not omitted in this re-estimation.

the other varibles in the two regression equations.[13]

22. One solution to this problem is to simply delete the variable STNREV from the regression. Doing so for local programming yields:

LOCPROG = −2.17 +1.86 * ln(MKTNWC) (8.32)
+0.0374 * NLOCSTN (0.22)
+0.359 * NCOMPSTN (2.52)
−2.05 * UHFDUM (5.62)
−0.651 * INDDUM (0.78)
−2.63 * GUIDEDUM (2.66)

[R^2=0.38; F=61.2; mean=9.52; S.E. 3.40]

Upon eliminating NLOCSTN, none of the coefficients reported above change appreciably, although the t-statistics on NCOMPSTN and ln (MKTNWC) both increase in magnitude by about one third. In either regression form, the GUIDEDUM coefficient is now significant at a .005% level.

23. Estimating news and public affairs without STNREV yields:

NEWSPUBA = +10.56 +0.851 * ln (MKTNWC) (5.25)
+0.106 * NLOCSTN (0.86)
+0.230 * NCOMPSTN (2.23)
−1.60 * UHFDUM (6.05)
−10.18 * INDDUM (16.95)
−0.778 * GUIDEDUM (1.09)

[R^2=0.65; F=187.6; mean=15.26; S.E.=2.46]

Upon eliminating NLOCSTN from the estimation, the coefficient of GUIDEDUM becomes −0.829 with a standard error of 0.71. This implies that the coefficient is significantly different from zero only at a level of 12.5%.

24. Therefore, in estimating Version II of the regression specification, one finds that the Commission guidelines are indicated to be somewhat more effective in both local and NPA programming relative to the results obtained in the Version I estimation.

D. Version III

25. The solution to the simultaneity problem of Version I which was incorporated into the latest version could potentially contribute to yet another econometric problem, that of an omitted variable. For example, if scale were a significant variable in these estimations, its omission could bias the coefficient of any exogeneous variable with which it is correlated.[14] Accordingly, an alternative approach to overcoming the potential simultaneity problem of Version I will be described here. This involves: (1) regressing ln (STNREV) on all exogeneous variables, (2) calculating predicted values of ln (STNREV) for each observation, (3) defining and calculating a new variable, INSLREV, to be the difference of the actual and predicted ln (STNREV), and (4) employing INSLREV as a proxy for "scale" in the LOCPROG and NEWSPUBA regressions. This approach reduces the simultaneity problem as well as any multicollinearity among the explanatory variables, since INSLREV is by construction uncorrelated with these other variables.

26. The estimation of local programming employing the proxy variable, INSLREV, results in:

LOCPROG = +0.642 +1.22 * ln (MKTNWC) (4.23)
+0.339 * NLOCSTN (1.80)
+0.322 * NCOMPSTN (2.28)
−2.16 * UHFDUM (5.96)
−0.579 * INDDUM (0.70)
−2.47 * GUIDEDUM (2.52)
+0.956 * INSLREV (3.46)

[R^2=0.39; F=55.2; mean=9.52; S.E.=3.37]

Both the coefficients and the associated econometric statistics in this version are for the most part intermediate between those obtained in the two previous versions.

27. The estimation of NPA using Version III's specification yields:

NEWSPUBA = +13.29 +0.229 * ln (MKTNWC) (1.10)
+0.339 * NLOCSTN (2.94)
+0.194 * NCOMPSTN (1.91)
−1.71 * UHFDUM (6.55)
−10.11 * INDDUM (17.12)
−0.624 * GUIDEDUM (0.89)
+0.928 * INSLREV (4.68)

[R^2=0.67; F=169.7; mean=15.26; S.E.=2.42]

Once again the results obtained in this version appear to be for the most part intermediate between those of the previous two versions.

E. Robustness of Results

28. From the above estimations, it would appear that the potential simultaneity problem of Version I and the potential "omitted variable" problem of Version II do not appear in retrospect to deserve much concern. Predictions and policy implications based on these three versions can be expected to be roughly comparable. Furthermore, even upon expanding the data set to include 29 specialty stations (e.g., religious), the results were not appreciably different. Upon revising the local programming regression of Version I to exclude NLOCSTN but include a new dummy variable for these specialty stations, the new coefficient on GUIDEDUM was −2.24 with a t-value of 1.76. This compares with the −2.02 coefficient and 2.07 t-statistic obtained originally with the smaller data set.

IV. Policy Implications of Empirical Study

A. The Efficacy of Commission Guidelines

29. All of the regressions, when taken together, suggest that the guidelines: (1) Contribute about 2 percentage points to the average (non-exempt) station's level of 9.8% local programming, and (2) have little if any significant impact on the level of news and public affairs programming aired. The elimination of the guidelines (for the approximately) 90% of industry broadcasters who are

[13] For the purpose of investigating the efficacy of the guidelines, this issue may not be a serious problem, since upon regresssing STNREV on all other variables, the coefficient of GUIDEDUM was not found to be statistically different from zero. This indication is borne out by the results of the Version II and III estimations.

[14] See Kmenta, J., *Elements of Econometrics*, (New York: the MacMillan Co., 1971), pg. 393.

currently non-exempt can be predicted to result in industry averages (including specialty stations) of about 7.5–8% Local programming and 15% News and Public Affairs. Both of these are appreciably above the 5% levels specified by the guidelines.

B. Scale Economies

30. A formal econometric test for scale economies is not possible without production or cost data which were not available. However, to the extent that station revenue is a reliable proxy for scale, the regressions are supportive of the expectation that such economies exist and are significant for these types of programming.

31. Assuming that such economies do indeed exist, the Commission's programming guidelines impose costs on small and/or entering non-exempt broadcasters which are disproportionately high relative to the stations' larger (or exempt) rivals. Accordingly, the elimination of the guidelines could potentially result in more stations on-air, and would certainly allow small (non-exempt) broadcasters the option of investing in other activities which are more competitively effective. While this is somewhat more than mere speculation, it is not possible on the basis of this study to even estimate the benefits of this deregulatory action.

32. Furthermore, due to the strong significance of revenue (*i.e.*, station size) as a determinant for each of these programming types, it becomes likely that any policy (for example, the awarding of low power TV licenses) which increases the number of small broadcasters will also lower the average market performance in these regards. This is so, even though total broadcast time of these programming types will increase for the market.

C. The Role of Competition

33. This study strongly supports the contention that competition exists among rival stations in the provision of public interest programming. However, the marginal contribution of one more station in a market to the average provision of such local and NPA in that market is less than one-half of one percentage point for both programming types; this is true for all alternative specifications estimated. Another conclusion of this research is that the total number of competing stations (and not just the number of local signals) appears to be the relevant competition measure for programming. In all but Version III of the NPA estimation, NLOCSTN is overshadowed in significance by NCOMPSTN. Accordingly, a broad definition of the market seems not only justified but appropriate in addressing these particular performance aspects of the broadcaster.

D. Market Size

34. While this market characteristic is closely correlated with that of competition (discussed above), the regressions indicate that potential audience size is still an important determinant of the amount of local programming aired. This is not the case of NPA.[15] The fact that small markets can be predicted to have less local programming may not be a serious policy concern, since such market might be rationally expected to have less local issues or talent on which to focus.

E. Network Affiliation

35. Finally, it is apparent from this study that the status of being an unaffiliated or independent broadcaster reduces the predicted level of local programming only slightly but reduces the level of NPA greatly. Therefore, any developments which promote the establishment of a viable fourth major network can be expected to have a favorable and significant impact on the broadcasting industry's provision of NPA.

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[15] The sole exception occurs when MKTNWC reflects the influence of the ommitted variable STNREV in Version II.

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