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federal register

Tuesday
September 18, 1984

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Federal Communications Commission

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Federal Emergency Management Agency

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Presidential Documents

Title 3—

The President

Memorandum of September 6, 1984

Delegation of Authority for Report Containing a Determination Concerning El Salvador

Memorandum for the Secretary of State

By authority vested in me as President by the Constitution and statutes of the United States of America, including Section 621 of the Foreign Assistance Act of 1961, as amended, and Section 301 of Title 3 of the United States Code, I hereby delegate to you the functions conferred upon me by Public Law 98–396 (Second Supplemental Appropriations Act, 1984) in the "General Provisions" of Chapter XII, insofar as they relate to El Salvador.

This memorandum shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, September 6, 1984.

[FR Doc. 84–24816
Filed 9–14–84; 4:01 pm]
Billing code 3195–01–M

Presidential Documents

Executive Order 12487 of September 14, 1984

Adjustments of Certain Rates of Pay

By the authority vested in me as President by the Constitution and laws of the United States of America, and in accordance with section 2207 of the Deficit Reduction Act of 1984 (Public Law 98–369), it is hereby ordered as follows:

Section 1. Executive Order No. 12456 of December 30, 1983, as amended, is further amended by replacing Schedule 8 attached thereto with the corresponding new Schedule 8 attached hereto.

Sec. 2. The adjustments of rates of pay made by section 1 of this Order are effective on the first day of the first applicable pay period beginning on or after January 1, 1984.

Ronald Reagan

THE WHITE HOUSE,
September 14, 1984.

Schedule 8 - JUDICIAL SALARIES

Chief Justice of the United States	$104,700
Associated Justices of the Supreme Court	100,600
Circuit Judges	80,400
District Judges	76,000
Judges of the Court of International Trade	76,000
Judges of the United States Claims Court	67,800
Bankruptcy Judges (full-time)	66,100
Bankruptcy Judges (part-time) (maximum rate)	33,100

[FR Doc. 84-24822
Filed 9-14-84: 4:24 pm]
Billing code 3195-01-M

Rules and Regulations

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MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Voluntary Expedited Appeals Procedures

AGENCY: Merit Systems Protection Board.

ACTION: Extension of expiration date of interim regulations regarding voluntary expedited appeals procedures.

SUMMARY: The Merit Systems Protection Board is extending by 90 days the expiration date of interim regulations concerning its Voluntary Expedited Appeals Procedures. The regulations will now expire December 17, 1984. The extension is being made to allow further time to evaluate this pilot program. Regulations were first published on March 18, 1983 at 48 FR 11399–11403 and were extended through September 18, 1984 by amended regulations published June 29, 1984 at 49 FR 26697–26701.

EFFECTIVE DATES: September 18, 1984 for 90 days through December 17, 1984.

ADDRESS: Paul E. Trayers, Legislative Counsel, Office of the Legislative Counsel, Merit Systems Protection Board, 1120 Vermont Ave., NW., Washington, D.C. 20419.

FOR FURTHER INFORMATION CONTACT: Paul E. Trayers, Legislative Counsel, (202) 653–7175.

Dated: September 13, 1984.
For the Board.

Herbert E. Ellingwood,
Chairman.

[FR Doc. 84–24584 Filed 9–17–84; 8:45 am]
BILLING CODE 7400–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 629 and 630

Job Training Partnership Act; Maximum and Minimum Limitations on Expenditures

AGENCY: Employment and Training Administration, Labor.

ACTION: Interpretations.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (DOL) is issuing five interpretations of the Job Training Partnership Act (JTPA) regulations, relating to maximum and minimum limitations on expenditures of JTPA funds, to provide guidance to JTPA recipients and to foster compliance with the Act. Public comments are being invited on the interpretations.

DATES: Through June 30, 1984, interpretations by the States on the issues discussed below are acceptable, to the extent that the interpretations are consistent with JTPA and applicable rules and regulations. The below interpretations of the Employment and Training Administration (ETA) of the Department of Labor (DOL) on the issues discussed below shall be effective on and after July 1, 1984. However, written comments on ETA's interpretations are invited from the public. Written comments must be received on or before October 18, 1984.

ADDRESS: Send written comments to: Assistant Secretary of Labor for Employment and Training, U.S. Department of Labor, Room 6402—Patrick Henry Building, 601 D Street, NW., Washington, D.C. 20213, Attention: Mr. Robert N. Colombo, Director, Office of Employment and Training Programs.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Colombo. Telephone: 202–376–6093.

SUPPLEMENTARY INFORMATION:

Introduction

The Job Training Partnership Act (JTPA), 29 U.S.C. 1501 *et seq.*, was enacted to establish programs to prepare youth and unskilled adults for entry into the labor force; and afford job training to those economically disadvantaged individuals and others facing serious barriers to employment who are in special need of such training to obtain productive employment. JTPA Sec. 1, 29 U.S.C. 1501; *see* 20 CFR 626.1(a). To effectuate the purposes of JTPA, funds are made available to States and to service delivery areas (SDAs) within the States. The Secretary of Labor is authorized to prescribe such rules and regulations under JTPA as the Secretary deems necessary. JTPA section 169, 29 U.S.C. 1579. The JTPA regulations are published at 20 CFR Parts 626–638 and 684. *See also* 29 CFR Parts 31 and 32.

Questions

The Employment and Training Administration (ETA) of the Department of Labor (DOL) is issuing interpretations of JTPA regulations which apply to five related questions, raised by States and service delivery areas (SDAs), concerning the application of maximum and minimum limitations contained in JTPA. These questions are:

1. Does the 15 percent limitation for administrative expenditures in 20 CFR 629.39(a)(2) apply against total expenditures or total availability for programs under Title II–A of JTPA (29 U.S.C. 1601 *et seq.*)?

2. Does the 70 percent requirement for the expenditure of funds for training under title II–A of JTPA as required by 20 CFR 629.39(c)(1) apply against total expenditures or total availability?

3. Does the requirement in 20 CFR 630.1(b)(1) that 40 percent of the JTPA Title II–A funds be expended for services to eligible youth apply against total expenditures or total availability for Title II–A (see JTPA Sec. 203(b)(1), 29 U.S.C. 1603(b)(1))?

4. Do the matching fund requirements contained in JTPA section 304 (29 U.S.C. 1654) apply to total funds expended or available under that section?

5. What period(s) of time will be used in determining compliance with the four above-described requirements?

Interpretations

ETA proposes the following interpretations in response to the questions posed above (the answers to Question No. 5 are contained in the answers to Questions Nos. 1–4):

1. Fifteen Percent Limitation on Administrative Costs (20 CFR 629.39(a)(2))

ETA will review compliance with the 15 percent limitation on administrative costs on this basis: 15 percent of the amount of each year's total allotment to each SDA for programs under title II–A of JTPA (29 U.S.C. 1601 *et. seq.*). The time period to be used in determining compliance with this requirement shall be the two years of the approved local job training plan. This policy for determining compliance with the 15 percent limitation shall not limit the authority contained in JTPA section 167(b) for recipients to expend funds during the program year for which the funds are obligated and the two succeeding program years. 29 U.S.C. 1571(b). The State shall be responsible for determining appropriate action to be taken if this requirement is not met in accordance with §§ 629.43(b) and 629.44 of the regulations. 20 CFR 629.43 and 629.44.

Example: An SDA receives $100,000 for first Program Year and $200,000 for the second Program Year covered by an approved two-year local job training plan. The maximum approved two-year local job training plan. The maximum amount available to be expended for administration during the two years of the job training plan would be $45,000. At the end of the two-year period, there are $5,000 in unexpended administrative funds from the second year of the two-year period. The $5,000 may be carried forward and be expended for administration during the two-year period of the next approved local job training plan. At the close of the first two-year plan, funds unexpended from the first year of the plan are available to be expended only during the *first* year of the next two-year plan. This is consistent with statutory language allowing three years for the expenditure of each year's appropriation. JTPA section 161(b), 29 U.S.C. 1571(b). The maximum amount available for administrative costs in the second two-year local job training plan would be the $5,000 from the second year of the first plan, plus 15 percent of the allotments for the two Program Years in the second plan. Funds carried forward from one approved local job training plan to the next would have to be accounted for specifically to assure compliance with this requirement and § 629.35(a) of the JTPA regulations.

2. Seventy Percent Requirement for Expenditure of Training Funds (20 CFR 629.39(c)(1))

ETA will review compliance with the 70 percent requirement for the expenditure of training funds on this basis: 70 percent of each year's total allotment to each SDA for programs under Title II–A of JTPA. This requirement should be adjusted to account for any waivers granted pursuant to JTPA section 108(c) (29 U.S.C. 1518(c)). The time period to be used in determining compliance with this requirement shall be the two years of the approved local job training plan. In accordance with §§ 629.43(b) and 629.44 of the regulations, the State shall be responsibile for determining appropriate actions to be taken if this requirement is not met. 20 CFR 629.43(b) and 629.44.

3. Forty Percent Requirement for Services to Eligible Youth (20 CFR 630.1(b)(1))

ETA will review compliance with the 40 percent requirement for expenditure for eligible youth of funds under Title II–A of JTPA on this basis: 40 percent of each year's total allotment to each SDA. This requirement should be adjusted to account for any change in the 40 percent in accordance with JTPA section 203(b)(2) (29 U.S.C. 1603(b)(2)). The time period to be used in determining compliance with this requirement shall be the two years of the approved local job training plan. In accordance with §§ 624.43(b) and 629.44 of the regulations, the State shall be responsible for determining appropriate actions to be taken if this requirement is not met. 20 CFR 624.43(b) and 629.44.

4. Matching Funds for Employment and Training Assistance to Dislocated Workers (JTPA section 304)

The matching funds required by JTPA Sec. 304 (29 U.S.C. 1654) shall be provided for all Federal formula funds, required to be matched, expended pursuant to JTPA Title III (29 U.S.C. 1651 *et seq.*). The time period to be used by ETA to review compliance with this requirement shall be the three years that JTPA provides for expenditure of funds allocated under JTPA. *See* JTPA section 161(b), 29 U.S.C. 1571(b).

Signed at Washington, D.C., this 11th day of September 1984.

Patrick J. O'Keefe,

Deputy Assistant Secretary for Employment and Training.

[FR Doc. 84–24764 Filed 9–17–84; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 83F–0336]

Indirect Food Additives; Adhesives and Components of Coatings

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of *N,N'*-dioleoylethylenediamine in supported films made from ionomeric resins and ethylene vinyl acetate copolymers to be used in contact with food. This action responds to a petition filed by E.I. duPont de Nemours & Co.

DATES: Effective September 18, 1984; objections by October 18, 1984.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 31, 1983 (48 FR 50167), FDA announced that a petition (FAP 3B3755) had been filed by E.I. duPont de Nemours & Co., 1007 Market St., Wilmington, DE 19898, proposing that § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300) and § 175.320 *Resinous and polymeric coatings for polyolefin films* (21 CFR 175.320) be amended to provide for the safe use of *N,N'*-dioleoylethylenediamine in supported films made from ionomeric resins and ethylene vinyl acetate copolymers to be used in contact with food.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information

contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency 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 is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Food Safety and Applied Nutrition (21 CFR 5.61), Part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. In § 175.300(b)(3)(xxv) by alphabetically inserting a new item in the list of substances to read as follows:

§ 175.300 Resinous and polymeric coatings.

* * * * *

(b) * * *

(3) * * *

(xxv) * * *.

N, N'-Dioleoylethylenediamine (CAS Reg. No. 110–31–6) for use only in ionomeric resins complying with § 177.1330 of this chapter and in ethylene vinyl acetate copolymers complying with § 177.1350 of this chapter at a level not to exceed 0.0085 milligram per square centimeter (0.055 milligram per square inch) in the finished food-contact article.

* * * * *

2. In § 175.320(b)(3)(iii) by alphabetically inserting a new item in the list of substances to read as follows:

§ 175.320 Resinous and polymeric coatings for polyolefin films.

* * * * *

(b) * * *

(3) * * *

(iii) * * *

N,N'-Dioleoylethylenediamine (CAS Reg. No. 110–31–6) for use only in ionomeric resins complying with § 177.1330 of this chapter and in ethylene vinyl acetate copolymers complying with § 177.1350 of this chapter at a level not to exceed 0.0085 milligram per square centimeter (0.055 milligram per square inch) in the finished food-contact article.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before *October 18, 1984* submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and anaysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation is effective September 18, 1984.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: August 23, 1984.

Taylor M. Quinn,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 84-24587 Filed 9-17-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 601

Internal Revenue Practice; Statement of Procedural Rules; Miscellaneous Amendments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Amendment of statement of procedural rules.

SUMMARY: This document contains miscellaneous amendments to the Statement of Procedural Rules (SPR). The SPR sets forth the procedural rules of the Internal Revenue Service for all taxes administered by the Service as well as certain rules that apply to the Bureau of Alcohol, Tobacco and Firearms. These amendments update the SPR and make certain changes in the Service's procedure, including amendments necessitated by recent legislation.

DATE: The amendments are effective September 18, 1984.

FOR FURTHER INFORMATION CONTACT: Michel A. Dazé 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 (202–566–3458, not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the SPR (26 CFR Part 601), issued under the authority contained in 5 U.S.C. 301 and 552. Some amendments update the SPR to reflect changes in nomenclature. The United States Court of Claims is now the United States Claims Court and the Office of International Operations of the Internal Revenue Service is now the Foreign Operationals District. The other amendments are described in the order of the sections of the SPR being amended.

Section 601.103 Summary of General Tax Procedures.

Section 3405, added to the Code by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), provides special rules for withholding taxes from payments of pensions and annuities. Generally, taxes will be withheld unless the recipient elects otherwise. Section 601.103 of the SPR is amended to conform with this new section of the Code.

Section 601.104 Collection functions.

The amendments to this section of the SPR also reflect revisions to the Code made by TEFRA. An amendment to paragaph (a)(3) relating to payments of estimated tax sets forth new minimum amounts of tax liability which an individual must expect to incur in taxable years after 1981 before the individual is required to make estimated tax payments. In addition, references to the declaration of estimated tax, which

was eliminated by TEFRA, are removed from this section.

For taxable years beginning after December 31, 1982, a corporation may no longer elect to pay tax in installments. Paragraph (b) is amended to reflect that a corporation which requests an extension of time for filing an income tax return must pay the total amount of its properly estimated tax by the original due date of the return.

Paragraph (c)(2) relating to collection by levy is revised to include the taxpayer safeguard of amended section 6331(d). In the case of a levy made after December 31, 1982, a taxpayer must be notified in writing of intent to levy on any property (not just salary or wages) unless a determination is made that collection is in jeopardy. Paragraph (c)(3) is revised to correspond with section 6325(a), as amended by TEFRA. Under that section, the issuance of a certificate of release of lien is required within 30 days after it is determined that certain conditions are met. Finally, an illustrative list of the civil penalties enacted by TEFRA to promote taxpayer compliance is added to paragraph (c)(4) relating to penalties.

Section 601.106(a)(1)(iii) Appeals of penalties after assessment.

Amendments are made to paragraph (a)(1)(iii) of § 601.106 in order to incorporate changes in penalty provisions made by the Miscellaneous Tax Act of 1979, the Economic Recovery Tax Act of 1981, and the Tax Equity and Fiscal Responsibility Act of 1982. Prior law provided for abatement of certain penalties if the position taken by a taxpayer was supported by "reasonable cause." Abatement of some penalties is now also allowed if there is a showing by the taxpayer of "reasonable basis." Accordingly, subdivision (*a*) is amended to conform the appeals procedure with the various legislation. In addition, current subdivision (*e*) is removed to reflect the repeal of former section 6658 which provided a penalty for a violation of section 6851 (relating to termination of the taxable year).

The penalty imposed by section 6700 for promoting abusive tax shelters is subject to the procedural rules of section 6703 which allow a taxpayer to protest such penalty by paying a prescribed percentage and filing a claim for a refund. Thus, new subdivision (*d*) is added to exclude this penalty from the appeal procedure.

Section 601.401 Collection of employment taxes.

Federal employment taxes, which are collected by means of returns and by withholding, generally must be deducted and withheld by employers from wages or compensation (including tips) paid to employees. Cross-references to the special rules relating to tips in §§ 31.3102–3 and 31.3402(k)–1 are added to paragraph (a)(3) of § 601.401, as amended May 9, 1984 (49 FR 19648).

Section 601.403 Miscellaneous excise taxes collected by return.

The Crude Oil Windfall Profit Tax Act of 1980 enacted new Chapter 45 of the Code, imposing an excise tax on the windfall profit from domestically produced crude oil. New paragraph (a)(11) is added to § 601.403 to include this tax in the list of miscellaneous excise taxes. The rules for filing a return with respect to a windfall profit tax liability and a cross-reference to the procedures for depositing the tax are added to paragraphs (c)(1) and (c)(3) respectively of § 601.403.

Section 601.805(b)(1) Tax counseling for the elderly, miscellaneous administrative provisions.

In the Treasury Department 1981 Appropriation, the Service was authorized to advance funds to sponsors of Tax Counseling for the Elderly (TCE) programs in order to finance operations. Such authority applied only to TCE programs operated under the 1981 appropriation. Because under the current Treasury department appropriation the Service does not have statutory authority to make such advance payments, references to them are removed from § 601.805(b)(1)

Special Analyses

The Commissioner of Internal Revenue has determined that this rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. A general notice of proposed rulemaking is not required by 5 U.S.C. 553 for procedural rules. Accordingly, the amendments to the Statement of Procedural Rules do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Drafting Information

The principal author of these amendments to the Statement of Procedural Rules is Michel A. Dazé of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service participated in developing the amendments both on matters of substance and style.

List of Subjects in 26 CFR Part 601

Administrative practice and procedure, Aged, Alcohol and alcoholic beverages, Arms and munitions, Cigars and cigarettes, Claims, Freedom of information, Taxes.

Adoption of Amendments to Statement of Procedural Rules

Accordingly, 26 CFR Part 601 is amended as follows:

PART 601—[AMENDED]

Paragraph 1. Section 601.101(a) is amended by revising the fifth and sixth sentences to read as set forth below.

§ 601.101 Introduction.

(a) *General.* * * * The Director, Foreign Operations District, administers the internal revenue laws applicable to taxpayers residing or doing business abroad, foreign taxpayers deriving income from sources within the United States, and taxpayers who are required to withhold tax on certain payments to nonresident aliens and foreign corporations, provided the books and records of those taxpayers are located outside the United States. For purposes of these procedural rules any reference to a district director or a district office includes the Director, Foreign Operations District, or the District Office, Foreign Operations District, if appropriate. * * *

* * * * *

Par. 2. Section 601.103 is amended as follows:

1. The fifth sentence of paragraph (a) is revised to read as set forth below.

2. Paragraph (c)(1) is amended by removing from the fourth sentence the words "of International Operations" and adding instead the words ", Foreign Operations District".

3. Paragraph (c)(3) is amended by removing from the fourth sentence the words "Court of" and by adding after "Claims" the word "Court".

§ 601.103 Summary of General Tax Procedures.

(a) *Collection procedure.* * * * In the case of wages earners, annuitants, pensioners, and nonresident aliens, the income tax is collected in large part through withholding at the source. * * *

* * * * *

Par. 3. Section 601.104 is amended as follows:

1. Paragraph (a)(3) is revised to read as set forth below.

2. Paragraph (b) is revised to read as set forth below.

3. A new sentence as set forth below is added after the first sentence in paragraph (c)(2).

4. The eighth sentence of paragraph (c)(3) is revised and a new sentence is added after the eighth sentence to read as set forth below.

5. Paragraph (c)(4) is amended by adding in the first sentence the words "(or a minimum penalty)" after the words "amount of tax" and by adding after the fourth sentence a new sentence as set forth below.

§ 601.104 Collection functions.

(a) *Collection methods.* * * *

(3) *Payments of estimated tax.* Any individual who may reasonably expect to receive gross income for the taxable year from wages or from sources other than wages, in excess of amounts specified by law, and who can reasonably expect his or her estimated tax to be at least $200 in 1982, $300 in 1983, $400 in 1984, and $500 in 1985 and later is required to make estimated tax payments. Payments of estimated tax are applied in payment of the tax for the taxable year. A husband and wife may jointly make a single payment which may be applied in payment of the income tax liability of either spouse in any proportion they may specify. For taxable years ending on or after December 31, 1955, the law requires payments of estimated tax by certain corporations. See section 6154 of the Code.

* * * * *

(b) *Extension of time for filing returns*—(1) *General.* Under certain circumstances the district directors or directors of service centers are authorized to grant a reasonable extension of time for filing a return or declaration. The maximum period for extensions cannot be in excess of 6 months, except in the case of taxpayers who are abroad. With an exception in the case of estate tax returns, written application for extension must be received by the appropriate director on or before the date prescribed by law for filing the return or declaration.

(2) *Corporations.* On or before the last date prescribed by law for filing its income tax return for taxable years beginning before January 1, 1983, a corporation may obtain an automatic 3-month extension of time for filing the income tax return by filing Form 7004 and paying an estimated amount not less than would be required as the first installment of tax due should the corporation elect to pay the tax in installments. Form 7005 should be used, when an additional extension of time is requested by a corporation that previously received an automatic 3-month extension. For taxable years beginning after December 31, 1982, a corporation may no longer elect to pay tax in installments. On or before the last date prescribed by law for filing its income tax return for taxable years beginning after 1982, a corporation in such years may obtain an automatic 3-month extension of time for filing its income tax return by filing Form 7004 and paying the full amount properly estimated as its tax liability.

(3) *Individuals.* On or before the date prescribed for the filing of the return of an individual, such individual may obtain an automatic 4-month extension of time for filing his or her return by filing Form 4868 accompanied by payment of the full amount of the estimated unpaid tax liability.

(c) *Enforcement procedure.* * * *

(2) *Levy.* * * * However, unless collection is in jeopardy, the taxpayer must be furnished written notice of intent to levy no fewer than 10 days before the date of the levy. * * *

(3) *Liens.* * * * A certificate of release of lien will be issued not later than 30 days after the taxpayer furnishes proper bond in lieu of the lien, or 30 days after it is determined that the liability has been satisfied, has become unenforceable by reason of lapse of time, or has been discharged in bankruptcy. If a certificate has not been issued and one of the foregoing criteria for release has been met, a certificate of release of lien will be issued within 30 days after a written request by a taxpayer, specifying the grounds upon which the issuance of release is sought.

(4) *Penalties.* * * * There are also civil penalties for filing false withholding certificates, for substantial understatement of income tax, for filing a frivolous return, for organizing or participating in the sale of abusive tax shelters, and for aiding and abetting in the understatement of tax liability. * * *

* * * * *

Par. 4. Section 601.106 is amended as follows:

1. The fourth sentence of paragraph (a)(1)(i) is amended by removing the words "of International Operations" and adding instead ", Foreign Operations District".

2. The words "or reasonable basis" are added in paragraph (a)(1)(iii)(*a*) after the worrds "reasonable cause".

3. Paragraph (a)(1)(iii)(*e*) is removed.

4. Paragraph (a)(1)(iii)(*d*) is redesignated paragraph (a)(1)(iii)(*e*), and such paragraph as redesignated is amended by removing the final word "and" and changing the ending punctuation from a semicolon to a period.

5. New paragraph (a)(1)(iii)(*d*) as set forth below is added after paragraph (a)(1)(iii)(*c*).

6. Paragraph (d)(2)(iii) is amended by removing the words "Court of Claims." and by inserting after "or U.S." the words "Claims Court."

7. The second sentence of paragraph (f)(4) is amended by removing the words "of International Operations" and adding instead ", Foreign Operations District,". The words "or Office of International Operations" and the commas appearing before and after the words "service center" are removed from the first sentence of paragraph (f)(5) and the words "(including the Foreign Operations District) or" are added instead after the words "district office".

§ 601.106 Appeals functions.

(a) *General.* (1)(i) * * *

(iii) * * *

(*d*) The penalty provided in section 6700 for promoting abusive tax shelters (because the penalty is subject to the procedural rules of section 6703 which provides for an extension of the period of collection of the penalty when a person pays not less than 15 percent of the amount of such penalty); and

* * * * *

§ 601.202 [Amended]

Par. 5. Section 601.202 is amended as follows:

1. Paragraph (c)(4) is amended by removing the words ", the Director of International Operations," and adding instead "(including the Director, Foreign Operations District),".

2. Paragraph (c)(6) is amended by removing the words "of International Operations" and adding instead ", Foreign Operations District".

§ 601.203 [Amended]

Par. 6. Section 601.203 is amended as follows:

1. Paragraph (a)(1) is amended by removing from the second sentence "Office of International Operations" and adding instead "District Office, Foreign Operations District" and by removing from the fourth sentence ", the Director of International Operations, the Assistant Director of International Operations," and adding instead "(including the District Director and Assistant District Director, Foreign Operations District),".

2. Paragraph (c)(3) is amended by removing from the first sentence ", Director of International Operations, Assistant Director of International Operations" and adding instead "(including the District Director and

Assistant District Director, Foreign Operations District)", and by removing from the second sentence "or Director of International Operations" and adding instead "(including the Director, Foreign Operations District)".

§ 601.206 [Amended]

Par. 7. Section 601.206(c) is amended by removing "Office of International Operations" and adding instead "District Office, Foreign Operations District".

Par. 8. Section 601.401 is amended by removing the second sentence from paragraph (a)(3) and inserting in its place the revised text as set forth below.

§ 601.401 Employment taxes.

(a) *General.* * * *

(3) *Collected methods.* * * * Employee tax must be deducted and withheld by employers from "wages" or "compensation" (including tips reported in writing to employer) paid to employees, and the employer is liable for the employee tax whether or not it is so deducted. For special rules relating to tips see §§ 31.3102–3 and 31.3402 (k)–1.

* * * * *

Par. 9. Section 601.403 is amended as follows:

1. Paragraph (a) is amended by adding at the end thereof new paragraph (11) as set forth below.

2. Paragraph (c)(1) is amended by adding at the end thereof two new sentences as set forth below.

3. Paragraph (c)(3) is amended by adding in the first sentence after "hydraulic mining," the words "domestically produced crude oil," and by adding before the final sentence a new sentence as set forth below.

§ 601.403 Miscellaneous excise taxes collected by return.

(a) *General.* * * *

(11) *Domestic crude oil.* Chapter 45 of the Code imposes an excise tax on the windfall profit from domestically produced crude oil, except exempt oil.

* * * * *

(c) *Collection of tax*—(1) *Imposed taxes.* * * * Each quarter in which there is a windfall profit tax liability for the production of domestic crude oil, a return must be filed by purchasers of crude oil who are required to deduct and withhold the tax, operators and qualified disbursers who choose to deduct and withhold the tax, and producers of crude oil on which no withholding is required. Each producer of crude oil who did not have enough tax withheld during the calendar year must file an annual return by May 31 following the calendar year during which the oil was removed.

* * * * *

(3) *Depository procedures.* * * * The procedures for depositing windfall profit tax are contained in § 51.4995–3 and Temporary Excise Tax Regulatons under the Crude Oil Windfall Profit Tax Act of 1980, § 150.4995–3. * * *

* * * * *

§ 601–506 [Amended]

Par. 10. Section 601.506(b)(2) is amended by removing from the third sentence the words "Court of Claims," and by adding after the words "in the U.S." the words "Claims Court,".

§ 601.702 [Amended]

Par. 11. Section 601.703 is amended as follows:

1. The words "of the Office of International Operations" are removed from the second sentence of paragraph (c)(7)(i) and the words," Foreign Operations District" are added instead.

2. Paragraph (g) is amended by removing from the first sentence the words "the Director of the Office of International Operations," and by adding after "District Directors" and before the comma the words "(including the Director, Foreign Operations District)". Paragrah (g) is also amended by removing from the National Office list of mailing addresses the words "Office of International Operations" and adding instead "Foreign Operations District".

§ 601.805 [Amended]

Par. 12. Paragraph (b)(1) of § 601.805 is amended by removing the second sentence and by removing from the third sentence the words "these two circulars" and adding instead "this circular".

These amendments to the Statement of Procedural Rules are issued under the authority contained in 5 U.S.C. 301 and 552.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84–24575 Filed 9–17–84; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

Correction

In FR Doc. 84–17104 appearing on page 26225 in the issue of Wednesday, June 27, 1984, make the following correction: In the third line from the bottom, "more" should be removed.

BILLING CODE 1505–01–M

POSTAL SERVICE

39 CFR Part 601

Procurement of Property and Services; Amendments to Postal Contracting Manual

AGENCY: Postal Service.

ACTION: Amendments to Postal Contracting Manual.

SUMMARY: The Postal Service announces that it is amending the Postal Contracting Manual to be consistent with the Department of Labor revised regulations under the Service Contract Act of 1965, as amended. While a number of minor editorial revisions have been made throughout that part of the Postal Contracting Manual dealing with the Service Contract Act, significant changes are described below in the Explanation of Changes.

EFFECTIVE DATE: August 31, 1984.

FOR FURTHER INFORMATION CONTACT: Eugene A. Keller, (202) 245–4818.

SUPPLEMENTARY INFORMATION: The Postal Contracting Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 601.100), has been amended by the issue of PCM Circular 84–4, dated August 31, 1984.

In accordance with 39 CFR 601.105, notice of these changes is hereby published in the **Federal Register** and the text of the changes is filed with the Director, Office of the Federal Register. Subscribers to the basic manual will receive these amendments from the Postal Service. (For other availability of the Postal Contracting Manual, see 39 CFR 601.104.)

List of Subjects in 39 CFR Part 601

Government procurement, Postal Service, Incorportion by reference.

Explanation of Changes

1. PCM 12–902.3—A reference is added for guidance on the various types of contracts covered by the act.

2. 12–902.4—Canton Island is deleted from coverage (see 29 CFR 4.112(a)). A new paragraph (b) is added to reflect the "significant or substantial" standard DOL uses to determine whether work is "performed" in the United States (29 4.112(b)(2)). The paragraph that was 12–902.4 is now 12–904.4(a).

3. 12–902.6—The present provision is designated as paragraph (a). Paragraph (b) is added to reflect 29 CFR 4.114(b), which explicitly warns contractors that they will be held liable for violations of the act by their subcontractors.

4. 12–903(3)—"Section 22" is replaced with "section 10721" to reflect recodification of the Interstate Commerce Act.

5. 12–903(8)—"Services" is changed to "contract" to conform with DOL's interpretation that the act applies to contracts and not separate service-contract specifications (48 FR 49742–43). The remainder of the change harmonizes with the "significant or substantial" test (see item 2 above).

6. 12–903(9)—New subsection (iii) is added to reflect 29 CFR 4.123(e), exempting automated data processing, scientific, medical, office, and business machinery repair and calibration from coverage in limited circumstances.

7. 12–904(2)—The title of 29 CFR Part 4, Subpart B, is changed to "Wage Determination Procedures." The title of the subpart relating to fringe benefits is changed to "Compensation Standards" located at 29 CFR Part 4, Subpart D.

8. 12–905a—The clause for service contracts in excess of $2,500 appears only in Form 7382, Additional General Provisions for Service Contracts. Form 7382 has been revised to include the text of 29 CFR 4.6. Use the Form 7382, Additional Contract Provisions for Service Contracts, April 1984, included in Section 16, immediately when applicable. Previous editions of Form 7382 are obsolete and must be destroyed.

9. 12–905b—The section is revised to incorporate a new Labor Standards clause for service contracts not in excess of $2,500 (see 29 CFR 4.6). The new clause (August 1984) will be incorporated in procurement forms as they are reprinted. Pending incorporation, contracting officers must substitute the August 1984 clause for previous editions of the clause in solicitations for service contracts of $2,500 or less.

10. 12–906.2(a)—The section is revised in accordance with 29 CFR 4.4(a)(1) to specify when wage determinations must be requested and when late determinations are to be incorporated into solicitations and contracts.

11. 12–906.2(c)—"Furnished *for* the same location" is changed to "furnished *in* the same location." This change, consistent with 29 CFR 4.4(c), modifies the existing requirement in those cases where a successor contractor need not be in the same location (29 CFR 4.163(i)). "Office of Special Wage Standards" is changed to "Wage and Hour Division."

12. 12–906.2(d)—"Office of Special Wage Standards" is changed to "Wage and Hour Division," and rules are added to reflect 29 CFR 4.4(f), concerning contracts subject to the act on which more than five service employees are contemplated.

13. 12–906.2 (e) and (f)—New paragraphs incorporate the two-step procurement procedure which DOL adopted at 29 CFR 4.3 and 4.4 for locality determinations when the place of performance of a service contract is unknown at the time of solicitation.

14. 12–906.2(g)—New paragraph reflects 29 CFR 4.4(g).

15. 12–906.3(a)—"Office of Special Wage Standards" is changed to "Wage and Hour Division." The rule concerning action on responses to SF 98 notices received from DOL less than 10 days before the opening of bids or the date established for the initial receipt of proposals is deleted (reflecting 29 CFR 4.5(a)(1)).

16. 12–906.3(b)—Procedures after award are revised to reflect 29 CFR 4.5(b)(1), 4.4(g), 4.5(c) (1) and (2), and 4.5(d).

17. 12–906.5—"$2,500" is changed to "$10,000" to reflect the changes in 29 CFR 4.8, whereby SF 99 need not be filed for contracts with a value less than $10,000.

18. 16–7382—The revised Form 7382 (April 1984) is illustrated.

19. 18–601—A new section is added to clarify that the Service Contract Act does not apply to professional architect-engineer contracts.

20. 22–704—This section is revised to add a clause for cleaning services contracts involving five or fewer service contract employees to provide for equitably adjusting the contract price where award is necessary before receipt of wage determination.

(5 U.S.C. 552(a), 39 U.S.C. 401, 404, 410, 411)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 84–24586 Filed 9–17–84; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–8–FRL–2670–4]

Revisions to North Dakota PSD Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: EPA is approving revisions to North Dakota's Prevention Significant Deterioration (PSD) regulation submitted on October 28, 1982, with supplementary information submitted on July 5, 1983; March 8, 1984 and June 20, 1984. These revisions are necessary so that the regulations will be consistent with the changes to the EPA PSD regulations published August 7, 1980. The purpose is so that North Dakota can continue to administer the PSD program.

DATES: This action will be effective November 19, 1984, unless notice is received by October 18, 1984, that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Dale Wells, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street Denver, Colorado 80295, (303) 837–6131.

SUPPLEMENTARY INFORMATION: EPA approved North Dakota regulations for Prevention of Significant Deterioration (PSD) on November 2, 1979 (44 FR 63103). Chapter 33–15–15 of the North Dakota Air Pollution Control Regulations, the PSD regulation, has been revised to be consistent with the changes to the EPA regulations published on August 7, 1980 (40 CFR 51.24).

EPA was initially concerned that the definition of "major stationary source" was inconsistent with EPA's definition, but this concern was answered by supplementary information submitted by the State on July 5, 1983. The revision is being approved with the understanding that the definition of "major stationary source" has the same affect as EPA's definition.

EPA advised the State of certain additional inconsistencies between the North Dakota and EPA regulations. These inconsistencies included the definition of "high terrain" and the notification of governors of all affected states for innovative control technology waivers. Supplemental information was

submitted by the State on March 8, 1984, which resolves these inconsistencies.

Under this program, North Dakota will be issuing permits and establishing emission limitations that may be affected by the recent judicial review of stack height regulations promulgated by EPA on February 8, 1982 (47 FR 5864). For this reason, EPA has required that the State include the following caveat in all potentially affected permit approvals until the stack height regulations are revised by EPA:

In approving this permit, the Department has determined that the application complies with the applicable provisions of the stack height regulations promulgated by EPA on February 8, 1982 (47 FR 5864). Portions of these regulations have been overturned by a panel of the U.S. Court of Appeals for the D.C. Circuit. Sierra Club v. EPA, 719 F.2d 436 (D.C. Cir., 1983). Consequently, this permit may be subject to modification when EPA issues revised regulations in response to the court decision. This may result in revised emission limitations or may affect other actions taken by the source owners or operators.

North Dakota made an enforceable commitment to include such a caveat in all affected permits by letter dated June 20, 1984. This letter is part of the SIP revision EPA is approving today.

EPA has determined that these revisions are consistent with the requirements of section 110 of the Clean Air Act and, therefore, is approving these revisions.

The public is advise that this action will be effective November 19, 1984. However, if we receive written notice by 30 days from date of publication that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw this final action and another will begin a new rulemaking by announcing a proposal of this action and establishing a commemt period.

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

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

List of Subjects in 40 CFR Part 52

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

This rulemaking is issued under the authority of section 110 of the Clean Air Act (42 U.S.C. 7410).

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

Dated: September 7, 1984.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

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

Subject JJ—North Dakota

In § 52.1820, paragraph (c)(14) is added as follows:

§ 52.1820 Identification of plan.

* * * * *

(c) * * *

(14) Revisions to the Prevention of Significant Deterioration requirements in Chapter 33–15–15 of the North Dakota regulations were submitted on October 28, 1982 by the Governor, with supplemental information submitted on July 5, 1983, March 8, 1984 and June 20, 1984, by the State Agency.

[FR Doc. 84–24367 Filed 9–17–84; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–11

[FPMR Amdt. B–58]

Records Disposition

AGENCY: National Archives and Records Service, GSA.

ACTION: Final rule; correction.

SUMMARY: This document corrects a GSA form number cited in a regulation on records disposition which was published February 21, 1984 (49 FR 6370). In 41 CFR 101–11.410–8(b), the GSA Form titled "Agency Review for Contingent Disposal" was referred to as GSA Form 3265. The form number should be 3165.

FOR FURTHER INFORMATION CONTACT: Adrienne C. Thomas, Management Analysis and Improvement Division, (202) 523–3214.

1. The authority citation for Part 101–11 reads as follows:

Authority: 44 U.S.C. 3301–3314; 44 U.S.C. 2101–2113, 2901–2910, 3101–3107.

2. 41 CFR 101–11.410–8(b) is corrected to read as follows:

§ 101–11.410–8 Disposal clearances for records in Federal records centers.

* * * * *

(b) Contingent records (records of Federal agencies scheduled for destruction after occurrence of an event at some unspecified time in the future) held by Federal records centers will be disposed of upon receipt of agency concurrence in response to GSA Form 3165, Agency Review for Contingent Disposal, or other written concurrence. If the agency does not respond to the review notice within 90 calendar days, the records center may return the records to the agency and reject future transfers of that records series.

* * * * *

Dated: September 10, 1984.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 84–24602 Filed 9–17–84; 8:45 am]

BILLING CODE 6820–26–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 2

Information Collection Requirements Approved by OMB

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This new subpart is being added to advise the public of the control numbers assigned by the Office of Management and Budget (OMB) to the information collection requirements of FEMA.

EFFECTIVE DATE: September 18, 1984.

FOR FURTHER INFORMATION CONTACT: William L. Harding, Office of General Counsel, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, telephone: (202) 287–0377.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1980 (44 U.S.C. 35401) seeks, in part, to minimize the Federal paperwork burden. The Act requires that agencies obtain OMB review and clearance of certain reporting and recording requirements and give public notice of clearance numbers. 44 CFR Part 2 is being amended to add a new Subpart C to display the control numbers assigned by OMB to the information collection requirements of FEMA.

Because this is a nonsubstantive amendment dealing with procedural matters, it is not subject to the provisions of the Administrative Procedure Act (5 U.S.C. 551–553 *et seq.*)

requiring advance notice and comment. FEMA has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12291; that a regulatory analysis is not required; and that environmental impact documents under the National Environmental Policy Act of 1969 are not required since the action is administrative and categorically exempt from 44 CFR Part 10.

List of Subjects in 44 CFR Part 2

Organization and functions (government agencies), Record and recordkeeping requirements.

Accordingly, 44 CFR Part 2 is amended as follows:

PART 2—ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

1. The Table of Contents is amended by adding at the end thereof the following:

Subpart C—OMB Control Numbers

Sec.
2.80 Purpose.
2.81 OMB control numbers assigned to information collections.

2. A new Subpart C is added, as follows:

Subpart C—OMB Control Numbers

§ 2.80 Purpose.

The purpose of this subpart is to display OMB control numbers assigned to FEMA's information collection requirements.

§ 2.81 OMB control numbers assigned to information collections.

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

44 CFR part or section where identified and described	Current OMB control No.
9.11(e)	3067-0077
59.22	3067-0018
59.24	3067-0020
64.3	3067-0020
65.3	3067-0148
66	3067-0148
67.7	3067-0148
70.3	3067-0147
75.11	3067-0127
150.3	3067-0150
205.54	3067-0146
205.54(j)	3067-0145
205.94	3067-0034
205.96	3067-0026
205.115	3067-0149
205.116	3067-0151
308	3067-0074
332.3(d)	3067-0152
332.5	3067-0152
360	3067-0100

48 CFR part or section where identified and described	Current OMB control No.
7.5	3067-0118
44	3067-0116

Dated: Septembr 12, 1984.

George Jett,

General Counsel.

[FR Doc. 84-24609 Filed 9-17-84; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 61 and 63

[CGD 80-064]

Marine Engineering; Thermal Fluid Heaters, Required Tests and Inspections; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a Final Rule on tests and inspection of thermal fluid heaters that appeared at page 32192 in the **Federal Register** of Monday, August 13, 1984 (49 FR 32192). The action is necessary to correct clerical errors in revising citations.

FOR FURTHER INFORMATION CONTACT: CDR David M. Strasser, Commandant (G-MVI-2/24), U.S. Coast Guard Headquarters, Room 2409, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426-4431.

The following corrections are made in FR Doc. 84-21378 appearing on 32192 in the issue of August 13, 1984:

1. On page 32193, at the bottom of column two, in amendment 1 "reads as follows" is corrected to read "is revised to read as follows and replaces all existing authority citations within the part".

2. On page 32194 on the last line of column one "reads" is corrected to read "is revised to read".

Dated: September 12, 1984.

A.F. Bridgman, Jr.,

Chief, Legislative and Administrative Law Division.

[FR Doc. 84-24636 Filed 9-17-84; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CC Docket No. 83-1291]

Elimination of Annual Report of Miscellaneous Common Carriers (FCC Form P); Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This action corrects an erroneous citation in a prior order concerning elimination of Annual Report of Miscellaneous Common Carriers (FCC Form P), published on March 19, 1984 (49 FR 10121).

FOR FURTHER INFORMATION CONTACT: Warren G. Lavey, Common Carrier Bureau, (202) 632-6910.

Erratum

In the Matter of Elimination of Annual Report of Miscellaneous Common Carriers (FCC Form P) CC Docket No. 83-1291.

Released: September 12, 1984.

The Order (FCC 84-74), released March 8, 1984, inadvertently stated that rule section 47 CFR 1.785(a)(6) had been removed. The correct cite of the removed paragraph is 47 CFR 1.785(a)(5).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84-24588 Filed 9-17-84; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[Docket Nos. 20521, 20548, et al.]

Corporate Ownership Reporting and Disclosure by Broadcast Licensees; Multiple Ownership of Standard, FM, and Television Stations and Cable TV Systems; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission makes editorial corrections to rules appearing in the appendices of a document which was published in the

Federal Register. The document revises the standards for attributing interests in broadcast, cable television and newspaper properties in the application of the media multiple ownership rules. This erratum adds language inadvertently omitted from § 73.3555 of the Commission's Rules, revises an incorrect reference to the transfer of control rules in that section and changes an incorrect time period contained in § 73.3615(a) of the Commission's Rules.

FOR FURTHER INFORMATION CONTACT: Laurel R. Bergold, Mass Media Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Erratum

In the matter of corporate ownership reporting and disclosure by broadcast licensees, Docket No. 20521; amendment of §§ 73.35, 73.240 and 73.636 of the Commission's rules relating to multiple ownership of Standard, FM, and Television Broadcast Stations, Docket No. 20548; amendment of §§ 73.35, 73.240, 73.636 and 76.501 of the Commission's rules relating to Multiple Ownership of AM, FM, and Television Stations and CATV Systems, BC Docket No. 78-239; reexamination of the Commission's rules and policies regarding the attribution of ownership interests in Broadcast, Cable Television and Newspaper Entities, MM Docket No. 83-46, RM-3653, RM-3695, and RM-4045.

Released: September 11, 1984.

1. On April 30, 1984 the Commission released a *Report and Order* (*"Order"*), FCC 84-115, 49 FR 19482, published on May 8, 1984 (FR Doc. 84-12231) in the above-captioned proceedings. This *Order* makes a number of revisions to the standards governing the means by which the Commission attributes interests in broadcast, cable television and newspaper properties and to the manner in which these interests are reported.

2. In the course of preparing this *Order*, several inadvertent errors were made. First, when recodifying the Commission's rules, certain language was inadvertently omitted from § 73.3555 as shown in Appendix C of the Commission's *Order*. To rectify this error, § 73.3555 is corrected to read as follows:

§ 73.3555 Multiple ownership.

* * * * *

(b) No license for an AM, FM, or TV broadcast station shall be granted to any party (including all parties under common control) if such party directly or indirectly owns, operates, or controls one or more such broadcast stations and the grant of such license will result in:

(1) The predicted or measured 2 mV/m groundwave contour of an existing or proposed AM station, computed in accordance with § 73.183 or § 73.186, encompassing the entire community of license of an existing or proposed TV broadcast station(s) or the Grade A contour(s) of the TV braodcast station(s), computed in accordance with § 73.684, encompassing the entire community of license of the AM station; or

(2) The predicted 1 mV/m contour of an existing or proposed FM station, computed in accordance with § 73.313, encompassing the entire community of license of an existing or proposed TV broadcast station(s) or the Grade A contour(s) of the TV broadcast station(s), computed in accordance with § 73.684, encompassing the entire community of license of the FM station.

* * * * *

3. Second, the reference to the transfer of control rules does not accurately reflect those rules as recodified and the UHF exception to the one-to-a market rule is incorrectly stated. Accordingly, Note 4 in § 73.3555, as shown in Appendix C of the Commission's *Order*, is corrected to substitute § 73.3540(f) for § 73.3540(d) and to accurately reflect the UHF exception to the one-to-a market rule. As revised, Note 4 reads as follows:

Note 4.—Paragraphs (a)-(d) of this section will not be applied so as to require divestiture, by any licensee, of existing facilities, and will not apply to applications for increased power for Class IV stations, to applications for assignment of license or transfer of control filed in accordance with § 73.3540(f) or § 73.3541(b) of this part, or to applications for assignment of license or transfer of control to heirs or legatees by will or intestacy if no new or increased overlap would be created between commonly owned, operated or controlled broadcast stations in the same service and if no new encompassment of communities proscribed in paragraphs (b) and (c) of this section as to commonly owned, operated, or controlled broadcast stations or daily newspapers would result. Said paragraphs will apply to all applications for new stations, to all other applications for assignment or transfer, and to all applications for major changes in existing stations except major changes that will result in overlap of contours of broadcast stations in the same service with each other no greater than already existing. (The resulting areas of overlap of contours of such broadcast stations with each other in such major change cases may consist partly or entirely of new terrain. However, if the population in the resulting overlap areas substantially exceeds that in the previously existing overlap areas, the Commission will not grant the application if it finds that to do so would be against the public interest, convenience, or necessity.) This section will not apply to major changes in UHF television broadcast stations authorized as of September 30, 1964, which will result in Grace B overlap with another television station that was commonly owned, operated, or controlled as of September 30, 1964; or to any broadcast application would result in the Grade A contour of an existing or proposed UHF station encompassing the entire community of license of an existing or proposed AM or FM broadcast station that is commonly owned, operated or controlled or would result in the entire community of license of such UHF station being encompassed by the 2 mV/m contour of such AM broadcast station or the 1 mV/m contour of such FM broadcast station. Such UHF overlap or community encompassment cases will be handled on a case-by-case basis in order to determine whether common ownership, operation, or control of the stations in question would be in the public interest. Commonly owned, operated, or controlled broadcast stations, with overlapping contours or with community-encompassing contours prohibited by this section may not be assigned or transferred to a single person, group, or entity, except as provided above in this note. If a commonly owned, operated, or controlled broadcast station and daily newspaper fall within the encompassing proscription of this section, the station may not be assigned to a single person, group or entity if the newspaper is being simultaneously sold to such single person, group or entity.

* * * * *

4. Third, the time period for the filing of Ownership Reports, which is specified in § 73.3615, as shown in Appendix D in the Commission's *Order*, is incorrectly stated. Accordingly, § 73.3615(a), as revised, substitutes "60 days" for "30 days" and is corrected to read as follows:

§ 73.3165 Ownership reports.

* * * * *

(a) Each licensee of a commercial AM, FM, or TV broadcast station which is not a sole proprietorship or 50/50 partnership shall file an Ownership Report on FCC Form 323 once a year, on the anniversary of the date that its renewal application is required to be filed. [Sole proprietorships and 50/50 partnerships will file ownership information in connection with the application process.] Licensees owning multiple stations with different anniversary dates need file only one Report per year on the anniversary of their choice, provided that their Reports are not more than one year apart. A licensee with a current and unamended Report on file at the Commission may certify that it has reviewed its current Report and that it is accurate, in lieu of filing a new Report. Ownership Reports shall provide the following information as of a date not more than 60 days prior to the filing of the Report:

* * * * *

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 84-24594 Filed 9-17-84; 8:45 am]
BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Ch. 5

[GSAR AC-84-6]

Basis of Award of Construction Contracts

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary regulation.

SUMMARY: This Circular temporarily amends the General Services Administration Acquisition Regulation (GSAR), Chapter 5, APD 2800.12, Parts 536 and 552, to provide expanded coverage on the basis of award for construction contracts. The intended effect is to provide policies and procedures in the regulatory system.

DATES: Effective Date: September 10, 1984. Expiration Date: This Acquisition Circular expires 6 months after issuance unless canceled earlier or extended.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy and Regulations (VP), Office of Acquisition Policy, (202-523-4754).

SUPPLEMENTARY INFORMATION:

Regulatory Impact

The Director, Office of Management and Budget (OMB), by memorandum dated October 4, 1982, exempted agency procurement regulations from Executive Order 12291. The General Services Administration certifies that this document will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

List of Subjects in 48 CFR Parts 536 and 552

Government procurement.

Authority: 40 U.S.C. 486(c).

In 48 CFR Chapter 5, the following Acquisition Circular is added to Appendix C at the end of the chapter to read as follows:

Dated: September 10, 1984.
Allan W. Beres,
Assistant Administrator for Acquisition Policy.

General Services Administration Acquisition Regulation—Acquisition Circular (AC-84-6)

To: All GSA contracting activities.

Subject: Basis of award for construction contracts.

1. *Purpose.* This Acquisition Circular temporarily amends the General Services Administration Acquisition Regulation (GSAR), Chapter 5, APD 2800.12, to provide expanded coverage on the basis of award for construction contracts.

2. *Background.* The Public Buildings Service (PBS) requested that Section 536.303-70, Bids that include alternates, and Section 552.236-73, Contract Award—with Alternates, be revised and expanded to cover other situations (i.e., use of alternates and options) which may be desired in the award of construction contracts. The PBS request was prompted by a recent Comptroller General decision (B-215080, dated May 29, 1984) which highlighted the need for expanded coverage.

3. *Effective date.* September 10, 1984.

4. *Expiration date.* This Acquisition Circular expires 6 months after issuance unless canceled earlier.

5. *Applicability.* This Acquisition Circular applies to solicitations for the procurement of construction which may or may not include alternates, options, or both.

6. *Reference to regulation.* Sections 536.303-70, 536.570-4, and 552.236-73.

7. *Explanation of changes.*

a. Section 536.303-70 is revised to read as follows:

536.303-70 Bids that include alternates.

(a) The base bid shall include all features that are essential to a sound and adequate building design. However, if it appears that funds available for a project may be insufficient to allow the inclusion of all desired features in the base bid, the contracting officer may issue a solicitation for a base bid and include one or more alternates in a stated order of priority. Alternates shall be used only when clearly justified and should involve significant amounts of work in relation to the base bid. Their use shall be limited and should involve only "add" alternates.

(b) The language of all solicitation provisions for alternates shall be approved in writing by counsel.

(c) All solicitations requiring a base bid and alternates shall include the Alternate II provision at 552.236-73, Basis of Award—Construction Contract, which prescribes the method of evaluation of bids.

(d) Before opening bids that include alternates, the contracting officer shall determine and record in the contract file the amount of funds available for the project. The amount recorded shall be announced at the beginning of the bid opening and shall be the controlling factor in determining the low bidder. This amount may be increased later when determining the alternate items to be awarded to the low bidder, provided that the award amount of the base bid plus such a combination of alternate items does not exceed the amount offered by any other responsible bidder whose bid conforms to the solicitation for the base bid and the same combination of alternate items.

b. Section 536.303-71 is added to provide procedures for the use of options in construction contracts, as follows:

536.303-71 Bids that include options.

(a) Subject to paragraphs (b) and (c) below, the contracting officer may include options in contracts when it is in the Government's interest.

(b) The appropriate use of options may include the following:

(1) When additional work is anticipated but funds are not expected to be available at time of award and it would not be practicable to award a separate contract or to permit an additional contractor to work on the same site.

(2) When fixed building equipment, e.g. elevators, escalators, will be installed under the construction contract and it is advantageous to have the installer of the equipment maintain and service the equipment during the warranty period.

(c) The contracting officer shall not employ options if:

(1) The option represents known firm requirements for which funds are available;

(2) The contractor will incur undue risks; e.g., the price or availability of necessary materials or labor is not reasonably foreseeable; or

(3) The option requirement can readily be handled as a separate competitive acquisition.

(d) Solicitations containing option provisions shall state the period within which the options shall be exercised.

(e) The solicitations shall state whether the basis of award is inclusive or exclusive of the options. Before a solicitation that includes evaluated options is issued, the contracting officer shall make a determination (1) that there is reasonable certainty that funds will

be made available to permit exercise of the option and (2) that competition for the option requirement is impractical once the initial contract is awarded.

(f) The language of all solicitation provisions for options shall be approved in writing by counsel.

(g) All solicitations requiring a base bid and options shall include the Alternate I provision at 552.236–73, Basis of Award—Construction Contract, which prescribes the method of evaluation of bids.

c. Section 536.303–72 is added to provide procedures for the use of both alternates and options in construction contracts as follows:

536.303–72 Bids that include alternates and options.

(a) Solicitations may include alternates and options when the conditions in Sections 536.303–70, Bids that include alternates, and 536.303–71, Bids that include options, are satisfied. In such solicitations, the low bidder for purposes of award is the responsible bidder offering the lowest aggregate price for (1) the base bid plus (2) those alternates in the order of priority listed in the solicitation that provide the most features of work within the funds available at bid opening, plus (3) all options designated to be evaluated.

(b) In the case of options associated with alternates, the basis of award may require the evaluation of such options if the related alternate is selected.

(c) All solicitations requiring a base bid, alternates and options shall include the Alternate III provision at 552.236–73, Basis of Award—Construction Contract, which prescribes the method of evaluation of bids.

(d) Before opening bids that include alternates and options, the contracting officer shall determine and record in the contract file the amount of funds available for the project (i.e., for the base bid and alternate work). The amount recorded shall be announced at the beginning of the bid opening. This amount may be increased later when determining the alternate items to be awarded to the low bidder, provided that the award amount of the base bid and evaluated options plus such a combination of alternate items does not exceed the amount offered by any other responsible bidder whose bid conforms to the solicitation for the base bid, the evaluated options, and the same combination of alternate items.

d. Section 536.370 is added to provide procedures for the exercising of options in construction contracts, as follows:

536.370 Exercise of options.

(a) When exercising an option, the contracting officer shall provide written notice to the contractor within the time period specified in the contract.

(b) The contracting officer may exercise options only after determining that:

(1) Funds are available;

(2) The requirement covered by the option fulfills an existing Government need; and

(3) The exercise of the option is the most advantageous method of fulfilling the Governments need, price and other factors considered.

(c) Before exercising an option, the contracting officer shall determine that such action is in accordance with the terms of the option and the requirements of this section. The written determination shall be included in the contract file.

(d) The contract modification or other written document which notifies the contractor of the exercise of the option shall cite the option clause as authority. The negotiation authorities under 41 U.S.C. 252(c) are not applicable and shall not be cited.

e. Section 536.570–4 is revised to read as follows:

536.570–4 Basis of award—construction contract.

The contracting officer shall insert the provision at 552.236–73, Basis of Award—Construction Contract or the appropriate Alternate, as applicable, in solicitations for fixed-price construction except for indefinite quantity contracts, when the contract amount is expected to exceed the small purchase limit.

f. Section 552.236–73 is revised to read as follows:

552.236–73 Basis of award—construction contract.

As prescribed in 536.570–4, insert the provision or the appropriate Alternate substantially as follows in solicitations for fixed-price construction, except for indefinite quantity contracts, when the contract amount is expected to exceed the small purchase limit. The basic clause is used when the solicitation includes only a base bid.

Basis of Award—Construction Contract (August 1984)

(a) The low bidder for purposes of award is the responsible bidder offering the lowest price for the base bid (consisting of the lump sum bid and any associated unit price bids extended by the applicable number of units shown on the bid form). See Standard Form 1442, Solicitation, Offer and Award and the provision entitled "Contract Award—Formal Advertising—Construction".

(b) A bid may be rejected as nonresponsive if the bid is materially unbalanced as to bid prices. A bid is unbalanced when the bid is based on prices significantly less than cost for some work and significantly overstated for other work.

(End of Clause)

Alternate I

If the solicitation includes a base bid and options, the Contracting Officer shall delete paragraph (a) of the basic clause and insert paragraph (a) substantially as follows:

(a) The low bidder for purposes of award is the responsible bidder offering the lowest aggregate price for (1) the base bid (consisting of the lump sum bid and any associated unit price bids extended by the applicable number of units shown on the bid form) plus (2) all options designated to be evaluated. The evaluation of options will not obligate the Government to exercise the options. See Standard form 1442, Solicitation, Offer and Award and the provision entitled "Contract Award—Formal Advertising—Construction".

Alternate II

If the solicitation includes a base bid and alternates, the Contracting Officer shall delete paragraph (a) of the basic clause and insert paragraphs (a), (c), and (d) substantially as follows:

(a) The low bidder for purposes of award is the responsible bidder offering the lowest aggregate price for (1) the base bid (consisting of the lump sum bid and any associated unit price bids extended by the applicable number of units shown on the bid form) plus (2) those alternates in the order of priority listed in the solicitation that provide the most features of work within the funds available at bid opening. See the provision entitled "Contract Award—Formal Advertising—Construction."

(c) Alternates will be added to the base bid in the order listed in the solicitation (see Standard Form 1442, Solicitation, Offer and Award). If the addition of an alternate would make all bids exceed the funds available at bid opening, that alternate shall be skipped and the next subsequent alternate in a lower amount shall be added, provided that the aggregate of base bid and the selected alternates does not exceed the funds available at bid opening. For example, when the amount available is $100,000 and a bidder's base bid is $85,000, with its separate bids on four successive alternates being $10,000,

$8,000, $6,000, and $4,000, the aggregate amount of the bid for purposes of selecting the alternates would be $99,000 (base bid plus the first and fourth alternates). The second and third alternates are skipped because each of them would cause the aggregate of the base bid and alternates to exceed the $100,000 amount available when considered with the first alternate. All bids shall be evaluated on the basis of the same alternates.

(d) After the low bidder has been determined in accordance with paragraph (a), an award may be made to that low bidder on the base bid, plus any combination of alternates for which funds are available at the time of award, but only if the award amount does not exceed the amount offered by any other responsible bidder. If the base bid plus the proposed combination of alternates exceeds the amount offered by any other responsible bidder for the same combination of alternates, the award cannot be made on that combination of alternates.

Alternate III

If the solicitation includes a base bid, alternates and options, the Contracting Officer shall delete paragraph (a) of the basic clause and insert paragraphs (a), (c), and (d) substantially as follows:

(a) The low bidder for purposes of award is the responsible bidder offering the lowest aggregate price for (1) the base bid (consisting of the lump sum bid and any associated unit price bids extended by the applicable number of units shown on the bid form) plus (2) those alternates in the order of priority listed in the solicitation that provide the most features of work within the funds available at bid opening plus (3) all options designated to be evaluated except those options associated with alternates which are skipped during the selection process outlined in paragraph (c) below. The evaluation of options will not obligate the Government to exercise the options. See the provision entitled "Contract Award—Formal Advertising—Construction."

(c) Alternates will be added to the base bid in the order listed in the solicitation (see Standard Form 1442, Solicitation, Offer or Award). If the addition of an alternate would make all bids exceed the funds available at bid opening, that alternate shall be skipped and the next subsequent alternate in a lower amount shall be added, provided that the aggregate of base bid and the selected alternates does not exceed the funds available at bid opening. For example, when the amount available is $100,000 and a bidder's base bid is $85,000, with its separate bids on four successive alternates being $10,000, $8,000, $6,000, and $4,000, the aggregate amount of the bid for purposes of selecting the alternates would be $99,000 (base bid plus the first and fourth alternates). The second and third alternates are skipped because each of them would cause the aggregate of the base bid and alternates to exceed the $100,000 amount available when considered with the first alternate. All bids shall be evaluated on the basis of the same alternates.

(d) After the low bidder has been determined in accordance with paragraph (a), award may be made to that low bidder on the base bid and evaluated options plus any combination of alternates for which funds are available at the time of award, but only if that low bidder is still low on the sum thereof plus any previously unevaluated options designated to be evaluated which are associated with proposed alternates that were skipped during the selection under paragraph (c). If that low bidder is not still low, award cannot be made on the proposed combination of alternates.

g. The title of clause number 552.236-4 on the Fixed-Price Construction matrix in 552.300 is revised to read: Basis of Award—Construction Contract.

Allan W. Beres,

Assistant Administrator for Acquisition Policy.

[FR Doc. 84-24603 Filed 9-17-84; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 80-06; Notice 3]

Federal Motor Vehicle Safety Standards; Seat Belt Assemblies

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

ACTION: Final rule.

SUMMARY: This notice amends Safety Standard No. 209, *Seat Belt Assemblies*, to alter the test procedure specified under the "resistance to light" requirements of the standard. This amendment is intended to establish an equivalent strength test for both nylon and polyester webbing materials used in seat belt assemblies. This amendment changes the test apparatus for polyester fibers by replacing the currently specified "Corex D" filter with a chemically strengthened or tempered soda-lime glass filter. The "Corex D" filter would still be utilized in testing nylon webbing, since it offers the best correlation with actual outdoor results when dealing with nylon webbing material.

DATES: Effective date September 18, 1985. Petitions for reconsideration must be received by the agency not later than October 18, 1984. The incorporation by reference of the standard in this regulation is approved by the Director of the Federal Register effective September 18, 1985.

ADDRESS: Petitions for reconsideration should refer to the docket number and notice number and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 [Docket hours are from 8 a.m. to 4 p.m.]

FOR FURTHER INFORMATION CONTACT: Mr. William Smith, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-2242).

SUPPLEMENTARY INFORMATION: Under Safety Standard No. 209, *Seat Belt Assemblies* (49 CFR 571.209), seat belts must pass a "resistance to light" test (paragraph S4.2(e)). This test measures the strength and durability of the seat belt webbing material after exposure to sunlight. The "resistance to light" test represents an accelerated determination of outdoor exposure or aging. A rapid form of testing is needed so that webbing may be certified in accordance with Standard No. 209 and automotive companies' specifications prior to shipment.

On May 1, 1980, a Notice of Proposed Rulemaking (45 FR 29102) was issued, proposing an amendment to the procedure to be used in "resistance to light" tests. The original standard called for a "Corex D" filter in testing webbing material. The "Corex D" filter was an adequate test apparatus prior to the introduction of polyester webbing material for seat belts. Research had shown that although the specified test apparatus of a carbon arc light source combined with a "Corex D" filter, in general, was an effective method of simulating the effects of sunlight, it did result in the emission of certain radiations that were unrepresentative of the actual effects of natural sunlight. These peculiar radiations, which destroyed polyester but not nylon fibers, made the "Corex D" test procedure inappropriate for measuring the "resistance to light" requirements of seat belts containing polyester webbing material.

The proposed procedure replaced the required "Corex D" filter with a plain soda-lime glass filter in an attempt to

create a similar, adequate testing for both nylon and polyester webbing material used in seat belt assemblies. Responses to that notice indicated that the proposed plain soda-lime glass filters were cracking either during the test cycle, due to the intense heat emitted during the 100 hours of test time, or after the test period, during the cool down of the equipment.

The Narrow Fabrics Institute, Inc. requested a delay in the rulemaking process in order to locate a less heat sensitive substitute. On September 16, 1980, the agency informed the Narrow Fabrics Institute, Inc. that the rulemaking process would be delayed until the development of a filter more resistant to thermal shock.

Upon completion of a two-year search and a one-year period of evaluation, the Narrow Fabrics Institute submitted a revised test apparatus. The improved filter was a chemically strengthened or tempered soda-lime glass. Testing done by the agency under Contract No. DTNH-22-83-P-02016 confirmed that the new filter maintained the same light transmittance characteristics of the untreated soda-lime glass filter originally proposed, but was free of the previous thermal shock problems. The treated soda-lime glass filter produces an excellent correlation with actual outdoor results, for the proper accelerated degradation of polyester webbing, without the prior breakage difficulties.

A careful evaluation of data compiled over the past few years demonstrates that as to nylon webbing material, the "Corex D" filter still affords the best correlation with actual outdoor results. In light of these various findings, the agency proposed on November 28, 1983 (48 FR 53583) to amend the test procedure to reflect these results.

Four of the five commenters to the docket supported the proposed amendment to Standard No. 209. The other commenter, Renault, made two objections. First, it argued that the carbon arc light used in Standard No. 209 is unrepresentative of real use conditions. It urges the use of an xenon lamp. As stated previously, the use of the carbon arc light with the appropriate filters produces excellent correlation with actual outdoors test of the resistance to light capability of seat belts. The agency therefore does not believe it is necessary to propose an amendment to allow the use of an xenon lamp.

Renault also said that Standard No. 209 should not use different test procedures for different materials. It recommended that the agency not require the use of different filters, but instead specify the transmission band and spectral distribution of the radiation used in the test. Finally, Renault said that if the agency decides to require a filter, it should provide a more specific definition of the filter to be used in the testing. In particular, Renault asked that the agency specify the wave length of the light being used.

The agency disagrees with Renault concerning the use of different filters in the resistance to light test. The carbon arc test equipment used in the resistance to light test is a well established test procedure that has been long used by the motor vehicle and seat belt industries. Tests conducted by the Narrow Fabrics Institute show that the carbon arc test equipment, when used with the appropriate filters, produces results comparable to actual outdoor resistance to light tests. Although the agency has decided to retain the use of the filters, it agrees with Renault that the specific characteristics of the new soda-lime filter need to be more precisely defined. The agency has obtained information on the transmittance of chemically strengthened soda-lime glass from the principal manufacturer of that device. Based on that information, the agency is amending the standard to specify the transmittance of the soda-lime glass to be used in the resistance to light test of polyester belts.

Update References

In the November 1983 notice, the agency proposed to update one of the American Society for Testing and Materials recommended practices incorporated by reference in the standard. The proposal to incorporate ASTM G23-81 was not opposed by the commenters and is therefore adopted.

Economic Impacts

The agency has determined that the testing costs under this proposal would have minimal economic impact. Therefore, the final rule is neither major within the meaning of Executive Order 12291 nor significant within the meaning of the Department of Transportation's regulatory policies and procedures, and a full regulatory evaluation has not been prepared.

Furthermore, under the Regulatory Flexibility Act, the agency has reviewed the effects of this final rule on small entities. Based on this evaluation, I certify that the final rule will not have a significant economic impact on a sustantial number of small entities. Due to the minimal effect on testing costs, the final rule will not significantly affect the manufacturing costs of any seat belt manufacturers who are small entities or the retail price of vehicles purchased by any small organizations or governmental units. In accordance with this evaluation, no regulatory flexibility analysis has been prepared.

In addition, the agency has evaluated this action for purposes of the National Environmental Policy Act and has determined that the final rule will not have a significant impact on the quality of the human environment.

The amendment is effective one year after the issuance of this notice. This one-year period should give manufacturers sufficient time to procure the filters and to adjust established schedules to accommodate the additional testing process.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

In consideration of the foregoing, paragraph S5.1(3) of Safety Standard No. 209, *Seat Belt Assemblies* (49 CFR 571.209), is amended by revising paragraph (e) to read as follows:

§ 571.209 Standard No. 209; seat belt assemblies.

* * * * *

S5.1 * * *

(e) *Resistance to Light.* Webbing at least 20 inches or 50 centimeters in length from three seat belt assemblies shall be suspended vertically on the inside of the specimen rack in a Type E carbon-arc light-exposure apparatus described in Standard Practice for Operating Light-Exposure Apparatus (Carbon-Arc Type) With and Without Water for Exposure of Nonmetallic Materials, ASTM Designation: G23-81, published by the American Society for Testing and Materials, except that the filter used for 100 percent polyester yarns shall be chemically strengthened soda-lime glass with a transmittance of less than 5 percent for wave lengths equal to or less than 305 nanometers and 90 percent or greater transmittance for wave lengths of 375 to 800 nanometers. The apparatus shall be operated without water spray at an air temperature of 60± 2 degrees Celsius or 140± 3.6 degrees Fahrenheit measured at a point 1.0± 0.2 inch or 25± 5 millimeters outside the specimen rack and midway in height. The temperature sensing element shall be shielded from radiation. The specimens shall be exposed to light from the carbon-arc for 100 hours and then conditioned as prescribed in paragraph (a) of this section. The colorfastness of the

exposed and conditioned specimens shall be determined on the Geometric Gray Scale issued by the American Association of Textile Chemists and Colorists. The breaking strength of the specimens shall be determined by the procedure prescribed in paragraph (b) of this section. The median values for the breaking strengths determined on exposed and unexposed specimens shall be used to calculate the percentage of breaking strength retained.

* * * * *

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued: August 31, 1984.

Diane K. Steed,

Administrator.

[FR Doc. 84-23721 Filed 9-17-84; 8:45 am]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 49, No. 182
Tuesday, September 18, 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 THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-142-84; LR-149-84]

Tax Shelter Registration and Requirement To Maintain Lists of Investors in Potentially Abusive Tax Shelters; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to tax shelter registration, and the requirement to maintain lists of investors in potentially abusive tax shelters.

DATES: The public hearing will be held on Thursday, November 15, 1984, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Thursday, November 1, 1984.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, ATTN: CC:LR:T (LR-142-84, LR-149-84), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: B. Faye Easley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, telephone 202-566-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: One of the two subjects of the public hearing is proposed regulations under sections 6111 and 6707 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Wednesday, August 15, 1984 (49 FR 32728) (See Doc. No. 84-21729).

The second subject of the public hearing is proposed regulations under section 6112 and 6708 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Wednesday, August 29, 1984 (49 FR 34246) (See Doc. No. 84-22938).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Thursday, November 1, 1984, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly,

Director, Legislation and Regulations Division.

[FR Doc. 84-24574 Filed 9-17-84; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 51

[LR-38-82]

Net Profit Interests, Proposed Rulemaking

Correction

In FR Doc. 84-22936 beginning on page 34242 in the issue of Wednesday August 29, 1984, make the following corrections:

1. On page 32243, first column, in the fourth line below "Background", "4922" should have read "4992".

2. On the same page, second column, first complete paragraph, fourth line from the bottom, "of his share" should have read "as his share".

§ 51.4988-2 [Corrected]

3. On page 34244, in § 51.4988-2 (c)(4)(B), second column, in the third line insert the following after "to such portion": "shall be treated as paid or incurred by such person".

4. On the same page, third column, eighth line, "of" should have read "if".

§ 51.4996-1 [Corrected]

5. On page 34245, in § 51.4996-1 (b)(3)(iv), second column, eleven lines from the bottom, "new" should have read "net".

6. On the same page, same column, in § 51.4996-1(b)(3)(vii), second line from the bottom, "on" should have read "in".

7. In the third column, in § 51.4996-1 (b)(3)(viii), Example (2), fourth line, insert the word "interest" between "royalty" and "agreement".

BILLING CODE 1505-01-M

POSTAL SERVICE

39 CFR Part 111

Additional Specifications for the Testing of Postage Meters

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The purpose of this change is to amend the specifications for testing postage meters to include auxiliary equipment required for the operation of postage meters. This includes such items as carrying cases with built-in power supplies, postage meter bases which would effect the operation of the meters, and other equipment which could cause failures of postage meters. Testing meters without testing auxiliary equipment may not be sufficient to assure accuracy in collecting postage.

DATE: Comments must be received on or before October 17, 1984.

ADDRESS: Comments may be mailed to the Office of Mail Classification, Rates & Classification Department, U.S. Postal Service, Washington, DC 20260-5371, or be delivered to Room 8430 at the above address between 8:00 a.m. and 4:00 p.m. Comments may also be inspected during the above hours in Room 8430.

FOR FURTHER INFORMATION CONTACT: F.E. Gardner (202) 245-4565.

SUPPLEMENTARY INFORMATION: Since the inception of the use of postage meters in 1920, the Postal Service has subjected only postage meter heads to examination, testing and approval. Until recently, the accounting functions of meters have been mechanical. With the advent of electronic accounting functions, there is no way to determine the effect of electro-magnetic radiation from external power supplies or the effect of interface connections between the power supply and meter. Concern has also been expressed that external units that interface with the accounting section of a meter may have the ability to affect the information it contains. Even where the meters themselves can pass the most detailed and rigorous tests, the value of the tests could be voided if the meters could be affected by electro-magnetic radiation from devices which have not also been tested and approved. The value of testing just one portion of the system is considered to be questionable and may not assure accuracy in collecting proper and correct postage.

The full burden of maintaining accounting integrity must rest with the meter under all conditions of environment, communications, power and usage. Although it is the responsibility of the meter manufacturer to assure and provide evidence that adequate testing of electronic meters has taken place, examination, testing and approval of auxiliary equipment which could cause failure of postage meters is needed.

It is not the intent of the Postal Service to delineate every device that may interface with a postage meter (mechanical, electronic or a combination of the two) or to examine, test and approve all these devices. However, because of the variables inherent in electronic devices and the need for demonstrated reliability of postage meters, selective auxiliary equipment must also be tested.

Accordingly, although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed amendments of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

Part 144—Postage Meters and Meter Stamps

In 144.9, add new .92j reading as follows:

144.9 Manufacture and distribution of postage meters.

* * * * *

.92 Specifications

* * * * *

.92j Auxiliary equipment required for the operation of the postage meters must be a part of the final production models submitted for postal approval. Failure of the auxiliary equipment, which could cause malfunction in postage meter operation, will be considered the same as a postage meter failure.

An appropriate amendment to 39 CFR 111.3 to reflect this change will be published if the proposal is adopted.

(39 U.S.C. 401 (2), (10), 404(a) (2), (4))

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 84-24585 Filed 9-17-84; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-10-FRL-2672-3]

Approval and Promulgation of State Implementation Plan; Idaho

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed rulemaking addresses the State Implementation Plan (SIP) revisions submitted on May 29, 1984 by the State of Idaho Department of Health and Welfare pursuant to the requirements of Part D of the 1977 Clean Air Act (hereinafter referred to as the Act). In today's action EPA is proposing to approve the 1984 carbon monoxide (CO) plan for the Boise-Ida County nonattainment area based on review of the mentioned SIP revision. Upon final approval by EPA, the CO plan will become a federally enforceable part of the SIP as required by the Act.

DATE: Comments must be postmarked on or before October 18, 1984.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

Air Programs Branch (10A-84-6), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

State of Idaho, Department of Health and Welfare, 450 W. State Street, Statehouse, Boise, Idaho 83720.

Comments should be addressed to: Laurie M. Kral, Air Programs Branch M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Loren C. McPhillips, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone No. (206) 442-7369, (FTS) 399-7369.

SUPPLEMENTARY INFORMATION:

I. Background

On October 23, 1980 (45 FR 7052) EPA approved the first phase of the Boise-Ada County CO SIP. In that Notice EPA called for implementation of an I/M program by December 31, 1982 for a decentralized program or by December 31, 1983 for a centralized program. In addition, EPA approved the State's request for an extension of the CO attainment date to December 31, 1987.

On November 8, 1982 a draft of the second phase CO SIP was submitted to EPA. A hearing was held on December 14, 1982, and the draft SIP was adopted without change and submitted to EPA on December 23, 1982. On February 3, 1983 EPA published a proposal (48 FR 5133) to approve the SIP. The implementation of an I/M program was the major component of the plan. It should be noted that without the I/M reduction, the projected attainment date is beyond 1990. Unfortunately the original ordinances which were contained in the 1982 SIP and on which the I/M portion of the plan was based, were found to be defective and the original program design and schedule were abandoned. Based upon those events, EPA concluded that the I/M portion of the CO plan was no longer approvable and on January 18, 1984 (49 FR 2120) EPA then proposed to disapprove the I/M and attainment date demonstration portions of the plan.

City and County officials then made a renewed effort to overcome the deficiencies described above. On August 24, 1983 the County officials adopted a new I/M ordinance calling for the implementation of a decentralized I/M program by August 1984. On September 12, 1983 the city also adopted the same ordinance.

The initial program design was adopted and then a new SIP revision was prepared. This new SIP revision contains essentially the same control measures as the old 1982 SIP in addition to a new I/M program and attainment

demonstration. The new SIP revision was adopted by the Idaho State Department of Health and Welfare (IDHW) and then submitted to EPA on May 29, 1984.

II. Plan Review

The 1984 Boise-Ada County SIP revision contains several control measures and elements that are identical to the 1982 revision. Those measures and elements are briefly summarized in the next subsection. For additional information please see the February 3, 1983 **Federal Register** (48 FR 5133). Two new components, I/M and the Attainment Demonstration are discussed in Section B.

A. Original Elements of the SIP

EPA is proposing to approve the following control strategies, that were contained in the original 1982 SIP and have been re-submitted in the 1984 SIP. The following is a list of these control measures:

1. Mechanics training;
2. Public transit improvement and expansion;
3. Parking management program;
4. Traffic flow improvements;
5. Bicycle program;
6. Park and ride lots;
7. Drive-in management ordinance;
8. Staggered work hours; and
9. Cold-start education.

The commitment to these measures ensures that the requirements for basic transportation needs are satisfied and that improved mobility will be emphasized. Therefore, EPA is proposing to approve the element pertaining to basic transportation needs.

Additionally, the SIP revision contains procedures to ensure that federal actions will be reviewed for conformity with the SIP in a manner consistent with the criteria contained in the April 1, 1980 notice on conformity (45 FR 21590). Procedures for specifically evaluating Department of Transportation plans and programs are included in the SIP. After determining conformity of the plans and programs, all federal aid projects will still be evaluated in accordance with procedures specified in the National Environmental Policy Act. If the analysis indicates that the project will create new violations or exacerbate existing violations, then the project will not be constructed without modifications to the project or plan sufficient to maintain reasonable further progress toward attainment. It should be noted that the most recent EPA emissions factors must be used in these analyses.

Therefore, EPA is also proposing to approve the element of the plan pertaining to Conformity of Federal Actions with the SIP. A detailed discussion of these approvable elements is contained in the February 3, 1983 (48 FR 5133) **Federal Register** Notice.

B. New Elements of the SIP

1. Data and Modeling Results

Numerous violations of the 8-hour CO standard of 9 parts per million (ppm) have been recorded each year in the Boise-Ada County area. Based upon an analysis of ambient air quality monitoring data for three years, the adjusted CO design concentrations is 15.9 ppm, which corresponds to a required emission reduction of 53 percent in order to meet the standard.

A rollback model was used to predict air quality concentrations. The results of the analysis indicates that Boise-Ada County will have several violations of the 8-hour CO ambient air quality standard beyond 1984. However, analysis also shows that the controls adopted in this plan will achieve a 56 percent reduction and are projected to bring the region into attainment by late 1986.

2. Inspection and Maintenance Program (I/M)

A total I/M program was adopted as ordinance by the Ada County Board of Commissioners on August 24, 1983 and by the Boise City Council on September 12, 1983. The program is a decentralized, sticker, type of program. It should be noted that the mandatory portion of the I/M program started on August 1, 1984, and an anti-tampering check for model year 1984 and newer vehicles will gradually be phased in. Although most of the components of the program are already included in the SIP revision, the formal submittal of the final operating rules and regulations is necessary before final SIP approval. EPA expects the enforcement mechanism for the sticker program to be equally as effective as a denial of vehicle registration enforcement mechanism.

III. Proposed Rulemaking Action

EPA is proposing to approve the 1984 Boise CO attainment plan and establish a new attainment date of December 31, 1986. This proposed approval is based on review of the SIP revision submitted by the IDHW to EPA on May 29, 1984.

Interested parties are invited to comment on all aspects of this proposed Approval of the Idaho SIP revision. Comments should be submitted preferably in triplicate, to the address listed in the front of this Notice. Public comments postmarked by October 18, 1984 will be considered in any final action EPA takes on this proposal.

Pursuant to the provisions of 5 U.S.C. section 605(b), the Administrator has certified that SIP approvals under sections 110 and 172 of the Act will not have significant impact on a substantial number of small entities (46 FR 8709, January 27, 1981). This action constitutes a SIP approval under sections 110 and 172 within the terms of the January 27, 1981 certification.

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

(Secs. 110(a), 172, 176, and 316 of the Clean Air Act (42 U.S.C. 7410(a), 7502 and 7601(a)))

List of Subjects in 40 CFR Part 52

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

Dated: July 25, 1984.

Robert S. Burd,

Acting Regional Administrator.

[FR Doc. 84-24633 Filed 9-17-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[General Docket Nos. 84-689 and 84-690 (FCC 84-319)]

Allocating Spectrum for, and Establishing Other Rules and Policies Pertaining to, a Radiodetermination Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission is proposing to allocate spectrum in the bands 1610–1610.5 MHz, 2483.5–2500 MHz and 5117–5183 MHz for the establishment of a radiodetermination satellite service, and to establish policies and procedures for the licensing of such systems. A need for a nationwide radiodetermination service has been expressed by a broad cross-section of potential users in response to a proposal by Geostar Corporation to establish such a system. The allocation would provide frequencies for a nationwide radiodetermination service that would allow users to determine position information and to exchange brief coded messages. The service would be available anywhere within the continental United States. To enable one or more radiodetermination satellite

system authorizations to be issued at the time frequency allocations are finalized for this service, procedures are adopted to accept and process applications for radiodetermination systems concurrently with the frequency allocation rulemaking.

DATES: Comments must be submitted on or before November 13, 1984 and Reply comments on or before December 13, 1984.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: For questions concerning the proposed allocation: Melvin J. Murray, Office of Science and Technology (202) 653–8168.

For questions concerning applications or application processing procedures: Ronald J. Lepkowski, Satellite Radio Branch (202) 634–1624.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 2

Frequency allocations, Radio.

Notice of Proposed Rulemaking

In the matter of amendment of the Commission's Rules to allocate spectrum for, and to establish other rules and policies pertaining to, a Radiodetermination Satellite Service (Gen Docket No. 84–689, RM–4426); In the matter of policies and procedures for the licensing of space and earth stations in the Radiodetermination Satellite Service (Gen Docket No. 84–690), and In the matter of the applications of Geostar Corp. for authority to construct, launch and operate space stations in the Radiodetermination Satellite Service (File Nos. 2191–DSS–P/LA–83, 2192–DSS–P/LA–83, 2193–DSS–P/LA–83, 2194–DSS–P/LA–83).

Adopted: July 12, 1984.
Released: September 7, 1984.

By the Commission: Commissioner Dawson dissenting in part and issuing a separate statement; Commissioner Rivera absent.

Introduction

1. On March 31, 1983, the Geostar Corporation (Geostar) petitioned the Commission to begin a proceeding to allocate spectrum for developmental operation of a new type of satellite system. The proposed system would provide radiodetermination and associated message transfer services to subscribers throughout the continental United States.[1] The system would allow subscribers to determine latitude, longitude and altitude and to exchange brief coded messages using inexpensive hand-held transceivers. The purpose of this *Notice* is to propose the allocation of spectrum for a radiodetermination satellite service, to accept and process applications for radiodetermination satellite systems, and to determine the extent of any necessary regulation of licensees in this service.

Background

2. Geostar requests a nationwide exclusive spectrum allocation of 33 MHz. The 1610–1626.5 MHz band would be used for ground-to-space transmissons from the hand-held transceivers to the satellites and the 2483.5–2500 MHz band would be used for space-to-ground transmissions from the satellites to the hand-held transceivers. Additional non-exclusive allocations of 16.5 MHz centered at 5125 MHz and 5175 MHz were also requested for communications between the satellites and a single computer processing and control facility. Geostar's use of this spectrum would preclude other uses only within a small radius of the control facility.

3. Along with the petition for spectrum allocation, Geostar submitted applications for authority to construct and launch the proposed satellite system. Geostar proposes to locate four satellites in geostationary orbit: one each at 70, 100, and 130 degrees West Longitude and one in-orbit spare. The applications request that Geostar be granted interim authority to operate the satellite system on a developmental basis prior to the resolution of the underlying rulemaking proceeding. The Commission has not acted on the application, however, due to the complex public policy issues inherent in spectrum allocations.

4. On April 19, 1983, the Commission placed Geostar's petition for spectrum allocation on public notice (No. 1401). The majority of comments supported the proposal, citing the potential benefits of the Geostar system in aeronautical, marine, and land transportation safety. The Communications Satellite corporation (COMSAT) expressed concern that use of the 1610–1626.5 MHz band be coordinated with the International Maritime Satellite Organization. Only one comment opposed the petition. Offshore Navigation, Inc. (ONI) argued that the petition should be denied pending a complete evaluation of the relevant market potential and technical issues.

5. Geostar submitted supplemental information to the Commission on August 30, 1983, which revised a number of the system parameters included in its original petition. The most significant change was in the spectrum requested for the communications links between the satellites and the terrestrial computer and control facility. The original request of two communication links of 16.5 MHz centered at 5125 MHz and 5175 MHz has been amended to request a downlink allocation of 66 MHz between 5117–5183 MHz and an uplink allocation of 16.5 MHz within the frequency band 6425–7075 MHz. The original request for 33 MHz of spectrum for the communications links between the satellites and the hand-held transceivers remains the same.

6. On September 14, 1983, the Commission placed Geostar's supplemental information on public notice (No. 1425). Five parties filed comments, with three endorsing the Geostar proposal. CBS, Inc. objects to the radiodetermination downlink at 2483.5–2500 MHz and also suggests that the control uplink be located within the 6525–6875 MHz band because of concern about interference with broadcast electronic news gathering (ENG) equipment operating in both the 2 GHz and 6 GHz bands. The Mobile Satellite Corporation (MOBILSAT) argues that the Geostar proposal is not responsive to the needs of the market in that it would offer only radiodetermination information and that the satellite system design is technically deficient and cannot realize the stated accuracy of 1 to 7 meters.

7. Based on the substantial number of comments received in support of the Geostar proposal, we believe sufficient interest has been demonstrated by a broad cross section of potential users to suggest that there is a need for a nationwide radiodetermination satellite service. Only ONI and MOBILSAT have objected to the overall proposal. ONI objects to what perceives to be a proposal for an exclusive allocation of 133 MHz of spectrum when in fact, Geostar seeks only 33 MHz. MOBILSAT questions the stated accuracy of the Geostar satellite system but bases its arguments on the assumption that the Geostar system uses range difference techniques, rather than direct range measurements, to determine position information. MOBILSAT appears to agree that direct range measurement techniques can be quite accurate. Both COMSAT and CBS expressed concern over the potential for interference between the Geostar satellite system and other spectrum users and we intend to explore their concerns in this proceeding. All other comments urge the Commission to proceed expeditiously

[1] The Rules define radiodetermination as the determination of position, or the obtaining of information relating to position, by means of the propagation properties of radio waves. Radionavigation is radiodetermination used for purposes of navigation, including obstruction warning, and radiolocation is radiodetermination used for purposes other than those of radionavigation. See 47 CFR 2.1.

toward the implementation of the Geostar proposal. On balance, the record before us strongly supports initiating a proceeding to seek comments on a radiodetermination satellite service. This action is clearly in the public interest and is consistent with our mandate "to encourage the provision of new technologies and services to the public."[2]

8. The Geostar system appears to be particularly innovative because of its ability to make available to millions of users a communications service dedicated to the safety of life and property. The digital communications technology selected for use by Geostar allows for extremely efficient use of the proposed spectrum allocation. For the first time, millions of subscribers would have access to a radiodetermination service which could provide information critical to safety of life and property. As the Aircraft Owners and Pilots Association stated in their comments: "The capacity of the Geostar Satellite Service to report instantly the location of aircraft which are either downed or in other distress situations represents a potentially major breakthrough with substantial life-saving ramifications."

Description of the Proposed Satellite System

9. According to Geostar's petition and applications, the proposed satellite system will serve three principal types of users. One is airline and general aviation aircraft that need navigational information during flight, as well as message relay during emergency situations. Another type of use includes terrestrial and marine vehicles that require location information and the ability to send messages. Also, the home base of a fleet of vehicles could use the satellite system to dispatch and control individual vehicles. The third potential use is for pedestrians that require location information and the ability to send messages. In each case the system would be particularly useful during accident and emergency situations. Each user will be equipped with what Geostar terms an Automatic Beacon Transponder (ABT). The pedestrian would use a hand-held transceiver with a liquid-crystal display. ABT units for vehicular and aircraft usage will be somewhat larger and more technically complex to permit increased accuracy and operational flexibility. Each ABT will be capable of displaying one or more types of information: User position, speed, answer to a question, a warning message, or messages from other users. Geostar estimates that the pedestrian unit will cost about $450 and that monthly service charges will range from $30 to $40. No price estimates were given for the vehicular and aircraft units. According to Geostar, the proposed system will support a traffic capacity in excess of eighteen thousand 256 bit transmissions per second from aircraft, surface vehicles and pedestrian units.

10. The proposed system's space segment is to consist of three geostationary satellites located at 70° west, 100° west and 130° west longitude to provide coverage to the contiguous 48 states. Each of the satellites is to be identical in design. The proposed satellite system would use random access time division multiplex with slotted ALOHA protocol and differential phase shift keying (DPSK). The satellites are to relay information between the system's users and a control center. The control center will contain facilities to communicate with each satellite and computers required to perform position determination and other system functions. Geostar has proposed to locate its control center at Princeton, New Jersey.

11. Four communications links are required for the radiodetermination system proposed by Geostar: two space-to-earth links and two earth-to-space links. The users' radiodetermination uplink would operate within the 1610–1626.5 MHz band. The users' radiodetermination downlink would operate within the 2483.5–2500 MHz band. The control center would be linked to each satellite using a single data uplink bandwidth of 16.5 MHz located within the 6425–7075 MHz band. For the data downlink, the band 5117–5183 MHz would be used to link each of the satellites to the control center.

12. Operationally, the control center continually transmits via each of the three satellites what Geostar terms an Interrogation Pulse Group (IPG) available to all users throughout the continental U.S. The IPG's are transmitted at a 100 Hz rate and consist of a pre-set pattern of 64 bits of 80 nanoseconds duration each. The user may respond from an ABT by transmitting a message which will be in one of several possible formats, depending upon the needs of the user. The message always contains timing and identification information and may contain a user message. Based on elapsed time from the emission of an IPG from the control center to the receipt of an ABT's response via each of the 3 different satellites, the user's position is calculated using direct range measurements. The control center then transmits an addressed message, which may include the user's position, through one of the satellites for relay to the user intended to receive the message.

13. A user may access the system through three basic types of responses to the IPG: A position request, and emergency signal or a message signal. Based on the user's selection for the type of response, a varying length digital message transmission will be relayed to the control center through the satellites system. After responding, the user awaits a system reply. The reply will be either the user position location information or confirmation that the user message has been received by the control center and sent out as instructed. If the user does not receive a reply within 0.6 seconds, either due to coincidence of the user's response with that of another user's at the satellites antenna, or bit errors on the user-to-control center communications link, the ABT will automatically repeat the response message. Randomization is introduced into the time of repeat to avoid consecutive coincidences on the uplink.

14. Geostar claims its radiodetermination system will provide position information with accuracies in the range from 1 to 7 meters. To accomplish such accuracy, Geostar will employ fixed "benchmark" transceivers at known locations. Accordingly, systematic errors for each mobile user's measured range can be corrected by subtracting corresponding range errors to fixed benchmark transceivers in the same geographical area. Such errors include ionospheric delay variations, drifts in the electronic delays through the satellites, variations in the positions of the satellites antennas, and lack of knowledge of details of the earth's shape. The only equipment error which cannot be subtracted, according to Geostar, is drifting of the electronic delay within an individual user transceiver.

Spectrum Requirements

15. According to Geostar, radiodetermination propagation requirements, as well as the need to design technologically feasible equipment, necessitate use of frequencies in the 1 to 6 GHz range. The frequency bands selected for consideration were further constrained by the International Table of Frequency Allocations for Region 2. Also, exclusive Government primary bands were rejected. Remaining candidate bands were ranked so that least occupied bands were the most preferred and so

[2] 47 U.S.C. 157.

that no existing radio services would be left without an alternative radio band.

16. At the present time, the 1610–1626.5 MHz band, requested for use to provide the user radiodetermination uplink is allocated internationally and domestically to aeronautical radionavigation. International Footnote 732 provides for satellite-based facilities associated with aids to air navigation. For reference, the allocation and accompanying footnotes are reproduced in the Appendix A. Within the U.S., no telecommunications use is presently being made of this band. However, as provided in Footnote 734, the 1610.6–1613.8 MHz band is used by the radio astronomy service for observing the hydroxyl spectral line.

17. The 2483.5–2500 MHz band has been proposed by Geostar to provide for the radiodetermination downlink to users. The band 2483.5–2500 MHz is part of the 2400–2500 MHz ISM band and its current allocation status is also set out in Appendix A. Geostar has provided a technical analysis regarding the potential interference that would result from ISM equipment operating in this band to Geostar user equipments. In particular, it carried out a statistical analysis and performed on site field measurements for interference resulting from operation of microwave ovens. From its study, Geostar has concluded that this interference source should not pose a serious operational problem to its proposed system. The sole effect of possible microwave oven interference to Geostar user equipments would be to cause a modest incease in the "retransmit" rate.

18. The 2483.5–2500 MHz band is also allocated to TV auxiliary broadcast stations under Subpart F of Part 74 of the Commission's Rules. [3] According to the Commission's records of assignments, in March 1984, there were 72 broadcast licensees operating either fixed or mobile stations in the 2484–2500 MHz band. These stations, located throughout the U.S., are used in conjunction with television broadcast stations principally for electronic news-gathering operations (ENG) and for studio-to-transmitter links. Also, within the continental U.S. there were stations licensed in the petroleum radio service under § 90.65 and operating principally along the coast of California and Gulf of Mexico. Additionally, twenty-one stations located throughout the U.S. were found to be licensed under a number of private radio services including police, fire, power, local government, radiolocation, motion picture and the experimental/developmental radio service. According to Geostar, interference would be caused to these stations by the proposed satellite system if these stations' receiving antenna beams were to be pointed within 13 degrees of any of the three satellites which would be transmitting in the 2483.5–2500 MHz band. Moreover, Geostar, in its petition, indicates that its users' receiving equipment would be subject to interference at significant distances from terrestrial transmitters operating in the 2483.5–2500 MHz band. Consequently, Geostar requests that the stations currently licensed in this band be relocated to other channels within the band 2450–2483.5 MHz. It claims the private radio services could easily be reassigned, requiring only a change of crystal and minor system adjustments. Similarly, for TV auxiliary broadcast stations, Geostar indicates that relocation to other channels is also possible by a simple replacement of the crystal and minor system adjustment.

19. The next band requested by Geostar is 5117–5183 MHz and its current allocation status is also tabulated in Appendix A. This band, like the 1610–1626.5 MHz band, is allocated primarily for aeronautical radionavigation. This band would be used by the Geostar system to provide a downlink to the earth station located at Princeton, N.J. and would contain seven channels, condensed into the width of four channels by use of dual polarizations; this accounts for a total bandwidth of 66 MHz (4 x 16.5 MHz).[4] As presently envisioned by Footnote 796, the 5000–5250 MHz band is intended to be used internationally for one-way links from major airports to aircraft for guidance in final approach and landing. These receive-only systems are referred to as Microwave Landing System (MLS) and will be used primarily aboard commercial or military aircraft. Geostar has provided a technical analysis showing that the interference to planned MLS receivers from the proposed satellite link will be about 30 dB below the receiver noise. It considers this value sufficent to protect the MLS receivers.

20. A 16 MHz bandwidth within the 6425–7075 MMHz band is requested by Geostar to provide for an uplink to transmit commands and message traffic from its proposed computer center and earth station at Princeton, N.J. to each of the three geosynchronous satellites. This band's allocation status is also set forth in Appendix A. It is currently being used by licensees in the Domestic Public Fixed, Private Operational Fixed, and Auxiliary Broadcast services.

21. In its petition Geostar shows that it calculated the coordination area around Princeton, N.J. according to the procedures set forth in Appendix 28 of the ITU regulations. For that area, Geostar included a listing of various stations presently licensed in the 6525–6545 MHz, 6625–6645 MHz, and 7050–7070 MHz bands. Geostar believes it can coordinate its p roposed frequency usage with existing licensees. For the entire 6425–7075 MHz band, Geostar indicates that radiation from its Princeton earth station would not contribute any interference to passive microwave sensor measurements being carried out over the oceans pursuant to Footnote 809.

Current and Proposed Allocations

22. Of the four bands requested for use by Geostar, the one posing the most difficult allocation issue is the 2483.5–2540 MHz band. Because the level of radiation from terrestrial stations in the 2483.5–2500 MHz band would be above that which the Geostar receivers would be able to tolerate, we propose to reallocate this band to the radiodetermination satellite service and to relocate existing licensees. We do however, invite comment on whether some other accommodation might be possible to avoid the proposed relocation. For example, does the nature of the ENG operations permit any practical sharing arrangement? (Commenters should keep in mind the proposal by Geostar to provide aeronautical radionavigation and emergency communications.) If the proposal to relocate licenses is adopted, we would permit existing licenses a certain period of time in which to vacate the 2483.5–2500 MHz band and relocate to other bands allocated for their respective services. Since a launch date of 1987 is indicated for the Geostar system, we ask for comments on the amount of time that should be given to existing licensees for relocation. We do not envision this requirement to be excessively burdensome, because of what we perceive to be an adequate number of other frequencies available for relocation and a nominal cost for

[3] Specifically, the table of frequency assignments under § 74.602 indicates there are 10 channels in the designated "A" band, 1990–2110 MHz and 2450–2500 MHz.

[4] By using a number of downlink channels the probability of user message collision at a satellite is reduced from the single downlink channel case. As a consequence of using seven channels to support fifteen antenna feed horns, the maximum user population is five times greater than for a single downlink channel system.

frequency change.[5] We also request comments on the feasibility and desirability of requiring radiodetermination satellite system licensees to compensate terrestrial licensees for the costs of such relocations.

23. The primary use of the ISM band at 2400–2500 MHz is for microwave ovens, and Geostar's analysis showed that they would not pose a serious operational problem to its proposed system. However, future uses of the band could include other, higher power, operations.[6] We solicit comments on the possibilities for future use of the band and the effects of other kinds of applications on the proposed radiodetermination satellite service.

24. With regard to the bands, 1610–1626.5 MHz and 5117–5183 MHz, we note that although a completely conforming international allocation does not exist, we believe the proposed service does, nonetheless, fall under the purview of the existing allocations. For the 1610–1625.5 MHz band, the international footnote 732 is pertinent and indicates that the band is reserved worldwide for airborne electronic aids to air navigation and any directly associated ground-based or satellite-borne facilities. We believe the type of service proposed by Geostar fits this categorization in addition to its provision of several correlatable services. Accordingly, we are therefore proposing to add a U.S. footnote to indicate that the 1610–1626.5 MHz band will be allocated for this type radiodetermination-satellite service within the continental United States. The footnote we propose reads as follows:

> The band 1610–1626.5 MHz is also allocated for use by the radiodetermination satellite service in the Earth-to-space direction.

25. We note that although there appears to be no active use of the band, there is monitoring of the hydroxyl line by the radio astronomy service. Emissions from airborne stations can be serious sources of interference for radio astronomy observations. For example, the airborne transceivers could present a problem in this regard; however, Geostar indicates that these will be located on the upper fuselages of aircraft and, thus, there will be shielding provided by the body of an aircraft. Nevertheless, in order to thoroughly evaluate the compatibility of the two services in the 1610–1626.5 MHz band, we solicit specific comments on this sharing situation and the possibilities for eliminating or avoiding interference problems.

26. For the 5117–5183 MHz band, we believe the type of service proposed by Geostar again falls under the purview of the existing allocations. It is noted that international footnote 733 indicates that the 5000–5250 MHz band is to be used for the operation of microwave landing systems (MLS) and that this use takes precedence over other uses. It appears, however, that MLS may occupy only the 5030–5090 MHz segment, as international standards and practices are now being established. Nonetheless, as stated earlier, Geostar claims its proposed system will not cause interference to future possible MLS use of this band because the downlink signal level is considerably below the threshold level of detection for currently planned MLS receivers. However, we propose to add a new footnote to our table indicating the actual sub-band, direction of transmission, and power flux density limit. Because it is not clear what level of power flux density should be proposed to limit harmful emissions to other possible users in the band, we ask for recommendations on the specific appropriate level with accompanying justification. The proposed footnote to be added to the U.S. Table for the frequency range 5000–5250 MHz would read as follows:

> The sub-band 5117–5183 MHz is also allocated for space-to-Earth transmissions in the fixed-satellite service for use in conjunction with the radiodetermination satellite service operating in the bands 1610–1626.5 MHz and 2483.5–2500 MHz. The total power flux density at the earth's surface shall in no case exceed XXX dbw/m^2 per Hz for all angles of arrival.

27. For both the 1610–1626.5 MHz and the 5117–5183 MHz bands, we note that international coordination is required pursuant to Article 11 and 14 of the ITU Radio Regulations.

28. With regard to Geostar's request to use 16.5 MHz between 6425 and 7075 MHz for its earth station uplink, we have analyzed this band and have found portions of it to be congested in certain areas throughout the U.S. We note that the 6425–6525 MHz and 6875–7075 MHz bands are also allocated to mobile services with which coordination becomes less practical. Accordingly, we suggest that the proposed radiodetermination satellite system use the 6525–6541.5 MHz band which is allocated for only fixed and fixed-satellite (earth-to-space) services. Although there are a number of fixed links in the vicinity of Princeton, N.J., we believe the procedures set out in Part 25 will work effectively for coordinating th proposed earth station with the fixed links in the 6525–6541.5 MHz band segment and propose to require them to be followed. No allocation changes are necessary as the uplink operation is allowable, by definition, in the fixed-satellite service.

29. We believe, based on the information presented in Geostar's filing and the generally favorable comment received in response to the public notice of this petition, that there is sufficient basis to initiate a proceeding proposing the aforementioned frequency bands for a radiodetermination satellite service and associated feeder links. However, due to the likely need to reaccommodate stations from the 2483.5–2500 MHz band and the need to use a relatively large amount of spectrum in other frequency bands, we advise now that we do not foresee the possibility of any future expansion of the service by means of an increased allocation. We solicit public comment on the use of the proposed frequency bands for this purpose, as presented in Appendix B, and on the public's perception for the need to implement the system as described in Geostar's petition and applications.

Entry Policies

30. In addition to these frequency allocation proposals, we are also proposing policies and procedures to govern the licensing and operation of the facilities that will use the frequencies being allocated. For the reasons set forth below, we have determined to accept and process applications for radiodetermination satellite systems. We will use this rulemaking proceeding, together with the applications filed, to determine the extent of any necessary regulation of this service. Our objective in this proceeding is to authorize systems to offer this new satellite communications service on a timely basis with the minimum amount of regulation practicable. Thus, all parties are on notice that if these changes are adopted, we intend to issue one or more radiodetermination satellite system authorizations at the time we finalize the frequency allocations for this service.

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[5] We anticipate that most television auxiliary broadcast operations will be able to shift to other channels within the 2450–2483.5 MHz band at no increase in cost since most equipment in current use is frequency selectable. For fixed links, broadcast, as well as non-broadcast, we again believe that most operations can use other frequencies within the 2450–2483.5 MHz band by merely changing the frequency determining element in the transmission equipment and retuning the equipment.

[6] On April 26, 1984, the Commission adopted a Notice of Proposed Rulemaking looking toward permitting unlimited power spread spectrum systems to operate in some ISM bands, including the 2450 MHz band.

31. In proposing to allocate frequencies to the radiodetermination satellite service, we seek to provide the earliest practical opportunity for entrepreneurs to implement their proposed radiodetermination satellite systems in any allocation finally adopted. We have already received a concrete application from Geostar, who is willing to proceed promptly with its proposal. We are not, however, proposing that the frequencies involved be assigned only to Geostar. Frequency assignments will be made in the context of the application processing and licensing proceeding we are also beginning today by accepting Geostar's application for filing. This approach will allow us to consider how the satellites to be authorized can best use the frequencies being allocated, and to issue initial system authorizations at the same time we finalize the frequency allocations proposed above.[7] To this end, we will use this rulemaking proceeding to establish policies and conditions regarding the licensing and operation of radiodetermination satellite systems, and, if necessary and appropriate, resolve by rule any conflicts between applications.[8]

32. In fashioning entry policies and licensing procedures for other services, we have on many previous occasions determined that competition was feasible and would provide effects that serve the public interest in new and diversified services.[9] The courts have also endorsed the concept of competitive market forces achieving the same public policy goals that detailed administrative regulation was initially designed to achieve.[10] We believe the same beneficial effects can be achieved by crafting licensing policies that allow competition in the provision of radiodetermination satellite services. Thus, a primary objective in this proceeding is to establish an approach which embodies the minimum necessary regulation while allowing multiple entrants into this market.

33. A key policy matter to be addressed by commenters is the feasibility of licensing multiple systems to operate in the spectrum allocation being proposed. Because the Geostar system design is the only one before us, and because no counter proposals in the bands concerned were advanced in the comments on its rulemaking petition in RM–4426, we will use it as our initial baseline for radiodetermination satellite system design and operation.[11] Moreover, we believe that Geostar is a good system model because its design appears to allow several radiodetermination satellite systems to be authorized in the spectrum and to operate independently to provide radiodetermination satellite services on a competitive, unregulated basis. Use of the same assigned frequencies by multiple operators appears feasible because of the random access time division multiplex operation of the Geostar system with slotted ALOHA protocol. With suitable coding techniques, such a technical design should allow the licensing of multiple satellite systems, as well as multiple service providers over the same system, all using the same frequencies even without antenna discrimination provided by the user terminals.

34. There is, of course, an ultimate limit to the number of systems and users that could be accommodated in the frequency bands we propose to allocate for this radiodetermination satellite service. However, even under optimistic estimates of Geostar's expected system loading, utilization of the allocated orbit spectrum resource by Geostar would be small compared to that ultimate limit. To make multiple entry feasible, we propose that all radiodetermination satellite systems proposing to operate in these bands employ random access time division multiplex techniques. Any applicant proposing a system design that is incompatible with this design must demonstrate how multiple entry would be accomplished and how the proposed design is better than Geostar's proposal. Given the level of Geostar's development, any alternative proposals should avoid future or theoretical possibilities in favor of concrete approaches such as Geostar. If, as a result of this rulemaking, we adopt rules requiring compatibility with the Geostar system design, we reserve the right to return any applications that do not conform to this requirement. We also propose that only minimal technical standards be established for this service. Such standards must include those specified in the international Radio Regulations. We therefore propose to apply the requirements of Part 25 of the rules to this service, and request comments and proposals for any necessary changes to Part 25 that may be required or for any other technical standards needed.

35. In addition to proposing compatibility with the Geostar system design, we also propose to require all applicants to proceed expeditiously with the actual construction and launch of their proposed radiodetermination system.[12] All applications must include complete responses to the information requested in the public notice we are adopting today, and all applicants will have to present a detailed business plan, with well-defined milestones, to support their claim that they are in fact prepared to proceed immediately upon grant with the construction and operation of the facilities they propose.

36. A complex satellite system like Geostar also appears capable of providing services that may not always fall clearly within previously defined categories. For example, it is clear that the radiodetermination function of the Geostar proposal consists of providing the geographic coordinates, velocity and direction data of a transceiver identified by the customer. However, the same radio system can also transfer information from a central point to one or more transceivers, or vice versa. A system like Geostar might, therefore, be

[7] We do not believe it necessary or desirable to promulgate formal rules before accepting or processing applications because of the specialized nature of radiodetermination satellite system design and operation. We have developed flexible policies and procedures in licensing other satellite services, such as domestic satellites. *See, e.g., Domestic Fixed-Satellite Service*, 84 FCC 2d 584 (1981). This experience is readily adaptable to a new satellite service such as the one being addressed here.

[8] *See, e.g., Domestic Communications Satellite Facilities*, 22 FCC 2d 810 (1970); *Alaska Bush Earth Stations*, 81 FCC 2d 304 (1980). We have previously discussed our administrative flexibility to authorize new satellite systems either on an ad hoc, case-by-case approach or in the context of a general rulemaking proceeding. *See Direct Broadcasting Satellites Service*, 86 FCC 2d 719, 725, (1981). Our decision here is to proceed with the space station licensing process concurrently with rulemaking to allocate frequencies. This will allow affected parties the opportunity to comment on the frequency allocations, general issues pertaining to this service, and the specific satellite facilities being proposed.

[9] *See, e.g., Domestic Communications Satellite Facilities*, 35 FCC 2d 844 (1972), *recons.* 38 FCC 2d 665 (1972), *aff'd sub nom. Network Project* v. *FCC*, 511 F.2d 786 (D.C. Cir. 1975); *Specialized Common Carrier Services*, 29 FCC 2d 870, *recon. denied*, 31 FCC 2d 1106 (1971), *aff'd sub nom. Washington Utilities and Transportation Commission* v. *FCC*, 513 F.2d 1142 (9th Cir.), *cert. denied*, 423 U.S. 836 (1975). *Direct Broadcasting Satellite Service*, 90 FCC 2d 676 (1982).

[10] *See, e.g., United States* v. *FCC*, 652 F. 2d 72 (D.C. Cir. 1980); *Computer and Communications Industry Association v. FCC*, 693 F. 2d 198 (D.C. Cir. 1982).

[11] An analogous approach was recently taken in our authorization of television stereo/subcarrier services to insure the continued utility of equipment designed to initial technical standards. *Second Report and Order* in Docket No. 21323, FCC 84–116 released April 23, 1984.

[12] Although the estimates of what Geostar believes to be the demand for its services provide sufficient confidence to warrant allocation of frequencies to the radiodetermination satellite service at this time, it is neither necessary nor desirable for us to verify that demand is sufficient to make a system such as Geostar financially viable over the long run. We do not intend to adopt regulatory policies oriented towards guaranteeing such viability.

capable of providing radiodetermination, and a multiplicity of fixed/mobile communications services. We do not propose to prohibit any auxilliary or incidental service provided over satellites in the bands to be allocated, provided that the primary purpose of such satellites is to provide radiodetermination services by satellite. However, we will require each applicant to describe clearly the services that may be potentially offered over its proposed satellite system and the types of user terminals that will access the satellite system. We believe it necessary to understand the potential range of users and user terminals that will be available for the actual provision of service to the public, as well as the terms and conditions under which user terminals can access the space segment. With such information, we can assure that efficient use is made of the frequencies being allocated and that a competitive market for innovative services can develop on an unregulated basis.

37. As described in Geostar's applications, radiodetermination satellite service consists of three functions: radiolocation, radionavigation, and an ancillary message capability. We do not propose to impose common carrier obligations on Geostar or any competing radiodetermination satellite service provider for the reasons described below. As an initial matter, because the licensee exercises control over the communications channel in the rendition of radiolocation and radionavigation services, we believe that these activities should not be subject to common carrier regulations, *See, e.g., Industrial Radio Service,* 5 FCC 2d 197, 202 (1966), where the Commission held that radiolocation service is not a common carrier service within the meaning of Title II of the Communications Act because "the specific intelligence transmitted is and must be the sole responsibility and prerogative of the licensee and not the subscriber."

38. Nor do we believe that the addition of ancillary message capability to this service requires us to impose common carrier regulations upon the proposed radiodetermination satellite offering as a whole.[13] In *National Association of Regulatory Utility Commissioners* v. *FCC,* 525 F.2d 630, 642 (D.C. Cir.), *cert. denied,* 425 U.S. 999 (1976) (*NARUC I*), the court identified two criteria determinative of whether a service may be provided on a non-common carrier basis: (1) Whether there is or should be any "legal compulsion" to serve the public indifferently; and (2) if not, whether there are reasons implicit "in the nature" of the service to expect an "indifferent holding out to the eligible user public." *Id.* at 642. Regarding "legal compulsion," the court found that Specialized Mobile Radio Systems (SMRS) were not compelled by the Commission to serve any particular applicant and had unlimited discretion in determining whom, and on what terms, to serve. The court also determined that there was "little reason to expect any sort of holding out to the public" if the service involved the establishment of "medium-to-long term contractual relations" with a "high level of stability among those employing the service" and if the operator expected to provide "highly individualized" services to clients. *Id.* at 643–44.

39. Here, applying the first *NARUC I* test, we do not anticipate that there will be any public interest necessity to impose a "legal compulsion" upon the ancillary message features of radiodetermination satellite service to serve the public indifferently. We note in this regard that even though radiodetermination satellite service will be valuable for the protection of life and safety, it does not appear necessary to impose any common carrier obligations in order to ensure the availability of this kind of service to the public. Not only do competitive radiolocation and message services exist,[14] but we anticipate the filing of additional applications by firms seeking to provide radiodetermination service in competition to Geostar.

40. Nor does it appear, under the second test, that the proposed service will be offered as an "indifferent holding out to the eligible user public." As proposed in Geostar's petitions and application, radiodetermination service is designed to provide radiolocation and radionavigation information accurate to within 1 to 7 meters, in conjunction with ancillary message capability. The service is intended for three principal types of users: commercial and private aircraft, commercial terrestrial and marine vehicles, and pedestrians requiring accurate location information and ancillary short message capability. Any of these potential users may access the system through a position request, emergency signal, or a message signal, all of which may be individually tailored to meet the individual user's requirements. For example, commercial airlines or private pilots utilizing this service might require a system which gives radionavigation position information at one minute intervals, but access to the system through a message signal every few seconds during emergency communications. Alternatively, interstate trucking companies or railroads may access the system a few times a day through a radiolocation request when tracking vehicles crossing the desert, but desire more frequent access to the system through message signals in order to notify truckers of shipments waiting for pick up. Finally, ore exploration ventures might contract for pedestrian radiolocation information and access to message signals at individually predetermined time intervals. As these examples illustrate, the proposed radiodetermination service may be tailored to accommodate the highly individualized methods of operation and demands of potential users, a characteristic *NARUC I* indicates may illuminate whether an entity in fact does not operate as a common carrier. *Id.* at 643. We request public comment on our regulatory proposal and specifically invite commenters to address the alternative legal theories we have proposed for non-common carrier regulation of radiodetermination satellite services.

Application Processing Procedures

41. Although we do not believe it is likely, we recognize that some potential exists for mutual exclusivity between the Geostar applications and other applications proposing use of the same frequency bands that might be filed between now and the time that this rulemaking proceeding is completed. For example, it is possible that we would receive more applications than could be accommodated under a random access time division multiplex scheme, or that an applicant will propose a different technology than Geostar has which would be substantially more efficient or otherwise further advance the objectives we have defined. Should this eventuate, we propose to establish policies and procedures in this rulemaking that will allow us to select among competing applicants. At this time, however, we expect at the conclusion of this rulemaking to be able to grant radio station authorizations for radiodetermination satellite systems to

[13] It is our understanding that message services will be offered as an ancillary part of the radiodetermination service, and not as a stand-along offering to the public for hire. Therefore, we tentatively conclude that there is no legal requirement to isolate one element of this integrated service and treat it as common carriage.

[14] Private marine radiolocation service is regulated under Part 90. *Industrial Radiolocation Service, supra.* A government-owned global positioning satellete offers commercial radiodetermination service for ships and aircarft in addition to its military services. The Federal Avaition Administration also offers radionavigation information to commercial flights. None of these other services are under common carrier regulations.

all qualified applicants whose proposals conform to our rules. To this end, today in a Public Notice we are formally establishing a cut-off date for such applications to insure that we have a finite set of radiodetermination satellite proposals to consider.[15] A period of 45 days will be provided for the filing of any such applications.[16] This cut-off will safeguard the procedural rights of any serious potential system operator who may have been awaiting the allocation of frequencies before filing its application.[17] That notice identifies the minimum information needed for a complete application to be acceptable by the Commission. Geostar will also be required to review its application and submit any additional required information within 20 days of release that notice.

42. Incomplete (i.e., those that do not supply the required information) and untimely filed applications will be returned to the applicant without processing. Those that appear *prima facie* acceptable for filing will be placed on public notice upon initial review. The *Public Notice* will set time limits for the filing of petitions or comments on the applications. With respect to application processing, a period of 30 days from the public notice accepting either Geostar's or other applications for a radiodetermination satellite system will be provided for petitions or comments on the applications, and subsequent pleadings on the applications will be due within the amount of time provided by § 1.45 of the rules, 47 CFR 1.45.

43. Commenters should review the Geostar applications, as well as any others that might be filed. Comments on Geostar's and any other applications should address the technical impact of each system proposal on the others, the desirability and utility of the services to be offered over each proposed system, and the ability of each proposal to conform to the regulatory objectives proposed above. The resulting record is intended to provide the basis for Commission specification of any necessary design and operating standards, as well as terms and conditions on any system authorization, in concluding this rulemaking proceeding. As stated above, absent a convincing showing to the contrary in the record to be compiled in this proceeding, we propose to require any authorized system to be compatible with Geostar.

44. Finally, the question of licensing individual transceivers needs to be addressed. Although Geostar proposes a postcard licensing scheme, we do not find much utility in such an approach. We would rather use a flexible blanket license approach, where either the space station licensee or a service vendor hods the authorization and responsibility for a specified member of user units. We, therefore, propose no individual transceiver licensing.

Conclusion

45. In summary, we propose to allocate frequencies to the radiodetermination satellite service and to process simultaneously initial applications for such satellite systems. We will, therefore, consider petitions or comments on the specific applications and comments on the general technical and other policies for this service, including whether the public interest would be served by allocating specturm for the service. Thus, this proceeding will adopt any rules or policies necessary to govern the design, operation and licensing of radiodetermination satellite facilities and services concurrently with the finalization of the frequency allocations for this service.

46. This *Notice of Proposed Rulemaking* is issued pursuant to authority contained in sections 4(i), 4(j), 303 and 403 of the Communications Act of 1934 of 1934 as amended, 47 U.S.C. 154(i), 154(j), 303 and 403.

47. Our initial analysis pursuant to the *Regulatory Flexibility Act*, Pub. L. 96–354, is presented in Appendix D. Our initial conclusion on this matter is that the actions proposed in this proceeding will not have a significant economic impact on a substantial number of small businesses if ultimately adopted.

48. Interested parties may file comments with respect to this *Notice of Proposed Rulemaking* on or before November 13, 1984. Reply comments may be filed on or before December 13, 1984. In accordance with § 1.1419 of the Commission's Rules and Regulations, 47 CFR 1.1419, an original and five copies of all documents filed in this proceeding should be furnished to the Commission. copies of all filings will be available for public inspection during regular business hours in the Commission's public reference room at its headquarters in Washington, D.C. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the *Report and Order*.

49. For the purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a *Notice of Proposed Rulemaking* until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier.[18] In general an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. An person who submits a written *ex parte* presentation must serve a copy of that presentation on the Secretary of the Commission for inclusion into the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments in the proceeding must prepare a written summary of that presentation. On the day of the oral presentation, that written summary must be served on the Commission's Secretary for inclusion into the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by Docket Number the proceeding to which it relates. *See generally* § 1.1231 of the Commission's Rules, 47 CFR 1.1231. A summary of these Commission procedures governing *ex parte* presentations in informal rulemaking is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554.

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

[15] *See Public Notice*, Report No. DS–305 adopted today. We have used such procedures in other satellite services, *see, e.g., Direct Broadcast Satellites*, 86 FCC 2d 719 (1981); *Domestic Fixed Satellite Service*, 48 FR 40256 (September 6, 1983).

[16] Motions for extensions of time will be considered in a case-by-case basis.

[17] We have addressed an analogous situation in the domestic Fixed-Satellite Service in *GTE Satellite Corporation*, 93 FCC 2d 832 (1983).

[18] With respect to the processing of the applications, appropriate *ex parte* statements will be issued as required.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Summary of Comments and Reply Comments

1. About 30 to 35 comments were received the majority of which support the petition. Representative of these are a number of active and retired airline captains who envision the system as contributing to the general improvement of air safety and traffic control. Specifically they state that the GSS would provide collision avoidance information, offer more reliable "approach" guidance, be able to locate "downed" aircraft quickly, and contribute to better utilization of aircraft at more favorable altitudes resulting in significant fuel economy.

2. Among the other favorable comments received are the following:

(a) A non-profit consumer group advocated GSS use for locating and rescuing intercity bus passengers involved in accidents in remote locations. It indicates that most bus companies don't allow use of CB radios which could be used in such situations.

(b) National Ocean Industries Association, a domestic trade association representing over 450 corporations engaged in ocean development activity, indicates GSS could be used as a maritime EPIRP (emergency position indicating radio beacon) for recreational boats in distress.

(c) The U.S. Department of Commerce states that GSS could provide precise geographic coordinates for structures visited by Census Bureau enumerators and could be used for the exchange of these data and other associated information between structure location and Census Bureau computing equipment using inexpensive transceivers.

(d) Seiscom Delta United Corp., a geophysical contractor, claims it would use the proposed GSS to obtain highly accurate positioning data in carrying out seismic surveys. Also, it would use GSS' capability to relay short messages between the central office and field operations. Also, it mentions that the satellite system could be beneficial for use as a vehicle locator service and to determine whether an employee working alone in some remote area needs medical assistance.

3. Opposing comments were filed by Offshore Navigation, Inc. ("ONI"), CBS Inc., and Mobile Satellite Corp ("Mobilsat").

(a) ONI claims that Geostar's proposal is imaginative, not in the public interest, and that it has no firm commitment to raising the funds needed. It doubts whether the FAA would prescribe installation and use of such a commercial system. ONI alleges that the aviation industry can secure precise position information through use of government-operated GPS and likely could do so at lesser cost and with greater reliability than available through Geostar.

(b) In reply, Geostar indicates that there are strong supportive comments on file from two major general aviation manufacturers, the representative of over 265,000 aircraft owners and pilots, the world's largest private airport, college aeronautics departments, aircraft equipment companies and several highly experienced individuals. Contrary to ONI's contention, Geostar continues, mandatory use of the GSS is not required for the delivery of effective aeronautical radio-determination service. Position determination, identification of downed aircraft, prevailing wind advisories and distress assistance, which are the basic aeronautical radio-determination services of the first generation GSS, benefit individual aircraft without reference to any other aircraft. It contends that mandatory use neither is being requested nor is required.

(c) CBS, Inc. opposes the reallocation of the 2483–2500 MHz band as it would limit the ability of broadcasters to engage in electronic news gathering ("ENG") in that band. Also, it objects to use of the bands 6425–6525 MHz and 6875–7125 MHz for use as a GSS communications uplink because these bands are also used extensively by broadcasters for ENG.

(d) In reply to CBS, Geostar disagrees with CBS' analysis and continues to urge that 2483–2500 MHz be reserved for Geostar's radio-determination downlink. Geostar indicates that channel reassignment of the auxiliary broadcast fixed stations operating in the 2483–2500 MHz band to other channels is entirely feasible and very inexpensive. It contends that the reassignment will not limit the ability of broadcasters to engage in ENG in the 2 GHz band. In respect to the 6 GHz bands to which CBS objects, Geostar states that these links would be used only for narrow beam satellite/control center communications from a single earth station. These signals are fully compatible with auxiliary broadcast and other types of stations outside the coordination area required by existing Commission rules.

(e) The Communications Satellite Corp. ("Comsat"), in its comments claims that the range of increased noise temperature is sufficiently high to require Geostar to formally coordinate with INMARSAT if GSS is to use the 1610–1626.5 MHz band.

(f) Geostar, in reply to Comsat's concerns, submitted a modification to its proposal so as to reduce the GSS out-of-band emissions. It included computations examining the impact of GSS emissions upon INMARSAT uplinks. It concludes that coordination is required and that it will comply fully with all coordination requirements.

(g) The Mobile Satellite Corp. ("Mobilsat") submitted voluminous comments opposing the GSS proposal. It claims that the GSS is not a workable system, that Geostar has not demonstrated that the market could support the system, that Geostar has not justified its allocation request for over 100 MHz of spectrum, that Geostar is not financially capable of implementing its proposed system, among numerous other allegations. Mobilsat claims that the accuracy of position determination proposed by GSS of 1 to 7 meters is not obtainable using range difference techniques. It states it is not possible to determine altitude with useful accuracy by range or range difference measurements from satellites in geostationary orbit because the satellites are in one plane and nearly in a straight line.

(h) Mobilsat contends that Geostar has overlooked the effect of multipath on range measurement accuracy. It claims shadowing problems would render service unworkable, even if law enforcement agencies agreed to respond to Geostar's alarms. In urban areas, Mobilsat alleges that cellular radio telephone systems may better serve Geostar's intended crime prevention.

(i) Mobilsat claims that the air traffic control (ATC) functions would be duplicative of existing terrestrial ILS and microwave landing systems. It states that neither application (aviation and crime prevention) has been shown to have a significant existence.

(j) In response to Mobilsat's comments, Geostar indicates that its system uses direct range measurements, not range differences. Accordingly, the assumptions made by Mobilsat concerning Geostar's alleged accuracy are incorrect. Geostar states that a properly designed range measurement system can provide highly accurate position fixes including altitude as well as longitude and latitude. According to Geostar, the most common factor affecting range accuracy will be delay variations at the user transceiver. Geostar admits its system is developmental in nature and will change as work progresses.

(k) Geostar concedes that it does not make any accuracy claims where the users-to-satellite path is not line-of-sight. It states that it is requesting an exclusive assignment of 33 MHz for the radio-determination links. The remaining 82.5 MHz is for narrow beam satellite links from a single earth station.

(l) Geostar claims that it has never asserted an intent to provide a local area air traffic control service and the system would not be duplicative of MLS systems. "MLS" systems are not intended to provide enroute navigational guidance and emergency advisory services as can Geostar. Geostar contends that none of the existing services address the radio-determination market Geostar intends to serve. They are solely radionavigational and lack the two-way radio-communications and radio positioning that Geostar provides. It states that Navstar is only a one-way system designed for tactical environments and is not responsive to the civilian market.

(m) Geostar states that its GSS will be a supplementary service rather than an alternative to existing governmental services.

Appendix B

INTERNATIONAL TABLE			UNITED STATES TABLE	
			GOVERNMENT	NON-GOVERNMENT
Region 1 Allocation MHz	Region 2 Allocation MHz	Region 3 Allocation MHz	Allocation MHz	Allocation MHz
(1)	(2)	(3)	(4)	(5)
1 610–1 626.5	AERONAUTICAL RADIONAVIGATION 722 727 730 732 733 734		1 610–1626.5 AERONAUTICAL RADIONAVIGATION 722 732 733 734 US39 US40 US208 US260	1 610–1 626.5 AERONAUTICAL RADIONAVIGATION 722 732 733 734 US39 US40 US208 US260

722 In the bands 1 400—1 727 MHz, 101—120 GHz and 197—220 GHz, passive research is being conducted by some countries in a programme for the search for international emissions of extra-terrestrial origin.

732 The band 1610—1626.5 MHz is reserved on a worldwide basis for the use and development of airborne electronic aids to air navigation and any directly associated ground-based or satellite-borne facilities. Such satellite use is subject to agreement obtained under the procedure set forth in Article 14.

733 The bands 1 610—1 626.5 MHz, 5 000—5 250 MHz and 15.7 GHz are also allocated to the aeronautical mobile-satellite (R) service on a primary basis. Such use is subject to agreement obtained under the procedure set forth in Article 14.

734 The band 1 610.6—1 613.8 MHz is also allocated to the radio astronomy service on a secondary basis for spectral line observations. In making assignments to stations of other services to which the band is allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from space of airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

US39 Radio altimeters are permitted to use the band 1600–1660 MHz only until such time as international standardization of other aeronautical radionavigation systems or devices requires the discontinuance of radio altimeters in this band.

US40 The band 1592.5–1622.5 MHz is allotted provisionally, but on a primary basis, for the collision avoidance function, noting the continued use of existing altimeters in the band 1600–1660 MHz.

US208 Planning and use of the band 1559–1626.5 MHz necessitate the development of technical and/or operational sharing criteria to ensure the maximum degree of electromagnetic compatibility with existing and planned systems within the band.

US260 Aeronautical mobile communications which are an integral part of aeronautical radionavigation systems may be satisfied in the bands 1559–1626.5 MHz, 5000–5250 MHz and 15.4–15.7 GHz.

INTERNATIONAL TABLE			UNITED STATES TABLE		FCC USE DESIGNATORS	
			GOVERNMENT	NON-GOVERNMENT		
Region 1 Allocation MHz	Region 2 Allocation MHz	Region 3 Allocation MHz	Allocation MHz	Allocation MHz	RULE PART (s)	Special Use Frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2 450–2 500 FIXED MOBILE RADIO-LOCATION	2 450–2 500 FIXED MOBILE RADIO-LOCATION		2 450–2 500	FIXED MOBILE RADIO-LOCATION	AUXILIARY BROADCASTING (74) PRIVATE OPERATIONAL-FIXED MICROWAVE (94) PRIVATE LAND MOBILE (90)	2 450 ± 50 MHz Industrial, scientific and medical frequency
752 753	752		752 US41	752 US41		

752 The band 2 400–2 500 MHz (centre frequency 2 450 MHz) is designated for industrial, scientific and medical (ISM) applications. Radio services operating within this band must accept harmful interference which may be caused by these applications. ISM equipment operating in this band is subject to the provisions of No. 1815.

US41 The Government radio location service is permitted in the band 2450–2500 MHz on condition that harmful interference is not caused to non-Government services.

INTERNATIONAL TABLE			UNITED STATES TABLE		FCC USE DESIGNATORS	
			GOVERNMENT	NON-GOVERNMENT		
Region 1 Allocation MHz	Region 2 Allocation MHz	Region 3 Allocation MHz	Allocation MHz	Allocation MHz	RULE PART(s)	Special Use Frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
5 000–5 250	AERONAUTICAL RADIONAVIGATION 733 796 797		5 000–5 250 AERONAUTICAL RADIONAVIGATION 733 797 US211 US260	5 000–5 250 AERONAUTICAL RADIONAVITATION 733 796 797 US211 US260	AVIATION (87)	

733 The bands 1 610–1 626.5 MHz, 5 000–5 250 MHz and 15.4–15.7 GHz are also allocated to the aeronautical mobile-satellite (R) service on a primary basis. Such use is subject to agreement obtained under the procedure set forth in Article 14.

796 The band 5 000–5 250 MHz is to be used for the operation of the international standard system (microwave landing system) for precision approach and landing. The requirements of this system shall take precedence over other uses of this band.

797 The bands 5 000–5 250 MHz, and 15.4–15.7 GHz are also allocated to the fixed-satellite service and the intersatellite service, for connection between one or more earth stations at specified fixed points on the Earth and space stations, when these services are used in conjunction with the aeronautical mobile (R) service. Such use shall be subject to agreement obtained under the procedure set forth in Article 14.

US211 In the bands 1670–1690, 5000–5250 MHz and 10.7–11.7, 15.1365–15.35, 15.4 15.7, 22.5–22.55, 24–24.05, 31.0–31.3, 31.8–32.0, 40.5–42.5, 84–86, 102–105, 116–126, 151–164, 176.5–182, 185–190, 231–235, 252–265 GHz, applicants for airborne or space station assignments are urged to take all practicable steps to protect radio astronomy observations in the adjacent bands from harmful interference; however, US74 applies.

US260 Aeronautical mobile communications which are an integral part of aeronautical radio navigation systems may be satisfied in the bands 1559–1626.5 MHz, 5000–5250 MHz and 15.4–15.7 GHz.

INTERNATIONAL TABLE			UNITED STATES TABLE		FCC USE DESIGNATORS	
Region 1 Allocation MHz	Region 2 Allocation MHz	Region 3 Allocation MHz	GOVERNMENT Allocation MHz	NON-GOVERNMENT Allocation MHz	RULE PART(s)	Special Use Frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
				6425–6525 FIXED-SATELLITE (Earth-to-Space) MOBILE 791 809 NG122	DOMESTIC PUBLIC FIXED (21) Auxiliary Broadcasting (74) 6 525–6 875 FIXED PRIVATE OPERATIONAL-FIXED-SATELLITE FIXED (Earth-to-space) MICROWAVE (94) 6 875–7 075 FIXEDAUXILIARY BROADCAST-FIXED-SATELLITE ING (74) (Earth-to-space) MOBILE 809 NG118	

791 The standard frequency and time signal-satellite service may be authorized to use the frequency 4 202 MHz for space-to-Earth transmissions and the frequency 6427 MHz for Earth-to-space transmissions. Such transmissions shall be confined within the limits of ±2 MHz of these frequencies and shall be subject to agreement obtained under the procedures set forth in Article 14.

809 In the band 6 425–7 075 MHz, passive microwave sensor measurements are carried out over the oceans. In the band 7 075–7 250 MHz, passive, microwave sensor measurements are carried out. Administrations should bear in mind the needs of the earth exploration-satellite (passive) and space research (passive) services in their future planning of this band.

NG118 Television translator relay stations may be authorized to use frequencies in this band on a secondary basis to stations operating in accordance to the Table of Frequency Allocations.

NG122 Television Pickup stations may be authorized under Part 74 in the 6425–6525 MHz band on a secondary basis to stations operating in accordance with the Table of Frequency Allocations.

Appendix C

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended, as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

§ 2.106 Table of Frequency Allocations. [Amended]

1. In § 2.106, columns 4 and 5 of the allocation table for the band 1610–1626.5 MHz are amended by adding a new footnote US XXX as follows:

United States Table	
Government Allocation MHz (4)	Non-Government Allocation MHz (5)
1610–1626.5 AERONAUTICAL RADIONAVIGATION 722 732 733 734 US39 US40 US208 US260 USXXX	1610–1626.5 AERONAUTICAL RADIONAVIGATION 722 732 733 734 US39 US40 US208 US260 USXXX
U.S. Footnotes	

USXXX The band 1610–1626.5 MHz is also allocated for use by the radiodetermination satellite service in the Earth-to-space direction.

2. In § 2.106, columns 4 and 5, remove the frequency bands 2450–2500. Also, remove the text from columns 6 and 7 adjacent to frequency bands 2450–2500. Add the following new entries to the table as follows:

United States Table		FCC USE DESIGNATORS	
Government Allocation MHz (4)	Non-Government Allocation MHz (5)	Rule Part (s) (6)	Special-Use Frequencies (7)
2450–2483	2450–2483 FIXED MOBILE	AUXILIARY BROADCASTING (74)	
	Radiolocation	PRIVATE OPERATIONAL-FIXED (94)	2450 ± 50 MHz
752 US 41	752 US41	PRIVATE LAND MOBILE (90)	Industrial, scientific and medical frequency
2483–2500	2483–2500 RADIODETERMINATION SATELLITE (space-to-Earth) 752 US 41		
752 US 41			

3. In § 2.106 columns 4 and 5 are amended for the band 5000–5250 MHz by adding a new footnote USXXZ as follows:

United States Table		FCC USE DESIGNATORS	
Government Allocation MHz (4)	Non-Government Allocation MHz (5)	Rule Part (s) (6)	Special-Use Frequencies (7)
5000–5250 AERONAUTICAL RADIONAVI 733 796 797 US211 US260 USXXZ	5000–5250 AERONAUTICAL RADIONAVIGATION 733 796 797 US211 US260 USXXZ	AVIATION (87)	
U.S. FOOTNOTES			

USXXZ The sub-band 5117–5183 MHz is also allocated for space-to-Earth transmissions in the Fixed satellite service for use in conjunction with the radiodetermination satellite service operating in the bands 1610–1626.5 MHz and 2483–2500 MHz. The total power flux density at the earth's surface shall in no case exceed XXXX dbw/m² per Hz for all angles of arrival.

Separate Statement of Commissioner Mimi Weyforth Dawson Dissenting in Part

Re: Amendment of the Commission's Rules to Allocate Spectrum for and

to Establish Other Rules and Policies Pertaining to a Radiodetermination Satellite Service, RM–4426

I support the Commission's proposal to allocate frequencies to the radiodetermination service, but I strongly disagree with consolidating the general rulemaking proceeding with the application process. Accepting applications before any allocation to this service is finalized has the potential to create legal and administrative problems that may be counter-productive to our efforts to expedite the process. Moreover, such an approach gives the appearance of prejudging the ultimate rules that will be adopted.

This consolidated approach requires that applications be filed without the benefit of final rules or standards and, as a consequence, amendments may be necessary in order to bring them into compliance. Administratively, the filing and processing of amendments could complicate the Commission's procedures or, at best, slow the process down.

Moreover, from a legal and policy standpoint, a consolidated approach potentially raises questions of fundamental fairness and due process. Under the adopted procedures, Geostar's application will be accepted for filing as well as any other completed applications proposing radiodetermination satellite systems that are technically compatible with Geostar's. On the other hand, those applicants proposing an incompatible system design "must demonstrate [in the rulemaking] how multiple entry would be accomplished and how the proposed design is better than Geostar's proposal." [1] It is not clear whether these applications will be accepted for filing pending the outcome of the rulemaking. Likewise, it is unclear whether applications proposing an alternative use of the frequencies will be accepted for filing. It appears, however, that the Commission intends to selectively accept certain applications for filing during the pendency of the rulemaking and not others.

The major flaw of this approach is that, at this time, the Commission has no basis whatsoever upon which to selectively accept applications. The Commission has no final rules in place nor has it allocated these frequencies to the radiodetermination service. While I disagree with the general policy of accepting *any* applications concurrently with the rulemaking proceeding, I believe that once the Commission is willing to accept some, it should accept all bonafide applications. Otherwise, the Commission's consolidated procedures may be valnerable to arguments raising questions of fairness and due process. To avoid this possibility, however unlikely, my preference would have been for the Commission to expeditiously rule on the frequency allocation issue, determine the final rules and standards, and then process conforming applications.

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BILLING CODE 6712–01–M

[1] *Order* at para. 34. While the Commission has, on occasion, processed applications concurrently with a rulemaking to allocate frequencies, this is the first time the Commission is proposing to mandate a particular transmission technique before final rules are adopted. *Cf.* Direct Broadcast Satellites, *Report and Order*, 90 FCC 2d 676 (1982), *Notice of Proposed Policy Statement and Rulemaking*, 86 FCC 2d 719 (1981); and Domestic Communications Satellite Facilities, 25 FCC 2d 719 (1970).

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47 CFR Part 73

[MM Docket No. 84–750; FCC 84–356]

Processing of FM and TV Broadcast Applications

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: This action proposes changes in the current rules with respect to filing applications for FM and TV station licenses and modifications thereto. The proceeding seeks comment on proposals to eliminate the initial cut-off lists and to adopt a "window" filing system for all vacant commercial FM and TV channels now on or subsequently added to the Tables of Allotments. All mutually exclusive applications filed during the window period would be consolidated for comparative hearings. If no application for a particular channel is filed during the window, the first acceptable application filed thereafter would be granted on a "first-filed" basis. All applications filed under the proposed procedures would continue to be subject to petitions to deny. This action is proposed with a goal of expediting additional service to the public and eliminating unnecessary administrative costs for both the Commission and applicants.

DATE: Comments must be filed on or before October 15, 1984, and reply comments must be filed on or before October 30, 1984.

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

FOR FURTHER INFORMATION CONTACT: Robert H. Ratcliffe, Mass Media Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television and radio broadcasting.

Notice of Proposed Rulemaking

In the matter of amendment of § 73.3572 and 73.3573 relating to processing of FM and TV broadcast applications, MM Docket No. 84–750.

Adopted: July 26, 1984.
Released: September 7, 1984.

By the Commission: Commissioner Rivera issuing a separate statement at a later date.

Introduction

1. We institute this proceeding to explore alternative procedures for processing applications for new commercial FM and TV stations and modifications to existing stations with a goal of expediting additional service to the public and eliminating unnecessary administrative costs.

2. Under existing Commission rules, applications for new FM and TV stations must specify vacant channels listed in the Tables of Allotments.[1] Once filed and accepted, applications are placed on "cut-off" lists which publish the dates for filing competing applications and petitions to deny.[2] If

[1] The FM "Table of Allotments" is found in § 73.202 of the Commission's rules and the TV "Table of Assignments" is found in § 73.606 of the Commission's rules. Both tables shall be referred to herein as the "Tables of Allotments."

[2] Parallel provisions for the processing of television and FM applications are contained in § 73.3572 and 73.3573 of the Commission's rules, respectively.

competing applications are received, a second "cut-off" list is published, establishing the deadline for the filing of petitions to deny those competing applications. We believe these cut-off procedures disrupt the processing of an original application by often attracting competing applications which are filed for purposes of delay. Thus, this process may encourage some unnecessary comparative hearings to determine which of the otherwise qualified applicants deserves a grant. These comparative hearings are extremely costly to both the applicants and the Commission, and can delay the institution of new service to the public for many years. In the commercial setting, these costs and delays may deter investors in new broadcast ventures and may have a deleterious effect on an individual applicant's ability to finance a new broadcast station.

3. We believe the alternative cut-off procedures set forth below will substantially reduce the cost and delay of the comparative hearing process and will encourage full utilization of the channels allotted in the FM and TV Tables of Allotments. Moreover, the proposed rule changes should achieve a better balance between the dual, and sometimes divergent, goals of our application processing system: to select the best possible applicant and to bring new service to the public as expeditiously as possible.

History of Current Processing Rules

4. The Communications Act of 1934, as amended, does not specifically provide for the filing of mutually exclusive applications for broadcast facilities. However, the Act provides that applications for new facilities cannot be granted for thirty days following public notice of their acceptance for filing and such applications cannot be denied without affording the applicant a right to a hearing. 47 U.S.C. 309. Prior to 1945, the Commission had no rules establishing procedures to protect applicants' rights under these statutory provisions.

5. In March 1944, the Fetzer Broadcasting Company filed an application for authority to construct a new AM broadcast station in Grand Rapids, Michigan. In May 1944, before the Fetzer application had been acted upon, Ashbacker Radio Corporation filed a request to change the operating frequency of its station WKBZ in Muskegon, Michigan. The two applications were mutually exclusive, but Commission granted the Fetzer application without hearing and designated Ashbacker's application for hearing. Ashbacker appealed. Upon review, the Supreme Court held that where two bona fide applications are mutually exclusive the grant of one without a comparative hearing for both of them deprives a party of its right to a hearing under section 309(a) of the Communications Act. *Ashbacker* v. *FCC*, 326 U.S. 327 (1945). The court also noted, however, that the Commission could promulgate regulations limiting the filing rights of competing applicants.[3]

6. Since *Ashbacker*, the Commission has used various "cut-off" procedures in processing broadcast applications, culminating with the present system of inviting competing applications by publishing a list of applications that have been found to be acceptable for filing.[4] On several occasions the Court of Appeals for the District of Columbia has approved cut-off procedures as a useful processing device.[5] The Court has acknowledged that employment of a cut-off date was a reasonable and necessary limitation on the statutory right to a comparative hearing,[6] so long as the regulations provided fair notice to the public of what was being cut-off.[7] In all of the cases where the validity of cut-off rules was at issue, the Court was concerned with notice to potential applicants. We believe that for FM and TV, such notice can be provided by events other than the filing of an initial application for a channel.

7. FM and TV channels are licensed using Tables of Allotments which specify both communities and available channels. Those channels have been placed in the Tables after notice and comment rule making in which the public has had an opportunity to participate. As a result, all channels in the Tables are technically compatible, and they are allotted only after consideration of a fair, equitable and efficient distribution of frequencies pursuant to section 307(b) of the Communications Act. Under such circumstances, the notice that a channel is available for application by its inclusion in the appropriate Table is more than adeuate under the Communications Act and relevant case law.[8]

Proposals

8. Accordingly, we propose adoption of a procedure under which parties interested in applying for vacant commercial channels now listed in the FM and TV Tables of Allotments will be invited to file their applications during a designated filing "window period" of 45 days.[9] This window period would be established for all such existing channels in the report and order in this proceeding.[10] Similarly, we propose that future Commission rule making decisions adding commercial channels to the FM or TV Tables would include a specified filing window during which interested parties may file competing applications for the added channels.[11] For both existing and future channels, all applications filed for a specific channel during the applicable window period would be processed for consolidated consideration, with appropriate opportunities for the filing of petitions to deny. All timely filed, acceptable applications for a particular channel would be designated for a comparative hearing, if necessary. All applications filed during the open window period would be treated as filed on the same date.

9. If no applications are received during the specified window period for a vacant channel, the first acceptable application for the channel filed after the window closing date will cut off the filing rights of subsequent applicants. We believe that any subsequent applicants will have been on notice that the channel was available from its inclusion in the Table and the announcement of the window period and they will have had an opportunity to file earlier. Therefore, cutting off such

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[3] *See Ashbacker* v. *FCC*, 326 U.S. 327, 333 n.9.

[4] 47 CFR 73.3572 and 73.3573 contain cut-off rules for the TV and FM services.

[5] *Ranger* v. *FCC*, 294 F.2d 240 (D.C. Cir. 1961); *Ridge Radio* v. *FCC*, 292 F.2d 770 (D.C. Cir. 1961); *Century Broadcasting* v. *FCC*, 310 F.2d 864 (D.C. Cir. 1962); *Radio Athens* v. *FCC*, 401 F.2d 398 (D.C. Cir. 1968).

[6] *See Radio Athens* v. *FCC*, *supra* note 6 at 400–401.

[7] *See Ridge Radio* v. *FCC*, *supra* note 5.

[8] This is not to say that a window filing process would be inappropriate for all nontabled services as well. Indeed, we have proposed a form of window processing for Low Power Television. *See Notice of Proposed Rule Making* in Docket 84–1350, 49 FR 908 (January 6, 1984).

[9] At present, the FM Table contains 76 available commercial channels. The TV Table contains 129 vacant commercial channels. The *Notice of Proposed Rule Making* in Docket 84–231 proposes the addition of 684 channels to the FM Table, implementing our action in Docket 80–90, *Report and Order*, 94 FCC 2d 152 (1983).

[10] We do not contemplate application of these procedures to noncommercial FM and TV channels. The special problems of these applicants in securing funding, staff and programming before applying for a new station would appear to argue against use of a window filing system. These educational applicants are often dependent upon institutional funding which may take two years or more to secure and may involve legislative affirmation of the broadcast development and funding plan.

[11] Channels are only available in the specific listed community. See *Report and Order* in Docket No. 82–320, 93 FCC 2d 436 (1983). However, we have proposed to expand the definition of "community" to include an entire metropolitan area. *Notice of Proposed Rule Making* in Docket 83–403, 48 FR 19428 (April 29, 1983).

applications would not be unreasonable, and it would expedite the provision of a new service to the public on an available channel.[12] As with applications filed during the window period, we would entertain petitions to deny.

10. Commenters are asked to address themselves to the legal analysis with leads us to the conclusion that the Tables of Allotments can provide adequate notice for the establishment of the cut-off procedures proposed herein. Comments are also invited on the practical efficacy of the proposed procedures to curtail administrative delays in the authorization of new service. Finally, parties should comment on the specifics of the proposal, including the duration of the window periods.

11. We believe that the window processing system proposed herein should also be applicable to applications for modification of facilities in order to expedite the processing of such applications.[13] Under this proposal, the initial filing window of 45 days established in this proceeding would govern all applications for modifications to existing facilities where the proposed change would affect either another existing facility or a vacant channel currently listed in the Tables of Allotments. Modification applications that would affect channels added to the Tables by future rule making action would be subject to the filing window established in the report and order adding the relevant channel to the Tables.

12. Change applications filed during the applicable window period would be consolidated for hearing with any mutually exclusive applications for new broadcast stations or inconsistent change applications. Accordingly, an existing licensee should file its application for modification during the window period if it would affect or be affected by potential operations on a vacant channel allotment or modifications to other existing stations. All such applications would then be consolidated for hearing. Otherwise, the grant of a license for the vacant channel or modification of an existing license could limit future site selection options of other existing stations. Similarly, the grant of a modification may limit the site selection options for a channel assignment that remains vacant after the window period.

13. If no applications are filed during the window period, the first application for a vacant channel filed thereafter would cut off mutually exclusive modification applications, thereby possibly limiting the site selection for such changes. If an application for modification is the first filed after the window period, applicants for a new channel or applicants for inconsistent modifications could be similarly limited in their site selection. We seek comment on these proposals for the processing of applications for modification. We request that commenters suggest any alternatives which they believe will improve the processing of modification applications while preserving the Commission's interest in expediting future grants of new full service licenses.

Other Matters

14. Our proposal is intended to expedite new service to the public, but such service could be delayed by extensions of the time normally afforded by the Commission to construct a new station. Because our proposal limits the ability of parties to file competing applications, particularly after the window period, successful applicants that have had the benefit of these expedited procedures should be held to strict construction schedules. This will also help avoid the filing of speculative applications by parties who are not ready, willing and able to undertake prompt construction of the station for which they have applied. Thus, we propose strict enforcement of our current limits on the duration of construction permits, 12 months for FM and 18 months for TV.[14] We believe it would not be appropriate to favorably consider applications for extension of time within which to construct except in the most unusual circumstances.[15] Failure to comply with the terms of the construction permit would result in its automatic forfeiture pursuant to § 73.3599 of the Commission's Rules. In the event that a channel allotment is vacated, for this or any other reason, we propose to announce a subsequent filing window by public notice for the acceptance of new applications for such a channel.

Initial Regulatory Flexibility Analysis

15. Pursuant to requirements of the Regulatory Flexibility Act of 1980, the Commission finds as follows:

I. *Reason for Action.* Our experience indicates that the current cut-off procedures for the acceptance of competing applications for commercial full service FM and television stations delay service to the public, disrupt the processing of an original application and often require costly comparative hearings which do not benefit the public interest. This *Notice* outlines alternative cut-off procedures designed to reduce comparative hearings and limit applications to only those seriously interested in providing better service.

II. *The Objective.* The Commission seeks comment on proposals to amend the current cut-off rules for applicants seeking licenses for the commercial FM and TV stations listed in the Tables of Assignments. The objective is to determine whether the proposals are consistent with the legal requirements of the Communications Act of 1934, as amended, and whether these proposals or others will curtail delays in the authorization of new service to the public.

III. *Legal Basis.* The action taken by the *Notice* is authorized by sections 4(i) and 303 of the Communications Act of 1934, as amended.

IV. *Description, Potential Impact and Number of Small Entities Affected.* The Commission believes that adoption of the proposals set forth in this *Notice* would benefit small entities interested in acquiring new FM and TV commercial broadcast licenses. Under the current rules, small entities are handicapped by the delays and costs incurred during the comparative hearing process. The proposals in the *Notice* would benefit an unknown number of small entities by limiting the scope and frequency of comparative hearings for new licenses.

V. *Recording, Recordkeeping and Other Compliance Requirements.* The proposals would eliminate the Commission's publication of periodic cut-off lists which interested applicants must now monitor so that they may file mutually exclusive applications. Interested applicants would instead have to be aware of Commission orders adding new allotments to the Tables which would announce the filing window for such stations. The current recording, recordkeeping and

[12] At this time, we do not propose to determine the first filed application with stop watch precision. Rather we propose to consider all applications filed by close of business on the same day as simultaneously filed.

[13] In the *First Report and Order* in Docket 83-1377, FCC 84-298, adopted June 27, 1984, the Commission changed the definition of minor modification to encompass all changes in power, antenna location or antenna height, without regard to their effect on coverage area. The additional certainty afforded by this cut-off procedure for minor modifications will, therefore, benefit a potentially large number of licensees.

[14] See § 73.3598 (a) and (b) of the Commission's rules.

[15] Applications for extension of time to construct an FM Station would continue to be subject to the Public Notice, "Guidelines Established For Processing of Applications For Additional Time Within Which To Construct AM and FM Broadcast Stations," released May 14, 1984, Mimeo No. 4144.

compliance requirements for existing and future licensees would not be affected.

VI. *Federal Rules Which Overlap, Duplicate or Conflict with This Rule.* None

VIII. *Any Significant Alternatives Minimizing Impact on Small Entities and Consistent with the Stated Objectives.* The proposals in this *Notice* should all have a positive impact on the ability of small entities to enter the broadcasting arena.

Administrative Matters

16. This action is taken pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

17. Pursuant to procedures set out in § 1.415 of the Commission's rules, interested parties may file comments on or before October 15, 1984 and reply comments on or before October 30, 1984. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the *Report and Order.*

18. In accordance with the provisions of § 1.419 of the rules, formal prticipants shall file an original and five (5) copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one (1) copy. All timely comments will be considered, regardless of the number of copies submitted. In any event, all comments must contain reference to the appropriate docket number (MM Docket No. 84–750). All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 "M" Street, NW., Washington, D.C. 20554. For general information on how to file comments, please contact the FCC Consumer Assistance and Small Business Division at (202) 632–7000.

19. As required by Section 603 of the Regulatory Flexibility Act, the FCC has prepared an Initial Regulatory Flexibility Analysis ("IRFA") of the expected impact on small entities of the proposals advanced herein. The IRFA is set forth in Paragraph 15 of the *Notice.* Written public comments are requested on the IFRA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Notice,* but the must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Secretary shall cause a copy of this *Notice,* including the Initial Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration, as required by section 603(a) of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 50 U.S.C. 601 *et seq.* (1981)).

20. For purposes of this nonrestricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a Public Notice is issued stating that a substantive disposition of the matter is to be considered at forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments and formal oral arguments) addressing the merits of a pending proceeding and containing matters not fully covered in any previously filed written comments for the proceeding. Any person who submits a written *ex parte* presentation must submit a copy of that presentation to the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation must prepare a written summary of it which must be served on the Commission's Secretary for inclusion in the pulic file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally, § 1.231 of the Commission's rules.*

21. For further information regarding this proceeding, contact Robert Ratcliffe, Mass Media Bureau, (202) 632–7792.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84–24596 Filed 9–17–84; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 90

[PR Docket No. 84–874; FCC 84–412]

Amendment of Part 90 of the Commission's Rules To Allocate the 1900–2000 kHz Frequency Band to the Radiolocation Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The 1979 World Administrative Radio Conference reallocated the 1900–2000 kHz frequency band for radiolocation purposes. This document proposes to amend Part 90 of the Commission's Rules to allocate the 1900–2000 kHz frequency band in the Radiolocation Service and provide rules for its use.

DATE: Comments are due by October 26, 1984 and replies by November 23, 1984.

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

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Radio Bureau, (202) 634–2443.

SUPPLEMENTARY INFORMATION: .

List of Subjects in 47 CFR Part 90

Radiolocation services, Radio.

Notice of Proposed Rule Making

In the matter of amendment of Part 90 of the Commission's rules to implement the 1900–2000 kHz frequency band in the radiolocation service; PR Docket No. 84–874, FCC 84–412.

Adopted: September 5, 1984.
Released: September 11, 1984.

By the Commission.

Background

1. On November 8, 1983, the Commission adopted a *Second Report and Order* in General Docket 80–739[1] which implemented into Part 2 of the Commission's Rules and Regulations the Final Acts of the 1979 World Administrative Radio Conference (1979 WARC). Included in the *Second Report and Order* was a revised Table of Frequency Allocations in § 2.106. Part of the revision of the Table was the reallocation of the 1900–2000 kHz frequency band from the Radionavigation to the Radiolocation Service for shared use between non-government users.[2] [3]

[1] *Second Report and Order,* General Docket 80–279, adopted November 8, 1983, 49 FR 2357, January 19, 1984.

[2] Other changes in the Radiolocation Service allocations in the *Second Report and Order* of General Docket 80–739 are not yet effective since the changes are dependent upon future broadcast

Continued

2. Under the present rules of Part 90, Subpart F, the following frequency bands in the medium frequency range (MF) are authorized for radiolocation operations:

1605–1715 kHz
1715–1750 kHz
1750–1800 kHz

The 1979 WARC revised the MF radiolocation allocations as follows:

Frequency band (kHz)	Footnote in the U.S. table of frequency allocations
1605 to 1615	480, US 221.[4]
1615 to 1625	US 237.[5]
1625 to 1705	US 238.[6]
1705 to 1715	US 240.[7]
1715 to 1725	US 240.[7]
1725 to 1740	US 240.[7]
1740 to 1750	US 240.[7]
1750 to 1800	[8]
1900 to 2000	US 290.[9]

[4] 480 In Region 2, the use of the band 1605–1705 kHz by stations of the broadcasting service shall be subject to a plan to be established by a regional administrative radio conference.

US 221 Use of the mobile service in the bands 525–535 kHz and 1605–1615 kHz is limited to distribution of public service information from travelers information stations operating on 530 kHz or 1610 kHz.

[5] US 237 Until implementation procedures and schedules are determined by a future Regional Conference of the International Telecomunication Union, the band 1615–1625 kHz is also allocated on a primary basis to the radiolocation service.

[6] US 238 Until implementation procedures and schedules are determined by a future Regional Conference of the International Telecommunication Union, the band 1625–1705 kHz is allocated to the radiolocation service on a primary basis as a different category of service.

[7] US 240 The bands 1715–1725 and 1740–1750 kHz are allocated on a primary basis and the band 1705–1715 kHz and 1725–1740 kHz on a secondary basis to the aeronautical radionavigation service (radiobeacons).

[8] No changes in this band.

[9] US 290 In the band 1900–2000 kHz, amateur stations may continue to operate on a secondary basis to the radiolocation service, and in accordance with NG15 pending a decision as to their disposition through a future rule making proceeding in conjunction with the implementation of the standard broadcasting service in the 1625–1705 kHz band.

3. The reallocation indicates that radiolocation stations operating in the 1605–1705 kHz band will eventually be displaced in accordance with footnotes 480, US 237, and US 238 to the U.S. Table of Frequency Allocations. To provide spectrum for these displaced systems, the Commission, on its own motion, is issuing this *Notice of Proposed Rule Making* which proposes to implement the 1900–2000 kHz band in Part 90 of the Rules, and to establish specific rules for its use.[10]

service actions. Specifically, footnotes 480, US 237, and US 238 to the Table of Frequency Allocations permit radiolocation to continue on a primary basis from 1605 to 1705 kHz, but only until implementation procedures and schedules are determined by a future Regional Broadcasting Conference.

[3] The Rules define radionavigation as radiodetermination used for purpose of navigation, including obstruction warning, and radiolocation as radiodetermination used for purposes other than those of radionavigation. Radiodetermination is defined as the determination of position, or the obtaining of information relating to position, by means of the propagation properties of radio waves. See 47 CFR 2.1.

[10] Paragraph 24 of the *Second Report and Order* in General Docket 80–739 states that the purpose of allocating the 1900–2000 kHz band to the Radiolocation Service was to provide reaccommodation spectrum for radiolocation users that will have to move out of the 1605–1705 kHz band when AM broadcasting is implemented in that band. The *First Notice of Inquiry*, Gen. Docket 84–467, adopted May 10, 1984, released May 16, 1984 begins the FCC preparation for an ITU Region 2 Administrative Radio Conference for the planning of broadcasting in the 1605–1705 kHz band.

Discussion

4. Radiolocation services are principally employed by persons engaged in commercial operations in offshore waters, e.g., gas and oil exploration, drilling, and production. Interference to the radiolocation signal can cause significant delays due to the necessity of repeating complex operations and thus can be costly from time and monetary standpoints. It thus appears that there is a valid basis for exclusive assignments in certain circumstances.[11] At the same time, we recognize that assignments in the 1605–1705 kHz band are made on a shared basis. We propose, therefore, to divide the 1900–2000 kHz band into two 50 kHz segments with the band 1900–1950 kHz proposed for exclusive assignments,[12] and the band 1950–2000 kHz for non-exclusive or shared assignments. Displaced licensees will be eligible for assignments in both the 1900–1950 kHz exclusive and 1950–2000 kHz shared bands. We recognize that some existing systems require 2 frequencies for operation. We ask comments as to whether these systems can effectively operate within either of the 50 kHz band segments.

5. Under present rules, exclusivity in the 1750–1800 kHz radiolocation band is now afforded within 360 miles to stations operating on the same frequency or no different frequencies separated by 3 kHz. Radiolocation service users have indicated that the 360 mile separation is inadequate to meet current operational conditions, since it was established when operations were conducted only during the daytime. Currently, with vessels operating 100 miles and more offshore, position control is required around the clock. Skip propagation between dusk and dawn can carry signals 1000 miles and more. Examples have been cited of interference between East coast and Gulf of Mexico operations. Additionally, the 360 miles separation is between shore stations, and it is possible that a mobile station can experience interference by being closer than 360 miles to a non-affiliated interfering shore station. Consequently, in order to provide effective protection against interference, radiolocation service users have indicated that separation of about 1200 miles between shore stations is necessary. We propose therefore to establish a separation between co-channel assignments of 1,200 miles for stations operating in the 1900–1950 kHz band.

[11] Presently, § 90.103(c)(7) of the Rules affords stations operating in the 1750–1800 kHz radiolocation band interference protection by allowing exclusive assignments in their primary operating area. The interference protection is obtained by providing a minimum geographic separation of 360 miles between stations when they are operating on the same frequency or on different frequencies separated by 3 kHz.

[12] Assignment exclusivity was established for radiolocation stations in the *Report and Order*, Docket 9233, 16 FR 13096, December 28, 1951.

6. Increasing the geographic separation between exclusive assignments decreases the re-use capabilities of the available frequencies and the number of channels that can be utilized along the entire coastline. To counteract this, we are also proposing to reduce the maximum authorized bandwidth in the MF radiolocation bands from 2 kHz to 1 kHz. It is our understanding that presently available radiolocation equipment can meet this bandwidth standard. This proposed change will effectively double the amount of available channels from 25 to 50 in the 1900–1950 kHz band. We are also proposing to establish a maximum authorized bandwidth of 1 kHz in the shared 1950–2000 kHz band. Reducing the authorized bandwidth to 1 kHz in the 1900–1950 kHz band allows us to reduce the frequency separation criteria for channel exclusivity from 3 kHz to 1.2 kHz. Licensees in the Radiolocation Service indicate that a reduction to 1.2 kHz is in accord with current state-of-the-art equipment.

7. In summary, we proposed that each frequency assignment in the 1900–1950 kHz band be made on an exclusive basis within an assigned primary service area. This service area is defined as the area in which radiolocation signal intensities are adequate from all stations in the system.[13] The normal geographic separation between stations of differeent licensees shall be at least 1200 miles (1931 km) when the stations are operation on the the same frequency or on different frequencies separated by less that 1.2 kHz. Further, if a geographical separation of less than 1200 miles is desired under these circumstances, it must be shown that the requested separation will result in a protection ratio of 20 dB throughout the primary service area of other stations.

[13] The service ara definition is the same as that given in 47 CFR 90.103(c)(7) for the 1750–1800 kHz band.

8. Recent developments in radiolocation systems include wide-band, low-powered systems that do not conform to the bandwidth requirements of the present (or proposed) rules. In order to accommodate such new systems in the 1900–2000 kHz band, we are proposing to allow wide-band systems to operate on a secondary operation basis,[14] and to limit their transmitter power so that the field strength does not exceed 120 microvolts per meter at 1 mile. We specifically ask for comments on this proposal.

9. No change in protection criteria is proposed at this time for the 1750–1800 kHz band. Licensees of radiolocation stations operating in the 1605–1715, 1715–1750, and 1750–1800 kHz bands may request modifications of their station authorizations to operate in the 1900–2000 kHz band. We propose to process requests for station authorizations in the 1900–2000 kHz band in accordance with the random selection prodcedures set forth in § 1.972 of the Rules, except that displaced licensees will be given priority to minimize disruption to existing systems. We do request comments on whether it would be appropriate to modify the protection criteria for systems in the 1750–1800 kHz band, or whether the protection criteria currently in effect for that band should be retained in order to accommodate older systems and existing assignment patterns.

10. *Regulatory Flexibility Act Initial Analysis—*

I. *Reason for Action.* This action is being taken to incorporate into the Rules frequency band reallocations in the Radiolocation Service that were included in the Final Acts of the 1979 World Administrative Radio Conference (WARC). Our proposals would implement the 1900–2000 kHz band into the Rules, thus providing radio spectrum for those radiolocation licensees who would be required to change frequencies because of the WARC decisions.

II. *Objective.* The objective of this action is to make more efficient use of the spectrum allocated to the Radiolocation Service.

III. *Legal Basis.* This action is proposed in accordance with Sections 303(e) and 303(f) of the Communications Act of 1934, as amended, that authorizes the Commission to regulate the apparatus used by radio stations and to make such regulations as may be necessary to prevent interference between stations.

IV. *Description, Potential Impact, and Number of Small Entities Affected.* Implementation of the Final Acts of the 1979 WARC will eventually have an economic impact upon approximately 1500 Radiolocation Service licensees by requiring them to change operating frequencies. The rules proposed in this proceeding do not create any additional economic impact upon these licensees, but are beneficial in that they serve to provide frequency spectrum for the displaced licensees.

V. *Recording, Record Keeping, and Other Compliance Requirements.* None.

VI. *Federal Rules which Overlap, Duplicate, or Conflict with this Rule.* None.

VII. *Any Significant Alternative Minimizing Impact on Small Entities and Consistent with the Stated Objectives.* None.

Ordering Clauses

11. Accordingly, notice is hereby given of rule making to amend Part 90 of the Commission's Rules and Regulations, in accordance with the proposal set forth in the attached Appendix.

12. The proposed amendment to the Rules is issued pursuant to authority contained in sections 4(i), 303(b), 303(f), 303(g) and 303(r) of the Communications Act, as amended.

13. It is further ordered that the Secretary shall cause a copy of this *Notice of Proposed Rule Making* to be served upon the Chief Counsel for Advocacy of the Small Business Administration. The Secretary shall also cause a copy to be published in the **Federal Register.**

14. We encourage all interested parties to respond to this *Notice of Proposed Rule Making* since such information as they may provide often forms the basis for further Commission action. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating a substantive disposition of the matter is to be considered at a forthcoming meeting, or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings or formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submit a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who make an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding, must prepare a written summary of that presentation. On the day of that oral presentation, a written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1232 of the Commission's Rules, 47 CFR 1.1231.

15. Pursuant to applicable procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before October 26, 1984 and reply comments on or before November 23, 1984. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public files and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

16. In accordance with the provisions of § 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and five copies of their comments and other materials. Participants wishing each Commissioner to have a peraonal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission Public Reference Room at its headquarters in Washington, D.C.

17. For further information on this proceeding, contact Eugene Thomson, Private Radio Bureau, Washington, D.C. 20554, (202) 634–2443.

(Secs. 4, 303, 48 Stat., as amended, 1068, 1082; 47 U.S.C. 154, 303)

[14] Secondary operation is defined as radio communications which may not cause interference to operations authorized on a primary basis and which are not protected from interference from those primary operations.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix

Part 90 of the Commission's Rules and Regulations is amended as follows:

1. Section 90.103(b)—*Radiolocation Service Frequency Table* is amended by revising the entries under kilohertz for the bands 1605–1715 through 3230–3400 to read:

§ 90.103 Radiolocation service.

* * * * *

(b) * * *

RADIOLOCATION SERVICE-FREQUENCY TABLE

Frequency or band	Class of stations	Limitations
Kilohertz		
*	*	*
1605 to 1715	do	4, 5, 6, and 27.
1715 to 1750	do	5, 6, and 27.
1750 to 1800	do	5, 6, 7, and 27.
1900 to 1950	do	6, 25, 26, and 27.
1950 to 2000	do	6, 25, and 27.
3230 to 3400	do	6 and 8.
*	*	*

2. A new § 90.103(c)(25) is added to read:

* * * * *

(c) * * *

(25) Station assignments on frequencies in this band will be made subject to the conditions that the maximum output power shall not exceed 375 watts and the maximum authorized bandwidth shall not exceed 1.0 kHz.

* * * * *

3. A new § 90.103(c)(26) is added to read:

* * * * *

(c) * * *

(26) Each frequency assignment in this band is on an exclusive basis within the primary service area to which assigned. The primary service area is the area where the signal intensities are adequate for radiolocation purposes from all stations in the radiolocation system of which the station in question is a part; that is, the primary service area of the station coincides with the primary service area of the system. The normal minimum geographical separation between stations of different licensees shall be at least 1200 mi. (1931 km.) when the stations are operated on the same frequency or on different frequencies separated by less than 1.2 kHz. Where geographical separation of less than 1200 mi. (1931 km.) is desired under these circumstances, it must be shown that the desire separation will result in a protection ratio of at least 20 decibels throughout the primary service area of other stations.

* * * * *

4. A new § 90.103(c)(27) is added to read:

* * * * *

(c) * * *

(27) Notwithstanding the bandwidth limitations otherwise set forth in this section of the rules, systems operating in this band may use such bandwidth as is necessary to proper operation of the system provided that the field strength does not exceed 120 microvolts per meter at 1 mile. Such operations shall be on a secondary basis to stations operating within otherwise applicable technical standards.

* * * * *

[FR Doc. 84-24592 Filed 9-17-84; 8:45 am]
BILLING CODE 6712-01-M

VETERANS ADMINISTRATION

48 CFR Parts 819 and 852

Acquisition Regulations

AGENCY: Veterans Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The VA (Veterans Administration) proposes to amend the VAAR (Veterans Administration Acquisition Regulations) by adding provisions regarding encouraging Vietnam era and disabled veteran owned and operated small businesses in VA acquisitions. The proposed rule would also increase the small business class set-aside threshold for construction projects and architect-engineer service contracts.

DATES: Written comments should be submitted no later than October 18, 1984.

ADDRESSES: Interested persons are invited to submit written comments, suggestions or objections to Administrator of Veterans Affairs (217A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All written comments received will be available for public inspection only at the Veterans Administration Central Office in room 132 of the above address between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until October 29, 1984.

FOR FURTHER INFORMATION CONTACT: Chris A. Figg (202) 389–2334.

SUPPLEMENTARY INFORMATION:

I. Background

On March 29, 1984, the VA published in the **Federal Register** at pages 12582 to 12644, interim final rules, 48 CFR, which established Chapter 8, VA Acquisition Regulation. These rules were effective on April 1, 1984. The proposed rules contained herein are in addition to those previously published. Pub. L. 93–237 Amended the Small Business Act by directing SBA (Small Business Administration) to give "special consideration" to veterans of the Armed Forces in all SBA programs. The Small Business Administration has provided thousands of hours of counseling, training and financial assistance in the form of business loans to veteran owned businesses. This assistance has been instrumental in establishing many veteran initiated business enterprises as viable firms. Vietnam era veterans and disabled veterans, as part of our next generation of entrepreneurs, deserve our special consideration at this time. Therefore, the VA is proposing to adopt SBA's philosophy and actively seek Vietnam era veteran and disabled veteran owned and operated small businesses for competitive VA business opportunities. Eligible veterans would include the following:

a. Vietnam era veterans who served for a period of more than 180 days, any part of which was between August 5, 1964, and May 7, 1975, and were discharged other than dishonorably.

b. Disabled veterans of any era with a minimum compensable disability of 30 percent, or a veteran of any era who was discharged for disability.

The proposed rule will require VA contracting officers to take affirmative steps to ensure eligible veteran owned firms are given the maximum opportunity to compete for contract awards. In order to develop the necessary bidders lists, the rule will prescribe a certification in VAAR Part 852 to be included in VA invitations for bids, requests for proposals and requests for quotations.

Section 819.502–2(d), which implements FAR (Federal Acquisition Regulation) 19.502–2, will raise the current VA small business class set-aside threshold for construction projects from $2,000,000 to $3,000,000 per project and for architect-engineer service from those services incident to construction projects estimated to cost $2,000,000 and less to those services incident to construction projects estimated to cost $3,000,000 and less. Our experience has shown that we can expect adequate competition from qualified small business concerns to ensure reasonable prices at these thresholds.

II. Executive Order 12291

Pursuant to the memorandum from David Stockman, Director, Office of Management and Budget, to Donald Sowle, Administrator, Office of Federal Procurement Policy, and Christopher DeMuth, Administrator, Information and Regulatory Affairs, dated December 15, 1983, this proposed rule is exempt from sections 3, 4, and 5 of the Executive Order 12291.

III. Regulatory Flexibility Act (RFA)

Because this proposed rule does not come within the term "rule" as defined in the RFA [54 U.S.C. 601(2)], it is not subject to the requirements of that Act. In any case, this change, in itself, will not have a significant economic impact on a substantial number of small entities.

IV. Paperwork Reduction Act

The information collection and recordkeeping requirements that are imposed upon the public under 819.7003(a) have been submitted to the Office of Management and Budget for approval, in accordance with section 3504(h) of the Paperwork Reduction Act.

Information on and copies of the information collection requirements can be obtained from Patricia Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. Comments and questions about the information collections and recordkeeping requirements should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Dick Eisinger, Desk Officer for the VA, 726 Jackson Place, NW., Washington, D.C. 20503 (202) 395-7316.

List of Subjects in 48 CFR Parts 819 and 852

Government procurement.

Approved: August 31, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

For reasons set out in the preamble, Title 48 of the Code of Federal Regulations, Chapter 8, is amended as follows:

PART 819—[AMENDED]

1. In 819.502-2, paragraph (d) is revised to read as follows:

819.502-2 Total set-asides.

* * * * *

(d) All proposed procurement for construction anticipated to cost between $10,000 and $3 million and all proposed procurement for architect-engineer services for construction projects of $3 million and less will be considered as though SBA had initiated a set-aside request. Determinations of the need to deviate from this policy made by the head of a contracting activity will require review by the Director, Office of Small and Disadvantaged Business Utilization.

2. Subpart 819.70 is added to read as follows:

Subpart 819.70—Veteran-Owned and Operated Small Business

Sec.

Subpart 819.70—Veteran-Owned and Operated Small Business

819.7001 Policy.

(a) Public Law 93-237 amended the Small Business Act by directing SBA to give "special consideration" to veterans of the Armed Forces in all SBA programs. Consistent with and in furtherance of that statute, it is the policy of the Veterans Administration to encourage participation by Vietnam era and disabled veteran-owned and operated small businesses in VA acquisitions.

(b) All VA facilities having procurement requirements for which Vietnam era veteran-owned small businesses and disabled veteran-owned small businesses are known sources, will take affirmative action to solicit these firms and assist them in participating in VA acquisition opportunities.

A Vietnam era veteran-owned small business or a disabled veteran-owned small business is a small business that is at least 51 percent owned by such a veteran who also controls and operates the business. Control in this context means exercising the power to make policy decisions. Operate in this context means actively involved in day-to-day management. For purposes of this definition, eligible veterans include:

(a) Vietnam era veterans who served for a period of more than 180 days, any part of which was between August 5, 1964 and May 7, 1975 and were discharged other than dishonorably.

(b) Disabled veterans of any era with a minimum compensable disability of 30 percent; or a veteran of any era who was discharged for disability.

819.7003 Procedure.

(a) As part of each procurement action involving other than small purchase procedures, VA contracting offices shall request, through Small Business Administration, Procurement Automated Source System (PASS), a listing of Vietnam era veteran-owned contractors capable of meeting the requirements of the particular solicitation. Firms identified on the PASS list shall be included on solicitation mailing lists, shall be incorporated in the contract file and shall be subject to audit. The Veteran-owned business representation in 852.219-70 shall be included in all solicitations and to each request for quotations.

(b) To further identify disabled veteran-owned businesses, each contracting activity shall formulate local plans to identify such firms and to include them on the facility solicitation mailing lists. State and local employment agencies and veterans' councils are potential sources for this information. In addition, the Department of Labor and the Vietnam Veterans Leadership Conference [a unit of ACTION) are provided the PASS list for use in employment assistance efforts for Vietnam era and disabled veterans.

819.7004 Waiver of the use of Vietnam era or disabled veterans-owned firms.

It is the policy of the VA to provide Vietnam era and disabled veteran-owned firms an opportunity to participate in the acquisition process. A contracting office wishing to waive this policy for a particular procurement over $10,000 must first process a VA Form 07-2268 or 90-2268. The contracting officer must clearly document on VAF 07-2268 or 90-2268 the reasons that eligible veteran-owned firms are not intended to be solicited or quotations sought for the particular procurement. Exempt from this reporting requirement are SBA 8(a) acquisitions and Labor Surplus Area set-asides.

PART 852—[AMENDED]

3. In Subpart 852.2, 852.219-70 is added to read as follows:

852.219-70 Veteran-owned small business.

(a) As prescribed in 819.7003(a), the following certification will be made a part of all solicitations and all requests for quotations:

The offeror represents that the firm submitting this offer ( ) is ( ) is not, a Vietnam era veteran-owned small business and ( ) is ( ) is not, a disabled veteran-owned small business. A Vietnam era veteran-owned small business or a disabled veteran-owned small business is defined as a small business, at least 51 percent of which is owned by such a veteran, who also controls and operates the business. Control in this

context means exercising the power to make policy decisions. Operate in this context means actively involved in day-to-day management. For the purpose of this definition, eligible veterans include:

(1) Those who served for a period of more than 180 days, any part of which was between August 5, 1964 and May 7, 1975 and were discharged other than dishonorably.

(2) Disabled veterans of any era with a minimum compensable disability of 30 percent, or a veteran of any era who was discharged for disability.

(b) Failure to execute this representation will be deemed a minor informality and the bidder or offeror shall be permitted to satisfy the requirement prior to award (see FAR 14.405).

(38 U.S.C. 210 and 40 U.S.C. 486(c))

[FR Doc. 84-24692 Filed 9-17-84; 8:45 am]

BILLING CODE 6320-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1845

Acquisition Regulations; Promulgation of NASA FAR Supplement Directive 84-2

Correction

In FR Doc. 84-22897 beginning on page 34258 in the issue of Wednesday, August 29, 1984, make the following corrections to "Annex II to Subpart 1845.72, Double Sampling Plan" appearing on page 34277:

Subpart 1845.72, Annex II—[Corrected]

1. In column 1, under "Lot Range", the entry which reads "1 to 8" should read "1 to 18" and the entry which reads "151 to 500" should read "151 to 400".

2. In the "Lot Range 19 to 50", under the column "Reject if defects in sample 1 are", the entry should read "1".

3. In the same "Lot Range", under the column" Continue with sample 2 if defects in sample 1 are ", the entry should be blank. The "1" should not have appeared.

BILLING CODE 1505-01-M

Notices

Federal Register
Vol. 49, No. 182
Tuesday, September 18, 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

Packers and Stockyards Administration

Proposed Posting of Stockyards; Turlock Livestock Auction Yard, et al.; Correction

On August 7, 1984, a notice was published in the **Federal Register** giving notice of the proposed posting for certain stockyards listing their facility number, name, and location of stockyards.

This notice is to correct the facility no. assigned to the following market in that publication.

The notice should have read:

KY-170 Lee City Livestock Co., Inc.
Lee City, Kentucky

Done at Washington, D.C., this 12th day of September, 1984.

Jack W. Brinckmeyer,

Chief, Financial Protection Branch, Livestock Marketing Division.

[FR Doc. 84-24626 Filed 9-17-84; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-016]

Choline Chloride From Canada; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that choline chloride from Canada is being, or is likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination. The ITC will determine, within 45 days of publication of this notice, whether a U.S. industry is materially injured, or threatened with material injury, by reason of imports of this merchandise. We have directed the U.S. Customs Service to continue to suspend the liquidation of all entries of the subject merchandise which is entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice and to require a cash deposit or bond for each such entry in an amount equal to the estimated dumping margin as described in the **"Suspension of Liquidation"** section of this notice.

EFFECTIVE DATE: September 18, 1984.

FOR FURTHER INFORMATION CONTACT: David D. Johnston, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-2239.

Final Determination

We have determined that choline chloride from Canada is being sold, or is likely to be sold, in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act).

We found that the foreign market value of choline chloride from Canada exceeded the United States price on 73 percent of sales. These margins ranged from 0.1 percent to 39.7 percent. The overall weighted-average margin on all sales compared is 9.73 percent.

Case History

On November 15, 1983, we received a petition filed by Syntex Agribusiness, Inc., Nutrition and Chemical Division (Syntex), on behalf of the domestic manufacturers in the United States of choline chloride. In accordance with the filing requirements of 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of choline chloride from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that these imports are materially injuring, or threaten to materially injure, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds on which to initiate an antidumping investigation. We notified the ITC of our action and initiated the investigation on December 5, 1983 (48 FR 56251). On March 17, 1984, we were informed by the ITC that there is a reasonable indication that imports of choline chloride from Canada are materially injuring a United States industry.

An antidumping questionnaire was presented to Chinook Chemicals Company (Chinook) the only known Canadian producer/exporter, on December 8, 1983. We received the response on January 27, 1984. Subsequently, we received additional data and explanations directed to portions of the response that were incomplete, inaccurate or unclear. On February 9, 1984, petitioner also alleged that "critical circumstances" exist, as defined in section 733(e) of the Act.

On April 23, 1984, we preliminarily determined that there was reason to believe or suspect that choline chloride from Canada was being sold in the United States at less than fair value (49 FR 18 344). At the request of the respondent, we held a hearing on May 23, 1984, to allow the parties an opportunity to address the issues arising in this investigation. On July 6, 1984, we postponed the final determination to September 12, 1984.

Scope of Investigation

The merchandise covered by this investigation is choline chloride, which is currently classified under item number 439.5055 of the *Tariff Schedules of the United States Annotated* (1983) (TSUSA). Pure choline chloride is a chemical with chemical formula of C_5H_{14} CINO and a molecular weight of 139.6. The chemical name is (2-hydroxyethyl) trimethylammonium chloride. Choline chloride is marketed in several forms including, but not limited to, a solution of 70 percent choline chloride in water (aqueous choline chloride) or in potencies of 50 to 60 percent dried on a cereal carrier.

This investigation covers the period June 1 through November 30, 1983.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the aqueous choline chloride and certain sales of choline chloride on a cereal carrier to represent the United States price for the sales by Chinook when the merchandise was sold to unrelated

purchasers prior to its importation into the United States. We calculated the purchase price based on the duty paid, delivered, packed or unpacked price, or duty paid, f.o.b. plant, packed or unpacked price, as appropriate. We made deductions for freight, import duties and brokerage, and quantity rebates where appropriate. We also included in our purchase price calculation a shipment of aqueous choline chloride given to one customer with no charge, pursuant to a long-term contract.

We allocated the poundage of this shipment over the three-year life of the contract by (1) calculating the total amount of choline chloride, in pounds, to be shipped pursuant to the contract; (2) taking the ratio of the number of pounds of the free shipment to the total number of pounds to be shipped pursuant to the contract; (3) for each shipment made during the period of our investigation, multiplying this fraction by the number of pounds shipped; and (4) adding this increment to each shipment made during the period of our investigation. These adjustments had the effect of decreasing United States price. We allocated the duty, brokerage and freight attributable to the free shipment in equal increments over all shipments made during the investigatory period. We determined the amount of the increment by dividing the total duty, brokerage and freight expenses attributable to the free shipment by the estimated number of shipments Chinook expected to make under the contract. See our responses to Petitioner's Comment One.

As provided in section 772(c) of the Act, we used the exporter's sales price of certain sales of choline chloride on a cereal carrier to represent the United States price for sales by Chinook when the merchandise was sold to unrelated purchasers after importation into the United States. We calculated the exporter's sales price based on the duty paid, delivered, packed or unpacked price, or duty paid, f.o.b. warehouse, packed or unpacked price, as appropriate. We made deductions for freight, commissions to an unrelated U.S. agent, import duties and brokerage. We also made a deduction for Chinook's indirect selling expenses incurred on U.S. sales.

Foreign Market Value

In accordance with § 353.3 of the Commerce Regulations (19 CFR 353.3), we used home market sales for the determination of foreign market value for Chinook. We calculated the home market prices on the basis of delivered or f.o.b. plant, packed prices to unrelated purchasers in Canada. From these prices we made deductions for freight where incurred.

In accordance with § 353.23(a) of the Commerce Regulations, we did not make a circumstance of sale adjustment for differences in credit expenses since the adjustment was insignificant.

We made a deduction for quantity discounts in the home market. Where exporter's sales prices were used as United States price, we also made deductions for indirect selling expenses incurred in the home market up to the amount of U.S. sales commissions and indirect selling expenses in accordance with § 353.15 of the Commerce Regulations. We made an adjustment to foreign market value for home market indirect selling expenses on purchase price sales where commissions were paid to unrelated U.S. commission agents. We made no adjustments for packing costs of choline chloride on a cereal carrier because they were the same in both markets. There were no packing costs for aqueous choline chloride; therefore, no adjustment was made. We excluded certain sales of off-specification choline chloride on a cereal carrier because they were determined not to be sales of choline chloride in the ordinary course of trade.

Negative Determination of Critical Circumstances

Counsel for petitioner alleged that imports of choline chloride from Canada present "critical circumstances." Under section 735(a)(3) of the Act, critical circumstances exist when the Department determines that: (A)(i) There is a history of dumping in the United States or elsewhere of the merchandise under investigation, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise under investigation at less than its fair value; and (B) there have been massive imports of the merchandise under investigation over a relatively short period.

In determining massive imports over a short period we looked at recent trends in import penetration levels; whether recent imports are significantly above the average calculated over the last two years; and whether the pattern of imports over the last three year period may be explained by seasonal swing. After examination imports of choline chloride from Canada with respect to these considerations, we find that there have not been massive imports over a relatively short period. Therefore, because there have not been massive imports over a short period we determine that critical circumstances do not exist for choline chloride from Canada.

Petitioner's Comments

Comment 1— Chinook entered into a three-year contract with one of its customers. The terms of the contract called for Chinook to supply the customer's requirements of aqueous choline chloride at any and all of the customer's U.S. feed mills at a certain price. Chinook also agreed to supply the first shipment free of charge provided the customer converted a particular plant so as to process aqueous, rather than solid, choline chloride. Petitioner argues that this shipment of aqueous choline chloride (hereafter the "free shipment") should be included in the fair market value calculation as a sale at zero price.

DOC Position—We disagree. In determining if the free shipment was a sale at zero price, we looked to whether the shipment constituted a gift or non-commercial disposal. By the terms of the contract, this transaction was clearly not a gift. Chinook promised to provide the first shipment free if the customer converted its mill to aqueous choline chloride use. Chinook received value in exchange for the free shipment in that the customer agreed to change its operations to accommodate aqueous choline chloride. The contractual terms reflect Chinook's business judgment of the value of securing the customer's business. Nor was the shipment a non-commercial disposal. Rather, the agreement to ship the free choline chloride in exchange for conversion of the customer's mill was part and parcel of a written requirements contract.

Because the free shipment was integral to the contract as a whole, we have allocated the volume of the shipment over the full three-year life of the contract. We determine this to be the most reasonable treatment of the shipment, since Chinook clearly contemplated three years of sales at the time it agreed to provide the first shipment of aqueous choline chloride at no charge.

To allocate the shipment over the full life of the contract, we first divided the poundage of the fre shipment by the estimated total amount of choline chloride Chinook expects to ship to the customer pursuant to the contract. We calculated this estimated total by multiplying the average number of pounds in shipments already made during the first year by the number of shipments Chinook plans to make in the three years of the contract. We then multiplied the resulting percentage by the volume of each shipment (excluding

the free shipment) made during the period of our investigation, which coincides roughly with the first year of the contract. The result was an amount of choline chloride, in pounds, representing the increment to be added to each shipment made during the investigation. We added this increment to each shipment made during the period of our investigation. The net effect of these adjustments is to reduce United States price by increasing the number of pounds of choline chloride shipped in the investigatory period, thus reducing the price per pound.

We also allocated the duty, freight and brokerage attributable to the free shipment over all the shipments expected during the life of the contract. We calculated the amount of the increment by dividing the total of these expenses by the estimated number of shipments Chinook expected to make pursuant to the contract.

This resulted in equal increments, which we deducted from United States price of each shipment made during the period of our investigation.

We will continue to make these adjustments during our administrative reviews over the next two years of the contract.

Comment 2—No circumstance of sale adjustment for credit should be made because the term of sale in both markets are identical and the actual customer payment date is irrelevant. Moreover, the adjustment claimed is insignificant and should be disregarded.

DOC Position—The claimed adjustment amounts to .003 percent of the total sales value, which is insignificant in relation to the value of the affected transactions. Therefore, we have disregarded it in our calculations, as provided by § 353.23(a) of the Commerce Regulations.

Comment 3—Chinook has failed to provide any information concerning costs incurred in maintaining inventory during the investigatory period. Costs of inventory include those actual costs and implicit credit costs incurred in holding inventory in warehouse.

DOC Position—The Department included in its determination all actual expenses incurred in maintaining the inventory. The Department views credit expense as that expense between the company and an unrelated purchaser. Since credit expense has a direct effect on the sales price to the purchaser, the Department would consider the full amount of the credit adjustment. Maintaining inventory does not involve credit expense. The Department continues the policy of including only those costs actually incurred by a company for all other adjustments except the credit adjustment.

Comment 4—Chinook revised its indirect selling expenses at verification. The revised indirect selling expense should not be allowed because the information was not properly verified and because the figures were taken from profit and loss statements with respect to Chinook's entire business; thus inflating the actual expense attributable to choline chloride. Further, since the indirect selling expenses are incurred for both markets, we should allocate these expenses to each market and allow only that portion attributable to home market sales as the indirect selling expense amount.

DOC Position—In its response, Chinook originally listed a few indirect selling expenses on the assumption that they would only be allowed up to the amount of U.S. commissions paid. At vertification we dicovered that some sales were in fact exporter's sales price transactions, at which point Chinook made an accounting of all indirect selling expenses attributable to choline chloride. We verified these expenses. The allocation made for indirect selling expenses was related to each market as a percentage of total sales. We believe it is appropriate to apportion the percentage basis indirect selling expenses to each market on the basis of sales volume.

Comment 5—Sales of off-specification cereal choline chloride are not in the ordinary course of trade, and are not sales of such or similar merchandise and should be disregarded for purposes of the foreign market value determination.

DOC Position—We agree. We have disregarded these off-specification sales of cereal choline chloride in calculating foreign market value as they are not in the ordinary course of trade.

Respondent's Comments

Comment 1 —The free shipment of aqueous choline chloride cannot be categories as an individually negotiated sale. Had the contract been breached Chinook would have been entitled to a proportionate amount of the value of the shipment. Rather, respondents argue that this shipment is a sample for testing purposes.

DOC Position—We agree that this shipment cannot be categorized as an individually negotiated sale. However, we cannot classify this shipment as a sample given strictly for testing purposes. There is no documentation in the contract stating the specific purpose of the free shipment, nor has respondent supplied other documentation to support this argument as we requested. We also note that respondent has not refuted arguments that the volume needed for testing is far less than the quantity of the shipment, and that the shipment was not destroyed but was incorporated into useable feed products. With respect to the question of compensation were there a breach of contract, Chinook provided us with no documentation to support this argument. We have treated this shipment as indicated in the response to Petitioner's Comment One.

Comment 2—Alternatively, the Department should prorate the amount of the shipment over the amount of choline chloride shipped pursuant to the contract.

DOC Position—We agree that proper treatment of the shipment would be to allocate the amount of the shipment over the period of the contract. At verification we collected invoices of all shipments made to the contract customer. We requested and received documentation estimating the volume of choline chloride expected to be sold during the three-year life of the contract.

To allocate this shipment over the life of the contract, we calculated the average increment in pounds and added this amount to each shipment. We also allocated the freight expenses and duty charges for the free shipment over the estimated shipments in this contract. See our response to Petitioner's Comment One.

Comment 3—At verification Commerce requested and received information on certain expenses which it viewed as freight expenses. The respondent claims that expenses incident to Chinook's trailers are indirect selling expenses, and as such are not an allowable deduction to home market and United States price because the statute permits the deduction of indirect expenses only where they are directly related expenses. Chinook has already provided all directly related expenses of the shipments it made.

DOC Position—We disagree that these charges are indirect selling expenses. Chinook incurred certain expenses incident to the trailers it owns, which are devoted to the delivery and pick up of products. These expenses would not have occurred if it did not have a segment of its operation devoted to the delivery and pick up of products. On the contrary, Chinook would pay a common carrier for its trucking services. The common carrier would incur the same expenses as those we have included in our calculation. The fact that no cost savings are seen by Chinook when a common carrier is contracted does not prove that these expenses are purely administrative. We believe that the only proper way of assessing the

true value of a freight charge is to include all expenses incident to the operation of shipping.

To calculate this expense, we determined the total expenses of Chinook's freight operation and allocated that amount, on the basis of total pounds shipped, to the choline chloride business. This gave a standard factor of cents per pound to apply to the quantity of each shipment of choline chloride except shipments in which a common carrier was used.

Comment 4—If these indirect selling expenses are included in the price comparison, there is no limit to the range of indirect selling expenses that Commerce might apply to direct charges. Moreover, if this becomes the rule it should apply to home market adjustments as well as to adjustments to United States prices.

DOC Position—We disagree with respondents. We believe that there is a clear distinction between indirect selling expenses and the expenses incident to the operation of Chinook's shipping segment. If we are to identify freight expenses as a charge, we must ascertain all expenses related to that charge as provided for in section 772(d)(2)(A) of the Act. If we were to ignore the expenses incurred for Chinook's shipping operation we would be understanding the freight charge. To call these expenses indirect selling expenses does not take into account that these expenses are wholly attributable to freight. Therefore, we believe these are properly called freight expenses and should be deducted as an expense incident to bringing the merchandise from the place of shipment in Canada to the delivery point in the U.S. (see section 772(d)(2)(A) of the Act).

Comment 5—Even if indirect selling expenses were added to Chinook's freight cost, Commerce's proposed method of allocation would not produce fair results because of certain expenses incurred during the period of investigation which have a long-term benefit.

DOC Position—We assume that Chinook is an ongoing concern and, as such, regularly incurs expenses that will not be completely expensed within the period of our investigation. We did not make an exception for any of the freight expenses obtained because we did not view any of them as capital costs to be amortized over time beyond the current accounting period.

Comment 6—Cereal choline choloride sold by Chinook in the home market is such or similar to cereal choline chloride sold in the U.S. Certain off-specification cereal choline chloride has virtually the same physcial characteristics as other cereal choline chloride, and its end use is substantially the same as other cereal choline chloride. Off-specification cereal choline chloride is sold at comparatively lower prices than other cereal choline chloride; however, it is approximately equal in commercial value to other cereal choline chloride.

DOC Position—We disagree. We have disregarded these off-specification sales of cereal choline chloride in calculating foreign market value as they are not in the ordinary course of trade.

Verification

In accordance with section 776(a) of the Act, we verified all data used in reaching this determination by using standard verification procedures, including on-site inspection of the manufacturer's operations and examination of accounting records and selected documents containing relevant information.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we directed the United States Customs Service to suspend liquidation of all entries of choline chloride from Canada.

This suspension of liquidation applies to all merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of the preliminary determination in the **Federal Register**. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. This suspension of liquidation will remain in effect until further notice. The weighted-average margin is as follows:

Manufacturer	Weighted-average margin percentage
All Manufacturers/Producers/Exporters	9.73

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 84-24645 Filed 9-17-84; 8:45 am]

BILLING CODE 3510-25-M

[A-412-012]

Choline Chloride From the United Kingdom; Final Determination of Sales at Not Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that choline chloride from the United Kingdom is not being sold, nor is likely to be sold, in the United States at less than fair value. We have notified the United States International Trade Commission (ITC) of our determination. We found *de minimis* margins of 0.03 percent on exports of the subject merchandise during the period of investigation.

EFFECTIVE DATE: September 18, 1984.

FOR FURTHER INFORMATION CONTACT: David D. Johnston, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-2239.

Final Determination

We have determined that choline chloride from the United Kingdom is not being sold, nor is likely to be sold, in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act).

We found that the foreign market value of choline chloride from the United Kingdom was less than the United States price on almost all sales.

Case History

On November 15, 1983, we received a petition filed by Syntex Agribusiness, Inc., Nutrition and Chemical Division (Syntex), on behalf of the domestic manufacturers in the United States of

choline chloride. In accordance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of choline chloride from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that these imports are materially injuring, or threaten to injure materially, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds to initiate an antidumping investigation. We notified the ITC of our action and initiated the investigation on December 5, 1983 (48 FR 56248). On March 17, 1984, we were informed by the ITC that there is a reasonable indication that imports of choline chloride from the United Kingdom are materially injuring a United States industry.

An antidumping questionnaire was presented to Imperial Chemical Industries PLC (ICI), the only known British producer/exporter on December 21, 1983. We received the response on February 6, 1984. On February 9, 1984, petitioner also alleged that "critical circumstances" exist, as defined in section 733(e) of the Act. Subsequently, we received additional data and explanations directed to portions of the response that were incomplete, inaccurate or unclear. On April 23, 1984, we preliminarily determined that choline chloride from the United Kingdom was not being sold in the United States at less than fair value (49 FR 18345). On May 4, 1984, we received a letter from petitioner alleging sales at less than cost of production and requesting that the case be extended to allow for this investigation. On June 14, 1984, we determined that there was a reasonable basis to initiate an investigation to determine if sales at less than cost of production existed. On June 14, 1984, we postponed the final determination to September 12, 1984. We received the cost of production response on July 11, 1984. At the request of the petitioner, we held a hearing on August 24, 1984, to allow the parties an opportunity to address the issues arising in this investigation.

Scope of Investigation

The merchandise covered by this investigation is choline chloride which is currently classified under item number 439.5055 of the *Tariff Schedules of the United States Annotated* (1983) (TSUSA). Pure choline chloride is a chemical with chemical formula of C_5H_{14} CINO and a molecular weight of 139.6. The chemical name is (2-hydroxyethyl) trimethlammonium chloride. Choline chloride is marketed in several forms, including but not limited to, a solution of 70 percent choline chloride in water (aqueous choline chloride) or in potencies of 50 or 60 percent dried on a cereal carrier.

This investigation covers the period February 1, 1983, through November 30, 1983.

United States Price

As provided in section 772(b) of the Act, we used the exporter's sales price of the subject merchandise to represent the United States price for the sales by ICI because the merchandise was sold to unrelated purchasers after importation into the United States. We calculated the exporter's sales price for ICI based on the f.o.b. delivered unpacked price of liquid choline chloride. We made deductions for United Kingdom inland freight, ocean freight, insurance, loading charges, United States inland freight, document fees, outgoing document fees, import duties, brokerage, and commissions to an unrelated sales agent. We also made deductions for ICI's credit expenses and indirect selling expenses incurred on United States sales.

Foreign Market Value

In accordance with § 353.3 of the Commerce Regulations (19 CFR 353.3) we used home market sales for the determination of foreign market value for ICI. Petitioner alleged that sales of choline chloride in the home market were at prices below the cost of producing choline chloride. We examined production costs, which included all appropriate costs for materials, conversion from solution to dry carrier, and general expenses. We found that all sales of choline chloride were made at or above the cost of production. Therefore, we used all home market sales listed in determining foreign market value. We calculated the home market prices on the basis of delivered, packed prices to unrelated purchasers in the United Kingdom. From these prices we made deductions for inland freight and insurance.

We made a deduction for credit expenses in accordance with § 353.15(a) of the Commerce Regulations. We also made adjustments for all actual, indirect selling expenses incurred in the home market up to the amount of United States sales commissions and indirect selling expenses in accordance with § 353.15 of the Commerce Regulations. We made adjustments for differences in the physical characteristics of the merchandise in accordance with § 353.16 of the Commerce Regulations. We made adjustments for differences in packing costs of the United States and home market.

Negative Determination of Critical Circumstances

Counsel for petitioner alleged that imports of choline chloride from the United Kingdom present "critical circumstances." Since this final determination is negative, this question is moot.

Petitioner's Comments

Comment 1—The International Trade Administration (ITA) must deduct both commissions and any selling expenses incurred by Karl O. Helm (Helm), ICI's United States selling agent, from the United States price. In accordance with section 771(13) of the Act, Helm is the "exporter" for purposes of computing United States price because it is ICI's selling agent. Section 772(e) of the Act therefore requires us to deduct the indirect selling expenses incurred by Helm, as well as Helm's commission. It is irrelevant that ICI paid Helm a commission and did not reimburse Helm for all its expenses, since the Act requires us to deduct both commissions and expenses generally incurred in selling in the United States.

DOC Position—The purpose of a commission to an unrelated sales agent is to supply that agent with necessary funds for that agent's operation and profit. The indirect selling expenses given in the response are the expenses that the agent covers and are subsumed by the commission. In this case Helm's commission was greater than its indirect selling expenses; therefore, we have only allowed the commission amounts as a deduction from United States price as is consistent with longstanding Departmental practice.

Comment 2—Certain expenses (document fees, outgoing document fees, handling, outgoing handling, and financing expenses) were mentioned in the verification report, but were not included in the ICI questionnaire response.

DOC Position—We included all these expenses in our calculation of United States price. The handling charge was the brokerage charge in the response. The outgoing handling charge was the loading charge in the response. Document fees, outgoing document fees and financing expenses were not included in the response but have been included in our final calculation because these expenses were discovered at verification.

Comment 3—ICI has not reported its (as opposed to Helm's) United States selling expenses.

DOC Position—The purpose of ICI maintaining a sales agent is to have the agent perform the functions of selling in the United States. Helm bears general selling expenses, while ICI pays all other selling expenses. ICI has reported and we have verified all the expenses ICI pays in connection with United States sales.

Comment 4—The claim for U.K. inland freight on United States sales is erroneous in that it is based on a statement made by ICI officials at verification that rented trucks "could" make two trips a day. The expense might be twice as great if two trips a day were not made.

DOC Position—We reviewed the invoices obtained at verification to substantiate this claim, and found that all of the shipments of choline chloride from the plant to sea port were double shipments, except one shipment that listed three loads and another that listed a shipment of choline chloride from the sea port to the plant and on to another destination. We verified the number of trips made per day to be at least two. Therefore, the expense obtained for U.K. inland freight on United States sales is accurate.

Comment 5—ICI failed to report insurance expenses on home market shipments of choline chloride destined for sale in the United States. Accordingly, no adjustment for insurance on home market shipments should be allowed.

DOC Position—We verified that all ICI domestic shipments were insured on a tonnage basis. However, respondent did not account for insurance expenses on all domestic shipments. Specifically, ICI did not claim insurance expenses on either the domestic freight portion of U.S. shipment or on some domestic shipments from plant to converter. If we were to make additional allowances for insurance expenses on both shipments for U.S. sales and domestic shipments from plant to converter, the net result would be inconsequential. Therefore, we have allowed the insurance expenses as claimed in the response.

Comment 6—The ITA failed to verify ICI's reported expenses for United States inland freight.

DOC Position—We disagree. We obtained copies of sales and shipping invoices, checks of payment, freight invoices, customer sales ledgers, and journal entries for representatives sales at the verification.

Comment 7—Petitioner argues that ITA should have based its calculation of foreign market value entirely upon certain sales of liquid choline chloride in the U.K. According to petitioner, because the merchandise involved in these home market sales was identical to the merchandise sold to the United States, section 771(16) of the Act requires ITA to use these sales before resorting to comparisons of similar merchandise. Petitioner claims that it is irrelevant that the quantity of liquid choline chloride sold in the U.K. is small. Alternatively, petitioner argues that ITA must include home market sales of liquid choline chloride along with sales of dry choline chloride in its calculation of foreign value.

DOC Position—We disagree. The liquid choline chloride sold in the U.K. is not identical to that sold in the United States. The liquid choline chloride sold in the U.K. is a 75 percent solution, whereas the liquid choline chloride sold in the U.S. is a 70 percent solution. Moreover, even if the liquid choline chloride sold in the U.K. were identical, we could not use those sales as the basis for calculating foreign market value. In order to be used as the basis for foreign market value, merchandise not only must be "such or similar" to the merchandise sold in the United States; it also must be sold in sufficient quantities so as to form a viable market for comparison purposes. In this case, the sales of liquid choline chloride in the U.K. amounted to only 0.05 percent of all home market sales of choline chloride. This amount is too small to constitute the sort of viable market required by the antidumping law.

As for including sales of liquid choline chloride along with sales of dry choline chloride in the calculation of foreign market value, the volume of the sales of liquid choline chloride was so small as to have an insignificant effect on the calculation of foreign market value. In view of this fact and the broad discretion ITA possesses in fair value investigations, we determined to ignore the inconsequential home market sales of liquid choline chloride.

Comment 8—Use of a single weighted-average foreign market value is improper because substantial time lags between bulk exports from ICI to its selling agent in the United States could mask apparent dumping. Rather, at least three foreign market values, corresponding to the three dates of exportation, should be calculated for the determination of sales at less than fair value. By calculating three separate foreign market values, Commerce will account for sales at less than fair value taking place in one or more portions of the period under review.

DOC Position—The Department only calcuates individual home market values in a fair value investigation when there are significant price variations on home market sales during the investigative period. As this is not the case in this investigation, we have calculated a single weighted-average home market price for the period of investigation in accordance with § 353.20 of the Commerce Regulations.

Comment 9—The ITA should determine separate foreign market values for silica and cereal choline chloride, because they are different products as seen by the significant differences in conversion costs and respondent's argument that they are different in terms of use and component materials.

DOC Position—The Department considers both silica and cereal choline chloride as similar merchandise. We do not view the reported differences in conversion costs as significant in this determination. Furthermore, the respondent has not said that the two products are different in terms of use and component materials. The respondent has only indicated that the cereal type is more similar in usage and component materials.

Comment 10—The adjustment for physical differences in the merchandise was improper because the conversion costs cannot be reconciled with the cost of production information. The verification report shows that the solid support costs in the cost of production response are less than the amounts set forth in the original questionnaire response. Further, ICI paid import duties on raw materials used for dry choline chloride while no accounting was made for duties refunded on dry choline chloride shipments to third countries.

DOC Position—The two responses do coincide with each other, lending further strength to the accuracy of each. With respect to the solid support cost mentioned by petitioner, the amounts checked were individual invoices within the period of investigation. We only verified aggregate amounts and checked individual items claimed within the aggregate amount to verify the validity of the expense and to check its accuracy. In this case, we found a valid audit trail for expenses and closely comparable expenses of the individual exense checked to the aggregate amount seen in the response. Finally, the fact that no duty refunds were reported in the conversion cost of home market sales of dry choline chloride is proper. Duty refunds given for dry choline chloride sold to third countries would properly go to reduce the cost of the product being shipped to the foreign country and not that of home market sales. In light of the foregoing, we determine that the conversion cost given in ICI's original questionnaire response

is accurate and verified for use in our final determination of foreign market value.

Comment 11—The adjustment for differences in credit expenses was improper. ICI based the adjustment on Helm's receipt of payment from the ultimate customer rather than on ICI's receipt of payment from Helm. Second, the verification report states that ICI 1982/1983 credit costs were not available and 1984 costs were used. Finally, ICI could not provide documentation to substantiate the short-term borrowing rate. Therefore, the claimed credit adjustment should be denied.

DOC Position—We agree that the proper basis for calculation of credit expense is from date of sale to ICI's receipt of payment and that the interest rate given to us was unacceptable. We cannot accept Helm's receipt of payment as the basis for calculation of credit expenses, as respondent suggests, because Helm is unrelated to ICI. We recalculated the United States credit expense by taking the total time ICI was incurring credit expenses due to the merchandise being sold but not having received funds. We used the date of shipment in the United States to date of repayment to ICI to determine the length of the credit period. We used a short-term interest rate as calculated from ICI financial statements and derived a total interest expense to be divided by total sales to be used in the credit adjustment.

Comment 12—The ITA must correct errors found during its home market sales verification. These errors occurred on inland freight, insurance, packing and general, selling and administrative expenses (G, S & A). The freight rate for the home market did not correspond with the actual costs incurred and should be denied in its entirety. Insurance, even though a *de minimis* deduction, should be denied because it is paid to a related company. Packing costs involved a pallet cost which is a general overhead cost. Even if pallet costs are allowed, the amount claimed should be reduced by the amount seen at verification. No documentation was provided to establish the amount of G, S & A expenses attributable to choline chloride sales. No breakdown of the component charges of G, S & A was made and the verification report amount is inconsistent with the original submission.

DOC Position—We recognize that ICI is a large business which uses many economies of scale in its daily operation. This is the case with its home freight expenses. We verified the expenses claimed since the system established to handle any shipment was constructed in such a way that the most economical (best overall rate) shipper (preferred) was used if available. Many shippers bid haulage rates for different quantities to various destinations. ICI analyzes all rates, quantities and locations and designates a preferred shipper for each route. ICI then makes a chart for all ICI domestic shipping using all the shippers and their bids to various destinations, noting the preferred shippers. These preferred shippers' rates were used to quantify freight costs in the response. The verification report states that there was one occasion when the preferred carrier was not used and another shipper carried that merchandise. In that shipment, the costs of the other shipper were slightly lower than the costs of the preferred shippper for that quantity.

We did verify actual expenses in accordance with the chart that was used to construct the response amounts for freight, and saw that, except in one instance mentioned above when the chart listed preferred shippers rates for any given shipment, they were in fact the lowest rates. In light of this, we consider these expenses fully verified.

We treated the insurance claimed as noted in DOC position in Comment 5.

We have allowed a deduction for pallet costs as verified because pallets are a material cost of packing. The fact that a material is reuseable does not mean that no cost is attributable to that material. The verification report shows that the average cost of the pallet per trip was used in the packing cost calculation.

Comment 13—The ITA should reject the cost of production response and used the best information available—i.e., petitioner's cost of production information—to construct a value for home market sales.

DOC Position—Section 776(a) requires us to use the "best information available" to us as the basis of our determination if we are unable to verify the accuracy of the information submitted. Section 776(b) requires us to use the "best information otherwise available" if "a party of any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation." We were able to verify the accuracy of all information repondents submitted to use for use in this final determination. Further, all information was submitted timely and in the form requested. We see no reason to reject the verified response.

Respondent's Comment

Comment 1—The credit period in the United States is properly measured from the date of extension of credit to the unrelated United States customer to repayment by such customer to Helm.

DOC Position—Because Helm is unrelated to ICI, we do not consider the date that payment is made to Helm a proper basis for calculating credit extended by ICI. This is consistent with our longstanding practice (see DOC position for petitioner's comment 11).

Verification

In accordance with section 776(a) of the Act, we verified all data used in reaching this determination by using standard verification procedures, including on-site inspection of the manufacturer's operations and examination of accounting records and selected documents containing relevant information.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination.

This determination is being published to pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 84-24646 Filed 9-17-84; 8:45 am]

BILLING CODE 3510-25-M

[C-580-403]

Cold-Rolled Carbon Steel Flat-Rolled Products From Korea; Preliminary Affirmative Countervailing Duty Determination; and Carbon Steel Structural Shapes From Korea; Preliminary Negative Countervailing Duty Determination

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Korea of cold-rolled carbon steel flat-rolled products. The estimated net subsidy is 3.81 percent *ad valorem*. We also preliminarily determine that no benefits which constitutes subsidies within the meaning of the Act are being provided to manufacturers, producers or exporters in Korea of carbon steel

structural shapes. The estimated net subsidy is *de minimis*, and therefore our preliminary determination is negative. Accordingly, we are directing the U.S. Customs Service to suspend liquidation of all entries of cold-rolled carbon steel flat-rolled products from Korea which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or bond on cold-rolled carbon steel flat-rolled products in the amount equal to the estimated net subsidy. If these investigations proceed normally, we will make our final determinations by November 26, 1984.

EFFECTIVE DATE: September 18, 1984.

FOR FURTHER INFORMATION CONTACT: Barbara Tillman, Rick Herring, Tom Bombelles, or Vincent Kane, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202)377–1785; 377–0187; 377–3174; or 377–5414.

SUPPLEMENTARY INFORMATION:

Preliminary Determinations

Based upon our investigations, we preliminarily determine that the following programs confer subsidies on the products under investigation:

- Export Financing under the Export Financing Regulations.
- Long-term Loans Provided Through the National Investment Fund.
- Government Equity Infusions into POSCO.
- Special Depreciation under the "Act Concerning the Regulation of Tax Reduction and Exemption".
- Tax Incentives for Exporters under Articles 22, 23, and 24 of the "Act Concerning the Regulation of Tax Reduction and Exemption".
- Import Duty Deferrals under Article 36 of the Customs Act of Korea.
- Reductions in Port Charges.
- Tariff Reductions on Plant and Equipment under Article 28 of the Customs Act of Korea.

For cold-rolled carbon steel flat-rolled products, we estimate the net subsidy to be 3.81 percent *ad valorem*. Therefore, there is a reasonable basis to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided to manufacturers, producers, or exporters in Korea of cold-rolled carbon steel flat-rolled products. The estimated net subsidy for carbon steel structural shapes is 0.40 percent *ad valorem* which is *de minimis*. Therefore, with respect to carbon steel structural shapes, we preliminarily determine that there is no reason to believe or suspect that certain benefits constituting subsidies within the Act are being provided to manufacturers, producers, or exporters.

Case History

On June 18, 1984, we received a petition from United States Steel Corporation filed on behalf of the carbon steel structural shapes and cold-rolled carbon steel flat-rolled products (shapes and sheet) industries. In compliance with the filing requirements of § 355.26 of our Regulations (19 CFR 355.26), petitioner alleged that manufacturers, producers, or exporters in Korea of shapes and sheet receive, directly or indirectly, benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate countervailing duty investigations, and on July 3, 1984, we initiated investigations (49 FR 28294). We stated that we expected to issue preliminary determinations by September 11, 1984.

Since Korea is a "country under the Agreement" within the meaning of section 701(b) of the Act, injury determinations are required for these investigations. On August 2, 1984, the U.S. International Trade Commission (ITC) determined that there is a reasonable indication that these imports materially injure, or threaten material injury to, a U.S. industry (49 FR 26648).

We presented questionnaires concerning the allegations to the government of Korea at its embassy in Washington, D.C. on July 13 and July 23, 1984. On August 17, August 20 and August 21, we received replies to these questionnaires. On August 20, we presented a second supplemental questionnaire to the government of Korea. We received a response to this questionnaire on August 31. We received another supplemental response on September 4. On July 19, August 31, and September 5, the petitioner submitted additional information concerning the alleged subsidies. This information has been taken into consideration in these preliminary determinations.

Scope of Investigations

The products covered by these investigations are carbon steel stuructural shapes and cold-rolled carbon steel flat-rolled products. The term "*carbon steel structural shapes*" covers hot-rolled, forged, extruded, or drawn, or cold-formed or cold-finished carbon steel angles, shapes, or sections, not drilled, not punched, and not otherwise advanced, and not conforming completely to the specifications given in the headnotes to Schedule 6, Part 2, Subpart B of the *Tariff Schedules of the United States Annotated (TSUSA)*, for blooms, billets, slabs, wire rods, plates, sheets, strip, wire, rails, joint bars, tie plates, or any tubular products set forth in the TSUSA, having a maximum cross-sectional dimension of 3 inches or more, as currently provided for in items 609.8005, 609.8015, 609.8035, 609.8041, or 609.8045 of the *TSUSA*. Such products are generally referred to as structural shapes.

The term "*cold-rolled carbon steel flat-rolled products*" covers the following cold-rolled carbon steel products: Cold-rolled carbon steel flat-rolled products are flat-rolled carbon steel product, whether or not corrugated or crimped; whether or not painted or varnished and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 12 inches in width, and 0.1875 or more in thickness; as currently provided for in item 607.8320 of the *TSUSA;* or over 12 inches in width and under 0.1875 inch in thickness whether or not in coil; as currently provided for in items 607.8350, 607.8355, or 607.8360 of the *TSUSA*.

There are three Korean producers of cold-rolled carbon steel flat-rolled products that exported to the United States during the period of investigation: Pohang Iron and Steel Company (POSCO), DongJin Steel Company (DongJin) and Union Steel Manufacturing Company (Union). In addition, six trading companies exported cold-rolled carbon steel flat-rolled products to the United States during the period of investigation: Hyundai Corporation, Kukje-ICC Corporation, Sunkyong Limited, Samsung Company, Ltd., Daewoo Corporation and Hyosung Corporation. Inchon Iron & Steel Company (Inchon) is the only producer of carbon steel structural shapes that exported to the United States during the period of investigation. Of the trading companies, only Hyundai Corporation exported carbon steel structural shapes to the United States during the period of investigation.

Analysis of Programs

Throughout this notice, we refer to general principles applied to the facts of the current investigations. These general principles are described in detail in the

"Subsidies Appendix" to the "Final Affirmative Countervailing Duty Determination and Order: Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina" published in the **Federal Register** on April 26, 1984 (49 *FR* 18006). For purposes of these preliminary determinations, we are calculating country-wide rates. The period for which we are measuring subsidization is the 1983 calendar year which corresponds to the most recent fiscal year for each of the Korean producers and exporters.

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses are subject to rigorous verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determinations.

Petitioner alleges that POSCO is both unequityworthy and uncreditworthy. Although we did not initate on these specific allegations, we did request information in our questionnaries in order to review these allegations in accordance with the guidelines set out in the Subsidies Appendix. Even though government equity infusions into POSCO were found in the 1982 *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Korea* (47 *FR* 57535) not to be on terms inconsistent with commercial considerations, our standards have been revised by the Subsidies Appendix, and, thus, we must reexamine these allegations in these investigations.

We have consistently held that government provision of equity does not *per se* confer a subsidy. Government equity purchases bestow contervailable benefits only when they occur on terms inconsistent with commercial considerations. When there is no market-determined price for equity, it is necessary to determine whether the company is a reasonable commercial investment. POSCO's shares are not publicly traded; therefore, we must determine whether POSCO is equityworthy. To make this preliminary determination, we reviewed and assessed POSCO's financial statements from 1972 through 1983. We also examined studies submitted by the government of Korea. In analyzing the financial statements, we considered the information from the viewpoint of an investor. Accordingly, the Department considered accounting principles and practices, the accounting methods employed by the company, and the impact of such methods on company's overall financial results. After taking into consideration the accounting practices and methods, we examined the following ratios:

- Rate of return on equity;
- Debt to tangible net worth;
- Percent of foreign-denominated debt;
- Cash flow to principal repayment; and
- Current ratio.

Based on our review of POSCO's financial statements and the responses by both POSCO and the government, we preliminarily determine that the government's equity infusions into POSCO were on terms inconsistent with commercial considerations from 1978 through 1980.

With respect to the allegation that POSCO is uncreditworthy, we preliminarily determine that POSCO has been and continues to be creditworthy. In making this determination, we focused on the ability of the company to meet its interest obligations. In addition, an important measure of creditworthiness is whether foreign lenders are lending significant amounts of funds to the company. Accordingly, we also examined the percentage of POSCO's outstanding loans that are foreign loans.

Based upon analysis to date of the petition, the additional information filed by petitioner and the responses to our questionnaries, we preliminarily determine the following:

1. Programs Preliminarily Determined to Confer Subsidies

We preliminarily determine that subsidies are being provided to manufactures, producers, or exporters in Korea of shapes and sheet under the following programs:

A. Short-Term Export Financing Under the Export Financing Regulations

Petitioner alleges that the producers and exporters in Korea of shapes and sheet receive preferential short-term export financing under the following programs:

- Export Loans under the 1972 Regulations for Export Financing.
- Export Loans provided under the Foreign Trade Act.
- Deferred Payment Export Loans.
- Preferential Exchange Rates for Export Loans Based on Letter of Credit.

According to the response of the government of Korea, short-term export financing is authorized through the Export Financing Regulations. These Regulations, which were promulgated by the Monetary Board in 1972, were last amended in November 1983. The Bank of Korea establishes the guidelines for the implementation of these regulations and the commercial banks administer the export financing program.

Eligibility for short-term export financing is limited to the following:

- Exporters in receipt of letters of credit;
- Exporters concluding documents of acceptance or documents against payment contracts;
- Exporters purchasing local supplies;
- Exporters stockpiling raw materials;
- Exporters with certificates based on past export performance;
- Producers of raw materials for export; and
- Companies awarded domestic projects based on international public tender.

The maximum term of short-term export loans is 90 days. These loans, unlike short-term domestic financing, cannot be rolled-over.

Prior to June 28, 1982, short-term export loans provided under the Export Financing Regulations were charged a lower interest rate than short-term domestic loans. From June 28, 1982 until January 23, 1984, the Monetary Board established a uniform rate of 10 percent for both export and domestic short-term financing provided by commercial banks. Since January 1984, the Monetary Board has been liberalizing the interest rate structure by allowing banks to lend at lower than the uniform rate depending on the creditworthiness of the company. The interest rate in effect during the period for which we are measuring subsidization was 10 percent for short-term export loans.

In order to determine whether short-term export financing under the Export Financing Regulations provides benefits which constitute export subsidies to the producers and exporters of shapes and sheet, we must compare the 10 percent rate to the appropriate benchmark. As specified in the Subsidies Appendix, the benchmark for short-term loans is the most appropriate national average commercial method of short-term financing. Petitioner argues that the unofficial money (or curb) market establishes the appropriate market interest rate. The government of Korea's response contends that short-term loans from Korean commercial banks represent the most comparable commercial financing. Based upon our

review and analysis of information submitted by both petitioner and respondents and upon our research of the credit and interest rate structure in Korea, we preliminarily determine that the most appropriate national average commercial rate consists of a weighted-average of the interest rates charged by all sources of short-term commercial financing in Korea. These sources include: commercial banks, financing companies, commercial paper and the curb market. Using a weighted-average is comparable to what we did in our final affirmative determination in *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina* (49 FR 18006), in which we determined that a weighted-average of the regulated and unregulated interest rates best represented the national average commercial rate.

We did not select the curb market as the sole source for our benchmark because, contrary to petitioner's allegations, the curb market was not the "normal" source of commercial funds for many Korean companies and cannot be construed as a "national average." Although the information provided by petitioner establishes that use of the curb market is not limited to small and high-risk firms and that nearly all Korean firms borrow on the curb market at least occasionally, the evidence does not show that it is the dominant or normal source of funds for most companies. Indeed, to the contrary, the evidence suggests that the importance of the curb market is declining. Most firms normally would go to commercial banks or to foreign capital markets for financing. They would use the curb market only occasionally and generally for very short periods when they had a pressing liability and were temporarily unable to get access to standard commercial sources of funds. (See in particular, Korea Chamber of Commerce *Survey*, June 1984, Exhibit 13 of the Government of Korea's response, August 17, 1984.)

We also did not use the interest rate on short-term borrowing from commercial banks as the sole benchmark, as urged by respondents. Respondents alleged the curb market was to small in size to use, is principally used by small and risky firms, and is tainted by elements of illegality.

First, the size as reported to Korean tax authorities is highly suspect given the reported wide incidence of tax evasion by those lending in the curb market. Independent evidence suggests it is significantly greater in size than the percentage of 0.65 reported in the response. Second, although small and high-risk firms may be the dominant users of the curb market, the evidence shows that virtually all companies use it at times. Thus, it is a normal, albeit not dominant, source of commercial financing for many companies. Third, the curb market is not illegal. What is illegal is the apparently widespread tax evasion which is associated with nonreporting of interest earned by those lending in the curb market. Accordingly, we disagree with respondent's arguments concerning use of the curb market rate in determining the benchmark.

The factors used to weight each of the four interest rates were based on data from a number of sources, including the monthly *Statistical Bulletin* of the Bank of Korea and a research report prepared by the Korean Economic Research Institute. The *Statistical Bulletin* provides the size of, and interest rates charges on, short-term financing by banks, finance companies and commercial paper. The Economic Research Institute report provides data on the size of the curb market in Korea.

For the curb market interest rate, we reviewed studies and articles a variety of sources. We chose a rate of 3 percent per month as representative. This rate was compounded to yield an annualized rate of 42.6 percent. Using the data from all of these sources, we calculated a weighted-average short-term commerical rate. Applying this weighted-average as the benchmark we calulate an estimated subsidy of 0.24 percent *ad valorem* for carbon steel structural shapes and 0.27 percent *ad valorem* for cold-rolled carbon steel flat-rolled products. The statistics and information upon which we based our calculation of the national average commerical rate are subject to verification. During our verification we will also investigate further any and all programs or policies which may serve to increase or decrease the effective interest rate for borrowers. Any additional information submitted by petitoner and respondents which is verified will be considered for the final determinations.

With respect to petitioner's other allegations that preferential short-term export financing is also provided through the Foreign Trade Act, through a deferred payment program and through preferential exchange rates for export loans based on letters of credit, these programs are discussed in the section "Programs Preliminarily Determined Not To Confer Subsidies."

B. Long-Term Loans Through the National Investment Fund

On December 14, 1973, the government of Korea promulgated the National Investment Fund Act (Law No. 2635). The stated "purpose of this Act is to prescribe necessary matters for the establishment and effective management of the National Investment Fund on the bases of extensive nationwide savings efforts and participation, to secure and supply the investment and loan funds needed to promote the construction of major industries, including the heavy and chemical industries, as well as to help increase exports." Since one of the two stated purposes of the Act is to help increase exports, we preliminarily determine that National Investment Fund (NIF) loans constitute export subsidies if they are provided at preferential rates. As outlined in the Subsidies Appendix, the appropriate benchmark for long-term loans will be company-specific, unless the company lacks adequate comparable commerical experience. If a company lacks adequate comparable commerical experience, we use a national average loan interest rate. As discussed in the section "Programs For Which Additional Information Is Needed," we have determined that we need additional information on long-term loans through both specialized banks and commercial banks before determining whether such loans themselves constitute a subsidy. Because such loans are the only other comparable financing to NIF loans, and because we have not made a determination with respect to these loans, we do not consider that there is comparable commerical experience with which to compare NIF loans. Therefore, for purposes of these preliminary determinations, we are using a national average rate for our benchmark. Because NIF long-term loans have variable interest rates, we do not perform present value calculations. Instead, we compare the interest rate paid by each company to the national average commerical rate for short-term loans during the period for which we are measuring subsidization. Using the weighted-average rate that we calculated for short-term export financing under the Export Financing Regulations as the benchmark, we find that the interest rates on NIF loans are preferential and as such confer benefits which constitute export subsides. For NIF loans, we calculate an estimated subsidy of 0.14 percent *ad valorem* for carbon steel structual shapes and 0.36

percent *ad valorem* for cold-rolled carbon steel flat-rolled products.

C. Government Equity Infusions Into POSCO

Petitioner alleges that equity infusions into POSCO by the government of Korea are on terms inconsistent with commercial considerations. As discussed in the "Analysis of Programs" section, we preliminarily determine that POSCO was not a reasonable commercial investment (was unequityworthy) from 1978 through 1980, and, thus the government equity infusions in each of those years were on terms inconsistent with commercial considerations. Therefore, we preliminarily determine that these infusions confer benefits which constitute a subsidy. To calculate the benefit, we followed the rate of return shortfall methodology outlined in the Subsidies Appendix and found an estimated subsidy of 0.46 percent *ad valorem* for cold-rolled carbon steel flat-rolled products.

D. Special Depreciation Under the "Act Concerning the Regulation of Tax Reduction and Exemption

In our questionnarie, we requested information on a program that permits accelerated depreciation under Article 25 of the "Act Concerning the Regulation of Tax Reduction and Exemption." Article 25 permits a firm earning more than 50 percent of its total proceeds in a business year from foreign exchange to increase its normal depreciation by 30 percent. As discussed in the section "Programs Preliminary Determined Not To Be Used," no producers of shapes and sheet claimed accelerated depreciation under Article 25. However, POSCO did claim "special" depreciation under Article 11 of "The Act Concerning the Regulation of Tax Reduction and Exemption." This special depreciation is provided to "a domestic person carrying on an important industry." Because we have no evidence in the record of these investigations that this special depreciation for "important" industries is not limited to a specific enterprise or industry or group of enterprises or industries, we preliminarily determine that it constitutes a subsidy. POSCO is the only company producing any of the products under investigation that claimed this special depreciation.

To calculate the benefits from the special depreciation program for the period in which we are measuring subsidization (calendar year 1983), we determined the tax savings received in 1983 based on the accelerated depreciation which had been deducted from the 1982 income taxes payable in 1983. The amount of tax savings received under this program was divided by the total value of all sales in 1983 to determine an estimated subsidy of 2.36 percent *ad valorem* for cold-rolled carbon steel flat-rolled products.

E. Tax Incentives for Exporters

Articles 22, 23 and 24 of the "Act Concerning the Regulation of Tax Reduction and Exemption" provide for the deduction from taxable income of a number of different reserves relating to export activities. These reserves cover export losses, overseas market development and price fluctuation losses. Under Article 22, a corporation may establish a reserve amounting to one percent of foreign exchange earnings, or 50 percent of net income in the applicable period, whichever is smaller. If certain export losses occur, they are offset from the reserve fund. If there are no offsets for export losses, the reserve is returned to the income account and taxed, after a one-year grace period, over a three-year period.

Under Article 23 governing overseas market development, a corporation may establish a reserve fund amounting to one percent of its foreign exchange earnings in the export business for the respective business year. Expenses incurred in developing overseas markets are offset from the reserve fund. Like the export loss reserve fund, if there are no offsets for expenses, the reserve is returned to the income account and taxed, after a one-year grace period, over a three-year period.

A price fluctuation reserve fund may be established under Article 24. A corporation may establish reserves equivalent to five percent of the book value of the products and works in progress which will be exported by the close of the business year. This reserve may be used to offset losses incurred from the fluctuation of prices for export goods, by returning an amount equivalent to the losses to the income account. If not so utilized, the reserve is returned to the income account the following business year.

The balance in all three reserve funds is not subject to corporate tax, although all moneys in the reserve funds are eventually reported as income and subject to corporate tax either when they offset export losses of when the one-year grace period expires. We preliminarily determine that these export reserve programs confer benefits which constitute export subsidies because they provide a deferral of direct taxes specifically realted to exports. Only certain trading companies exporting cold-rolled steel flat-rolled products used these programs during the period for which we are measuring subsidization.

Because these export reserve funds are a one-year deferral of tax liabilities, we treat them as an interest-free loan to the corporation equivalent to the tax savings on these funds. Accordingly, we have quantified the benefits from the reserve funds by calculating the amount of tax savings and then applying a rate of interest which the firm would have had to pay for a short-term loan. We are using the weighted-average rate calculated for short-term export financing *(supra)*. Using this benchmark, we calculate an estimated subsidy of 0.03 percent *ad valorem* for cold-rolled carbon steel flat-rolled products.

F. Import Duty Deferrals

Article 36 of the Customs Act of Korea permits the Ministry of Finance to designate an industry as eligible to pay customs duties on an installment basis, rather than upon entry. Prior to 1984, only "important" industries designated by the Ministry of Finance were eligible for import duty deferrals. The steel industry was allowed to make installment payments on import duties for a two-and-a-half to three year period. Because duty deferrals prior to 1984 were provided only to "important" industries designated by the Ministry of Finance, and because the respondents did not provide any information to show that during 1983 this program was not limited to a specific enterprise or industry or group of enterprises or industries, we preliminarily determine that these duty deferrals are countervailable.

We treat each deferral of duty, that is still outstanding during the period for which we are measuring subsidization, as an interest-free loan. To quantify the benefit from this program, we take the amount of duty deferred and apply a rate of interest the firm would have had to pay for a loan of comparable size and duration from commercial sources. Because the interest rates on long-term loans in Korea are variable, we consider that the appropriate benchmark is the corporate bond rate during the year in which duties were deferred. Using this benchmark, we calculate an estimated subsidy of 0.02 percent *ad valorem* for carbon steel structural shapes and 0.03 percent *ad valorem* for cold-rolled carbon steel flat-rolled products.

G. Reductions in Port Charges

"Designated companies" under the Iron & Steel Industry Rehabilitation Order are eligible on a case-by-case basis to receive discounts from regular utility and port rates. In its response, the

government states that this progarm was never fully implemented and that only POSCO receives any benefits under it. POSCO receives a 50 percent reduction in port charges only. Because this reduction is limited to a specific enterprise, we preliminarily determine that it constitutes a subsidy. Since the reduction is 50 percent of port charges, the amount of the benefit is equal to the amount of port charges paid and is treated as a grant. Because the grant is less than 0.5 percent of total sales, we allocate it to the year of receipt and calculate an estimated subsidy of 0.03 percent *ad valorem* on cold-rolled carbon steel flat-rolled products.

H. Tariff Reductions on Plant and Equipment

Petitioner alleges that the government of Korea allows reductions of import duties for certain industries on certain goods designated by the Ministry of Finance. Under Article 28 (Duty Abatement for Important Industries) of the Customs Act, "Customs duty may be abated with respect to goods which are designated by the notice of the Ministry of Finance from among machinery equipment for the use of such industries as designated by an Ordinance of the Ministry of Finance from among those falling under any of the following Subparagraphs * * * which cannot be properly manufactured domestically * * *" The industries listed in the subparagraphs include the chemical industry, primary metal manufacture, general machinery manufacturer, manufacture of electric instruments, manufacture of transportation machinery, manufacture of scientific instruments, manufacture of machine parts and electric railroad transportation. Because these tariff reductions or abatements require designation and are not automatically available, and beause we do not know at this time whether all or just one of the industries listed has been designated, we preliminarily determine that this program is limited to a specific enterprise or industry or group of enterprises or industries. The amount of the tariff reduction or abatement is treated as a grant. As described above, because the total amount of grants (*i.e.*, reductions in port charges plus tariff reductions on plant and equipment) received by POSCO is less than 0.5 percent of total sales, we allocated the benefit to the year of receipt and calculate an estimated subsidy of 0.27 percent *ad valorem* on cold-rolled carbon steel flat-rolled products.

II. Programs Preliminarily Determined Not To Confer a Subsidy

We preliminarily determine that benefits which constitute subsidies are not being provided to manufacturers, producers, or exporters in Korea of shapes and sheet, under the following programs:

A. Certain Short-Term Export Financing

As discussed in the section "Programs Preliminarily Determined to Confer Subsidies," we found short-term export loans under the Export Financing Regulations to be countervailable. However, for the reasons discussed below, we find that certain other short-term export financing through the Foreign Trade Act, through deferred payment export loans or through preferential exchange rates for export loans are not countervailable:

1. Export Financing under the Foreign Trade Act

Petitioner alleges that the government of Korea provides the steel industry with preferential short-term export financing under the Foreign Trade Act. According to the response of the government of Korea, the Foreign Trade Act was repealed on January 16, 1967. The government of Korea further states that short-term export financing is not provided under the Foreign Trade Transactions Act. This law sets forth general trade procedures such as import-export licensing, and does not provide export financing. Since export loans are not provided under the Foreign Trade Transactions Act, we preliminarily determine that this Act does not confer a countervailable benefit to producers or exporters of shapes and sheet.

2. Deferred Payment Export Loans

Petitioner alleges that Korean producers and exporters of shapes and sheet benefit from deferred payment of loans used to finance shapes and sheet exports. According to the response of the government of Korea, there is no program offering deferred payment of export loans. Export loans are limited to a period of 90 days, except for certain exempted items which are not subject to these investigations. Therefore, we preliminarily determine there is no program offering deferred payment export loans that provides countervailable benefits to shapes and sheet producers or exporters.

3. Preferential Exchange Rates for Export Loans

Petitioner alleges that producers and exporters of shapes and sheet receive preferential exchange rates for export loans based on letters of credit. Petitioner alleges that the exchange rate used for loans based on letters of credit was ten percent more favorable to Korean exporters than the actual exchange rate. According to the response of the government of Korea, there is no preferential exchange rate used to convert export financing. For export loans granted under the Export Financing Regulations, a Won/U.S. dollar conversion factor which is lower than the official exchange rate is utilized merely to establish a ceiling on export financing. For example, on loans for raw material imports the loan principal is determined by a fixed rate of W530/USD multiplied by the U.S. dollar value of the corresponding letter of credit. Therefore, we preliminarily determine that there is no program of preferential exchange rates for export loans that provides countervailable benefits to shapes and sheet producers and exporters.

B. Medium- and Long-Term Export Financing

Petitioner alleges that Korean exporters receive preferential medium- and long-term financing from the Export-Import Bank of Korea to finance exports of shapes and sheet. According to respondents, the Export-Import Bank of Korea does not provide loans to the steel industry to finance the exports of shapes and sheet. Respondents also state that the Korean Development Bank does not provide medium- or long-term export financing. Except for NIF loans which are discussed in the section "Programs Preliminarily Determined to Confer Subsidies," we preliminarily determine that there are no other programs offering medium- and long-term export loans to shapes and sheet producers or exporters.

C. Investment Tax Credit

In our notice of initiation, we stated that we would investigate whether producers and exporters of shapes and sheet may receive preferential tax benefits under Article 72 of the "Act Concerning the Regulation of Tax Reduction and Exemption," which provides for a temporary investment tax credit when the government deems it necessary for adjustment of economic activities. During the period from January 1, 1982 through December 31, 1982, Article 57–2 ws the enforcement decree for Article 72. Article 57–2 specifies that the investment tax credit was available for the acquisition of fixed assets used directly for manufacturing or mining business.

Consistent with past practice, programs available to all industries in the manufacturing and mining sectors are not limited to "a specific enterprises or industry, or group of enterprise or industries," and thus do not provide domestic subsidies. Since the tax credit is not contingent on export performance it does not provide an export subsidy. Thus, we preliminarily determine that this program does not constitute a subsidy on the products under investigation during the period for which we are measuring subsidization.

D. Import Duty Reduction and Exemption for Raw Materials

Petitioner alleges that producers and exporters of shapes and sheet receive a reduction or exemption of import duties on iron ore and coal. The 1983 Tariff Schedules of Korea show that imports of iron ore and coal were not subject to any import duties. Therefore, we determine that there is no program providing a reduction or exemption of import duties on iron ore and coal that provides countervailable benefits to shapes and sheet producers or exporters.

E. Coal Import Funds

Petitioner alleges that the government of Korea subsidizes the importation of coal through a specific fund for that purpose. According to the responses of the government and the producers, there is no coal import fund for any industry in Korea. Furthermore, respondents indicate that all imported coal is purchased on a commercial basis and that world market prices are paid. Therefore, we preliminarily determine that there is no program providing coal import funds that provides countervailable benefits to shapes and sheet producers.

F. Financial Support for Raw Materials Purchases

Petitioner alleges that the Korean government provides administrative and financial support to "qualified steel producers" for the purchase of iron ore, limestone, fluorite and other raw materials.

According to the responses of the government and the producers, no such supports, neither administrative nor financial, exist to help the steel industry purchase or otherwise secure raw materials. Therefore, we preliminarily determine that there is no program of finanical support for raw material purchases that provides countervailable benefits to shapes and sheet producers.

III. Programs Preliminarily Determined Not To Be Used

We have preliminarily determined that shapes and sheet manufacturers, producers, or exporters in Korea do not use the following programs that were identified in the notice of "Initiation of Countervailing Duty Investigations; Carbon Steel Structural Shapes and Cold-Rolled Carbon Steel Flat-Rolled Products from Korea":

A. Free Export Zone Program

In our notice of initiation, we stated that we would investigate whether producers and exporters of shapes and sheet receive tax benefits based upon location in a free export zone. According to the response of the government of Korea, the producers and the trading companies, no shapes or sheet manufacturer or exporter is located in a free export zone.

B. Foreign Capital Inducement Law

In our notice of initiation, we stated that we would investigation whether shapes and sheet producers and exporters may be receiving financial and tax benefits under the Foreign Capital Inducement Law. According to the responses, no benefits have been received under this program.

C. Export Insurance

Petitioner alleges that the government of Korea provides annual contributions to an export insurance program. According to the responses, export insurance was not used for exports of shapes and sheet to the United States.

D. Steel Industry Development Scheme

Petitioner alleges that the Korean Ministry of Commerce and Industry is sponsoring a steel industry development scheme in which the government will spend 210 billion won on POSCO's plant expansion project.

According to the response of the government of Korea, the Ministry of Trade and Commerce is not sponsoring such a scheme. POSCO's recent plant expansion was financed through retained earnings and foreign and domestic bank loans.

E. Training Aid

Petitioner alleges that the steel industry has received training aid from the government of Korea. According to the response of the government of Korea and the shapes and sheet producers, the steel industry has never received training grants.

F. Wage Controls

Petitioner alleges that the government of Korea controls wages for government-run firms such as POSCO, resulting in lower production costs for this segment of Korean industry. According to the response of the government of Korea, wages in Korea are not controlled by the government for private or state-owned enterprises. In addition, POSCO states in its response that the government does not control, in any way, the wages it pays to its employees.

G. Accelerated Depreciation Under Article 25 of the "Act Concerning the Regulation of Tax Reduction and Exemption"

In our questionnaire, we requested information on the program of accelerated depreciation under Article 25 of the "Act Concerning the Regulation of Tac Reduction and Exemption." Article 25 permits a firm earning more than 50 percent of its total proceeds in a business year from foreign exchange to increase its normal depreciation by 30 percent. According to the responses, producers of shapes or sheet did not claim accelerated depreciation under Article 25 in their 1983 tax returns. Therefore, we preliminarily determine that this program was not used during the period for which we are measuring subsidization.

IV. Programs For Which Additional Information Is Needed

We determine that additional information is needed on the following programs:

A. Medium- and Long-term Government Financing

Petitioner alleges that the steel industry has received preferential financing through Korean banks based on the government direction of credit and programs geared to providing loans to strategic industries. In Korea, two major groups of domestic institutions provide long-term financing: official financial institutions and commercial banks. The official institutions that have been involved in financing the steel industry include the Korea Development Bank (KDB), the Korean Exchange Bank (KEB), and the Export-Import Bank of Korea. With respect to commercial banks, until 1981 the government was the majority shareholder in each of these institutions. In addition, the government established the National Investment Fund (NIF) in 1973, through which long-term financing is made available to heavy and chemical industries, electronics and electric power industries, and projects aimed at increasing food production. We have discussed long-term loans through the NIF in the section on "Programs

Preliminarily Determined to Confer Subsidies."

For each of the official banks, the government has identified certain industries and sectors as priority sectors. These "designated" industries and sectors include shipbuilding, energy, iron and steel, electronics, non-ferrous metals, petro-chemicals, automobile manufacturing, machinery, aviation, agriculture and fisheries. With regard to the commercial banks, the government has not officially designated priority industries; however, national industrial and economic policies, as outlined in Korea's five-year plans and other official publications, do identify and designate certain industries for priority development. These are generally the same industries designated for the official financial institutions.

In previous determinations we have found that a subsidy exists where the government directs banks to lend funds to certain industries or groups of industries on terms inconsistent with commercial considerations or at preferential rates (see Final Affirmative Countervailing Duty Determination, *Carbon Steel Wire Rod from Spain*, 49 FR 19551, 19553). The issue presented here is whether the 11 disparate sectors designated as priority sectors can be said to constitute "a specific enterprise or industry or group of enterprises or industries" within the scope of section 771(5)(B) of the Act, or whether this grouping is too large. If too large, then by definition there is no subsidy (assuming no priority industry receives a disproportionate share of credit from the banks). In prior determinations we have found programs available to the entire agricultural sector to be available to more than a specific group of industries and thus not countervailable (see Final Negative Countervailing Duty Determination, *Fresh Asparagus from Mexico*, 48 FR 21618). Likewise, a program available to all extractive industries was not a subsidy (see Final Affirmative Countervailing Duty Determinations, *Certain Steel Products from France*, (47 FR 39332). Even more to the point, in the Suspension of Countervailing Duty Investigation, *Carbon Steel Wire Rod from Brazil*, (47 FR 42399), we found that FINAME loans were available to a wide variety of sectors in Brazil. We said in that determination: "While the steel industry is one of the chief recipients, this appears to be warranted in view of the capital requirements of a large capital intensive industry. Other large capital-intensive industries have received loans in similar proportions. In addition, numerous other sectors also received loans from FINAME during this period."

Reliance on the Final Affirmative Countervailing Duty Determination, *Certain Steel Products from Brazil*, (49 FR 17988), as contrary precedent is inappropriate. Exemption from the IPI tax was found countervailable because even though nominally available to 14 product sectors, we found that only specific companies producing certain priority products and having approved expansion projects received the exemption. The exemption was not even available to all steel companies. Thus, consistent with past precedent, we would find that the range of sectors identified by the government of Korea for priority development is too broad to constitute a group of industries. However, this does not end our inquiry.

As implied in the Brazilian rod determination and as stated in the Final Affirmative Countevailing Duty Determination, *Certain Steel Products from Korea*, (47 FR 57535), even if a program on its face is not limited to "a specific enterprise or industry or group of enterprises or industries," we look to see if it was selective in its implementation (*i.e.*, if the steel companies received a disproportionate share of the long-term loans). For example in the Final Negative Countervailing Duty Determination in *Fireplace Mesh Panels from Taiwan*, (48 FR 11305), we said that a program" "* * * which does not target benefits or otherwise effectively predetermine the provision of benefits to an industry or a limited group of industries * * *" is not a subsidy. Accordingly, we must analyze whether the designated industry under investigation has received a disproportionate share of available credit and whether there are different interest rates being charged each of the designated industries.

We know that during 1983, (1) the steel industry did not receive loans in greater proportion than its share of the GNP, and (2) all industries, whether designated or not, were charged a 10 percent interest rate on their long-term loans. However, we know that during the 1970's priority sectors were charged lower interest rates than non-priority sectors. These interest differentials were reduced starting in mid-1980 and were eliminated on June 28, 1982 (Korea Exchange Bank, Monthly Review (November 1983) at 6–7; Exhibit 12 to the petition). A number of the loans to shapes and sheet producers that were outstanding in 1983 were provided in the 1970's. We have no information on the record showing that in the 1970's the steel industry did receive a disproportionate share of available credit or that it was charged a more preferential interest rate than other industries. Accordingly, we cannot determine at this time whether a subsidy was provided. We are seeking additional information on these two issues.

In addition, we requested information as to whether the government of Korea channels interest rate subsidies in the form of assistance to meet interest obligations through the National Investment Fund (NIF) and the Korean Development Bank (KDB) to producers of shapes and sheet. According to its response, the government of Korea does not provide any assistance to the steel industry in meeting its interest obligations. However, we intend to seek additional information with regard to this issue.

In its August 31, 1984 submission, petitioner alleged that the government of Korea provided international loan repayment guarantees through the Korean Development Bank. In our original questionnaire dated July 13, 1984, we asked the government of Korea and the producers whether any loans outstanding in 1983 had received any guarantees. According to respondents, no guarantees were provided for any loans outstanding in 1983 to any of the producers and exporters under investigation. During our verification we intend to seek additional information on any loan guarantee programs provided to Korean industry by the Korean Development Bank and any other bank(s).

B. Equity Infusions Into DongJin

In an ongoing investigation regarding oil county tubular goods (OCTG) from Korea, petitioners alleged that POSCO, the parent company of DongJin, received government equity infusions on terms inconsistent with commercial considerations and that this equity subsidy may have been passed through POSCO to DongJin. We were not aware until receipt of the responses in the shapes and sheet investigations that DongJin was a producer of sheet as well as OCTG. Therefore, we are incorporating the allegation by the OCTG petitioners regarding equity infusions into DongJin into these investigations of shapes and sheet.

In order determine whether any equity investment made by POSCO into DongJin is a subsidy, we must, as a threshold matter, determine whether the infusion was on terms inconsistent with commercial considerations.

The circumstances of DongJin's formation, and POSCO's equity infusion

into it, are quite complex. According to the responses, DongJin was established on October 27, 1982 by POSCO. POSCO made a seed money equity infusion into DongJin at that time. DongJin was apparently formed to purchase the assets and inventory of a former steel company, Llssin. Llssin had been declared bankrupt in May 1982. In accordance with Korean bankruptcy law, the courts foreclosed upon Llssin's assets in order to settle accounts with creditors, and sold these assets to two banks. These banks, in turn, offered the assets for sale to all purchasers as requiring by Korean banking regulations. DongJin purchased the assets.

The Subsidies Appendix states that to be "equityworthy" a company must show the ability to generate a reasonable rate of return within a reasonable period of time. We have insufficient information on the record to determine whether DongJin meets this standard at the time POSCO made its equity infusion. We are seeking additional information on this issue.

C. Port Facilities

Petitioner alleges that the government of Korea is constructing a port at Kwangyang Bay to facilitate the importation of coal and iron ore. It is further alleged that POSCO, will benefit from this port. According to the responses of the government of Korea and the steel companies, POSCO, not the government, is constructing the port facilities. One question raised by the responses concerns certain reclaimed land turned over to POSCO by the government in exchange for equity. We will seek additional information concerning this transaction between the government and POSCO for this land.

Verification

In accordance with section 776(a) of the Act, we will verify the data used in making our final determinations. As previously stated, we will not accept any statements in the responses that cannot be verified in our final determinations.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of cold-rolled carbon steel flat-rolled products which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond, for each such entry of the merchandise in the amount of 3.81 percent *ad valorem*. This suspension will remain in effect until further notice. As discussed above, our preliminary determination with respect to carbon steel structural shapes is negative; therefore, we are not directing the U.S. Customs Service to supend liquidation of entries of carbon steel structural shapes.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to these investigations. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. If our final determinations are affirmative, the ITC will make its determination of whether these imports materially injure, or threaten material injury to a U.S. industry within 45 days after our final determinations.

Public Comment

In accordance with § 355.35 of the Commerce Department Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 9:00 a.m. on October 29, 1984 at the U.S. Department of Commerce, Room 5611, 14th Street and Constitution Avenue NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B099, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by October 22, 1984. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 355.34, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Dated: September 11, 1984.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 84-24635 Filed 9-17-84; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The New England Fishery Managment Council will convene a public meeting to discusss reports of the groundfish, lobster, scallop, surf clam, and striped bass oversight committees; enforcement issues, and other fishery management and administrative matters. The public meeting will convene on September 18, 1984, at approximately 10 a.m., and adjourn on September 19, 1984, at approximately 10 a.m., and adjourn on September 19, at approximately 5 p.m., at the Howard Johnson Motor Lodge, Portsmouth, NH. The meeting may be lengthened or shortened, or agenda items rearranged, depending upon progress on the agenda. For further information contact Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route One), Saugus, MA; telephone: (617) 231-0422.

Dated: September 12, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management.

[FR Doc. 84-24628 Filed 9-17-84; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Limits for Certain Cotton Textile Products From the People's Republic of China

September 13, 1984.

The Chairman of the Committee for the Implementation of Textile Agreement (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on September 19, 1984. For further information contact Jane Corwin (202/377-4212).

Background

A CITA directive establishing import limits for specific categories of cotton,

wool and man-made fiber textile products, including terry and other pile towels in Category 363, produced or manufactured in the People's Republic of China, and exported during the twelve-month period which began on January 1, 1984, was published in the Federal Register on December 22, 1983 (48 FR 56626). The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983 provides for the carryover of shortfalls in certain categories from the previous agreement year. Accordingly, at the request of the Government of the People's Republic of China carryover is being applied to the current-year limit for Category 363, increasing that limit from 17,939,338 numbers to 18,456,958 numbers.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924) and December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), and April 4, 1984 (49 FR 13397).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

September 13, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 19, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements which established levels for restraint for certain specific categories of cotton, wool and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during 1984.

Effective on September 19, 1984, the directive of December 19, 1983 is hereby further amended to adjust the previously established level of restraint for Category 363 to 18,456,958 numbers [1] under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1982.[2]

[1] The level has not been adjusted to account for any imports exported after December 31, 1983.

[2] The agreement provides, in part, that (1) with the exception of Category 315, any specific limit may be exceeded by not more than 5 percent of its square yards equivalent total, provided that the amount of the increase is compensated for by an equivalent square yard equivalent decrease in one or more other specific limits in that agreement year; (2) the specific limits for certain categories may be increased for carryover or carry forward, respectively; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

The Committee for the implementation of Textile Agreements has determined that the action falls within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553.

Sincerly,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-24667 Filed 9-17-84; 8:45 am]

BILLING CODE 3510-DR-M

Withdrawal of Calls on Certain Wool Apparel Products Produced or Manufactured in India

September 13, 1984.

On April 30, 1984 a notice was published in the Federal Register (49 FR 18348) which announced the establishment of prorated twelve-month limits for wool sweaters in Categories 445 and 446, produced or manufactured in India and exported during the period which began on January 28, 1984 and extends through December 31, 1984. The purpose of this notice is to announce that the United States Government has concluded that there is no further need to control these categories at the individual limits; however, imports in these categories will still remain subject to the group limit established for apparel products in Categories 330–359, 431–459, and 630–659, produced or manufactured in India and exported during 1984. (See 48 FR 55891) Should it become necessary to discuss these categories with the Government of India at a later date, further notice will be published in the Federal Register.

Effective date: September 19, 1984.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

September 13, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This letter cancels and supersedes the directive of April 25, 1984 concerning wool textile products in Categories 445 and 446, produced or manufactured in India, effective on September 19, 1984.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-24668 Filed 9-17-84; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS); Upper Jordan River Interim Investigation, Salt Lake County, UT

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: 1. *Action.*—The Corps of Engineers is investigating flood problems in the Jordan River Basin. The interim investigation concerns alternative solutions for flood hazard reduction on the Upper Jordan River and principal tributaries: Mill Creek and Big and Little Cottonwood Creeks. The final array of alternatives being studied in detail are No Action and two plans for improving the flood carrying capacity of Mill Creek to a 100-year recurrence interval, i.e., floods expected to occur one percent of the time on average.

2. *Alternatives.*—a. *No Action Plan.*—The Federal Government would not participate in a flood hazard reduction solution. Without additional measures to complement local interest plan, flooding would recur at intervals more frequent than one percent. The floods impact on streamside urban developments and also affect stream habitat, riparian vegetation and floodplain esthetics. Although local interests would continue to provide improvements for reducing the flood hazard, these would not likely reach the one percent level of protection without Federal assistance.

b. *Channel and Diversion at 1300 East Street.*—Two reaches to Mill Creek would be improved to increase flood carrying capacity. An 8,000-foot reach from 900 West Street to State Street would be deepened and bridges would be raised to contain flows up to 700 cfs. A 2,000-foot reach from 1300 East Street to Highland Drive would be improved with a concrete or grouted rock lining to contain 1,500 cfs. A diversion dam at 1300 East would divert flows in excess of 200 cfs via a 6,000-foot conduit to Hillview detention basin (built by local interests). Detained floodwaters would be routed through existing storm drains back to Mill Creek after the flood peak passes. (Local interests plan to provide a detention basin at Scott Avenue to reduce peak runoff which would work in concert with these improvements.)

c. *Channel and Diversion at Highland Drive.*—This plan would be similar to the other but would differ as follows.

The diversion would be located at Highland Drive. The 2,000 feet of concrete or grouted riprap on Mill Creek would be eliminated. The conduit would be lengthened to 8,000 feet to convey diverted flows from Highland Drive to the Hillview detention basin. The added 2,000-foot conduit would be located along Murphys Lane.

3. *Scoping.*—A public meeting was held in Salt Lake City, Utah, on 9 August 1977 to discuss flood and related problems in the Jordan River Basin. The consensus of those presenting statements indicated support for investigation of flood and related problems, including identification of significant and insignificant environmental concerns relating to various alternatives. Frequent meetings have been held with representatives of Salt Lake County Flood Control Department to insure that the problems were properly recognized and the alternatives considered were reasonable.

An environmental assessment (EA) dated September 1981, was circulated to interested agencies, organizations, and individuals for review and comment. Comments received have assisted in determining preferred alternatives. This process has assisted in obtaining public participation.

Another public meeting is scheduled to be held early in 1985 to discuss the alternative plans and to assist in selecting the plan to be recommended. No separate scoping meeting is being scheduled. The continuing public coordination has resulted in identification of the significant issues listed below:

- Flood hazard reduction.
- Project area employment.
- Impacts to fish and wildlife resources.
- Impacts to riparian habitat and esthetic and scenic features.
- Impact on archeological and historical resources.
- Land use changes in the Upper Jordan River Basin.
- Sociological and Economic changes in the Upper Jordan River Basin.
- Recreation needs and opportunities.

All interested parties are invited to call or write to suggest the issues they believe are significant which should be discussed in detail in the DEIS and which issues are not significant enough for detailed study. Sources of data and information to support the suggestions should be identified if possible.

4. *Estimated Date of DEIS.*—A draft environmental impact statement is expected to be circulated for public review in December 1984.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Mr. Robert Verkade, Sacramento District, Corps of Engineers, 650 Capitol Mall, Sacramento, California 95814, telephone (916) 440–2456 or FTS 448–2456.

Dated: September 6, 1984.

Albert E. McCollam, Jr.,

Lieutenant Colonel, CE, Acting Commander.

[FR Doc. 84–24629 Filed 9–17–84; 8:45 am]

BILLING CODE 3710–GH–M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Tuesday, September 25, 1984, beginning at 1:30 p.m. in the Schooner Room of the Virden Center, University of Delaware on Pilottown Road, Lewes, Delaware. The hearing will be a part of the Commission's regular business meeting which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 9:00 a.m. at the same location.

The subjects of the hearing will be as follows:

Application for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact

1. *U.S. Department of the Interior—National Park Service D–83–30 CP.* Restoration of an aqueduct (Roebling Bridge) crossing the Upper Delaware National Scenic and Recreational River in the vicinity of Lackawaxen, Pennsylvania. Renovations will include repair of stone piers and steel bridge cables, placement of riprap in scour holes adjacent to the piers, and installation of timber crib ice breakers in front of pier faces. The crossing extends from Lackawaxen, Pennsylvania (Pike County) to Minisink Ford, New York (Sullivan County) and is located at River Mile 277.4.

2. *Robeson Township Board of Supervisors D–83–34 CP.* A sewage treatment project to serve Robeson Township in Berks County, Pennsylvania. The treatment plant will be designed to remove 94 percent BOD and 87 percent suspended solids from an average sewage flow of 0.30 million gallons per day (mgd). Treated effluent will discharge to the Schuylkill River in Robeson Township, Berks County, Pennsylvania.

3. *Manwalamink Water Company D–84–18.* Expansion of a sewage treatment project serving the Shawnee development in Smithfield Township, Monroe County, Pennsylvania. The treatment plant will be expanded to remove 86 percent BOD and 90 percent suspended solids from a sewage flow of 0.245 mgd. Treated effluent will discharge to the Delaware River in Smithfield Township. The project is located within the Delaware Water Gap National Recreation Area.

4. *Wichard Sewer Company D–84–23.* Modification of a sewage treatment project in Horsham Township, Montgomery County, Pennsylvania. The original Wichard STP, as previously approved by the Commission, was to serve 648 homes in the Country Springs residential development. However, the plant presently treats an average flow of only 18,000 gallons per day (gpd). The modified project includes the use of current excess capacity by the Horsham Township Sewer Authority which will purchase 100,000 gpd of treatment capacity for interim sewage service to existing homes and a country club in nearby portions of the Township. Many of the homes to be served have experienced chronic problems with on-site septic systems. The plant will be constructed in phases and is designed to remove 97 percent BOD_5 and 95 percent TSS from an ultimate approved waste flow of 227,000 gpd.

5. *Harry T. Hudson, Jr. D–84–31.* A ground water withdrawal project to supply up to 19.55 million gallons/month of water for irrigation of the applicant's farm crops. Well No. 1 is located in Sussex County, Delaware.

6. *Draper-King Cole, Inc. D–84–32.* A ground water withdrawal project to replace water from Well Nos. 1 and 7 that have become unreliable sources of supply at the applicant's plantsite in Milton, Delaware. The proposed total withdrawal from new Well Nos. 1A and 7A will not exceed 0.84 mgd. Total maximum withdrawal from all wells in the applicant's system will remain at 2.5 mgd. The project is located in the Town of Milton, Sussex County, Delaware.

7. *Town of Clayton D–84–34 CP.* A ground water withdrawal project to replace water from Well No. 2 that has become an unreliable source of supply. The proposed withdrawal from the new Well No. 2R will be limited to an average of 0.4 mgd. Total withdrawal from all wells in the applicant's system will remain at 7.5 million gallons per 30 days. The project is located in the Town of Clayton, Kent County, Delaware.

Water Supply Contract

A proposed water supply contract between the Commission and Public Service Electric and Gas Company of New Jersey for the sale of water supplies to the Company for use at the Hope Creek Nuclear Generating Station, Unit 1, located on the Delaware River at River Mile 51.36, Lower Alloways Creek Township, Salem County, New Jersey. The contract provides for minimum payments to the Commission by the Company for water to be used for cooling a 1067-megawatt nuclear unit. Annual payments will be in accord with the terms and conditions of the Commission's water supply policy and regulations as adopted by Resolution Nos. 71–4 and 74–6.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact David B. Everett. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Dated: September 10, 1984.

Richard C. Albert,

Acting Secretary.

[FR Doc. 84-24608 Filed 9-17-84; 8:45 am]

BILLING CODE 6350-01-M

DEPARTMENT OF ENERGY

Office of Secretary for International Affairs and Energy Emergencies

International Atomic Energy Agreement; European Atomic Energy Community; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the following sale:

Contract Number S–EU–819, for the sale of 200,000 curies of tritium gas to Surelite, Ltd., England, for use in the manufacture of light sources. The U.S. Nuclear Regulatory Commission license XB01181 has been issued approving export of this material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: September 12, 1984.

Harold Jaffe,

Acting Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-24623 Filed 9-17-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreement; European Atomic Energy Community; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S–EU–821, to the Technical University, Munich, the Federal Republic of Germany, 20 milligrams of plutonium-242 and 10 milligrams of curium-244, for use in Mossbauer effect studies.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: September 12, 1984.

For the Department of Energy.

Harold Jaffe,

Acting Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-24624 Filed 9-17-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreement; European Atomic Energy Community; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S–EU–820, one gram of plutonium-241 to the Central Bureau for Nuclear Measurements, Geel, Belgium, for use in target preparation. The targets will be used in accelerators for basic research.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: September 12, 1984.

For the Department of Energy.

Harold Jaffe,

Acting Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-24625 Filed 9-17-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreement; Japan; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval for the assignment of uranium enriching services totaling 29,950 separative work units in Fiscal Year 1986 from Sweden to Japan for use by the Kyushu Electric Power Co., Inc. power reactors.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: September 12, 1984.

Harold Jaffe,

Acting Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-24622 Filed 9-17-84; 8:45 am]

BILLING CODE 6450-01-M

Procurement and Assistance Management Directorate

Restriction of Eligibility for Grant Award

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of restriction of eligibility for grant award.

SUMMARY: DOE announces that, pursuant to 10 CFR 600.7(b), it intends to award on a restricted eligibility basis a grant providing support to the National Academy of Sciences for partial support of an in-depth study regarding the Impact of National Security Controls on International Technology Transfer. The DOE support under this grant is valued at $50,000 over an 18-month period.

Procurement Request Number: 01-84ER51063.000.

Project Scope: The objective of this grant award is to support the activities of the National Academy of Sciences Committee on Science, Engineering, and Public Policy undertaking a study of the impact of national security controls on international technology transfer, particularly as they affect high technology industries in the United States. Eligibility for this grant award is being limited to the National Academy of Sciences because this on-going science coordinating and information sharing activity is only performed by the National Academy of Sciences.

FOR FURTHER INFORMATION CONTACT: Thomas E. Brown, MA-452.1, U.S. Department of Energy, Office of Procurement Operations, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone No.: (202) 252-1026.

Issued in Washington, DC on September 11, 1984.

Berton J. Roth,

Director, Procurement and Assistance Management Directorate.

[FR Doc. 84-24061 Filed 9-17-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 4466-001]

Capital Development Company; Surrender of Preliminary Permit

September 14, 1984.

Take notice that Capital Development Company, Permittee for the Frailey Mountain Water Power Project No. 4466, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 4466 was issued on February 1, 1982, and would have expired on January 31, 1985. The project would have been located on Deer Creek in Skagit and Snohomish Counties, Washington.

Capital Development Company filed the request on August 8, 1984, and the surrender of the preliminary permit for Project No. 4466 is deemed accepted as of August 8, 1984, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24651 Filed 9-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-547-004]

Colorado Interstate Gas Company; Amendment to Application

September 13, 1984.

Take notice that on August 20, 1984, Colorado Interstate Gas Company (CIG), P.O. Box 19 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP82-547-004 an amendment pursuant to section 7 of the Natural Gas Act to its existing application for a certificate of public convenience and necessity to reflect certain changes in its proposals, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Specifically, by the subject amendment, CIG withdraws all portions of its application except for its requests for authorization to modify facilities at the Schaeffer-Weeks sales meter station (Schaeffer-Weeks), one of its points of delivery to Public Service Company of Colorado (PSCo) and to amend its service agreement with PSCo to reflect an increase in the maximum daily volume obligation from Mcf 800 to 3,000 Mcf of gas and the delivery pressure from 150 psig. to CIG's line pressure at Schaeffer-Weeks. CIG states that the Schaeffer-Weeks facilities were constructed and service agreement modifications were implemented under a temporary certificate issued by the Commission on September 29, 1983.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 3, 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 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. 84-24653 Filed 9-17-84; 8:45 am]

BILLING CODE 6717-01

[Project No. 7787-001]

Colorado Slopes Power; Surrender of Preliminary Permit

September 14, 1984.

Take notice that Colorado Slopes Power, Permittee for the Jackson Gulch Dam Project No. 7787 located on the Jackson Gulch River in Montezuma County, Colorado, has requested that its preliminary permit be terminated. The preliminary permit was issued on April 11, 1984, and would have expired on September 30, 1985. The Permittee states that it expects to file a license application for the project as a different organizational entity.

Colorado Slopes Power's request was filed July 12, 1984. The surrender of the permit for Project No. 7787 is in the public interest and will become effective thirty days from the date of issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24654 Filed 9-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-59-001]

Columbia Gas Transmission Corp.; Amendment to Request Under Blanket Authorization

September 13, 1984.

Take notice that on August 29, 1984, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314; filed in Docket No.

CP84–59–001 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to continue to transport natural gas on behalf of Koppers Company, Inc., Piston Ring and Seal Division (Koppers), under the certificate issued in Docket No. CP83–76–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia proposes to continue transporting up to 147 MMBtu equivalent of natural gas to Koppers' Baltimore, Maryland, plant until June 30, 1985, instead of the October 23, 1984, termination date authorized in Docket No. CP84–59–000 under the prior notice procedure by notice issued December 27, 1983. It is stated that in all other respects the transportation would remain the same as authorized in Docket No. CP84–59–000.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–24655 Filed 9–17–84; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5705]

Grisdale Hill Co.; Surrender of Preliminary Permit

September 14, 1984.

Take notice that Grisdale Hill Company, Permittee for the Huckleberry Creek Project No. 5705, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 5705 was issued on July 21, 1983, and would have expired on December 31, 1984. The project would have been located on Huckleberry Creek in Lane County, Oregon.

Grisdale Hill Company filed the request on August 9, 1984, and the surrender of the preliminary permit for Project No. 5705 is deemed accepted as of August 9, 1984, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–24657 Filed 9–17–84; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 7005–001]

Grisdale Hill Co.; Surrender of Preliminary Permit

September 14, 1984.

Take notice that Grisdale Hill Company, Permittee for the Christy Creek Hydroelectric Project No. 7005 has requested that its preliminary permit be terminated. The Preliminary Permit was issued on June 23, 1983, and would have expired on November 30, 1984. The project would have been located on Christy Creek within Willamette National Forest in Lane County, Oregon.

Grisdale Hill Company filed the request on August 7, 1984, and the surrender of the preliminary permit for Project No. 7005 is deemed accepted as of August 7, 1984, and effective as of 30 days after the date of this notice.

Kenneth Plumb,

Secretary.

[FR Doc. 84–24658 Filed 9–17–84; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6936–001]

G. Stetson Heiser; Surrender of Preliminary Permit

September 14, 1984.

Take notice that G. Stetson Heiser, Permittee for the proposed Buck Street Project No. 6936, requested by letter dated July 22, 1984, that its preliminary permit be terminated. The preliminary permit was issued on May 16, 1963, and would have expired on October 31, 1984. The project would have been located on Buck Street in Merrimack County, New Hampshire. The project is not being pursued due to lack of sufficient funding.

The surrender of the preliminary permit for Project No. 6936 is effective 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–24656 Filed 9–17–84; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6994–001]

City of Memphis, TN; Surrender of Preliminary Permit

September 14, 1984.

Take notice that the City of Memphis, Tennessee, Permittee for the proposed H. M. Bessie Hydroelectric Project, FERC No. 6994, has requested that its preliminary permit be terminated. The permit was issued on August 18, 1983, and would have expired on July 31, 1985. The project would have been located on the Mississippi River in Lake County, Tennessee; Fulton County, Kentucky and New Madrid County, Missouri.

The Permittee filed its request on July 23, 1984, and the surrender of the preliminary permit for Project No. 6994 is effective 30 days after issuance of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–24652 Filed 9–17–84; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 5830–002]

Publishers Paper Co.; Surrender of Preliminary Permit

September 14, 1984.

Take notice that Publishers Paper Company, Permittee for the New Willamette Falls Hydroelectric Project No. 5830, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 5830 was issued on June 17, 1982, and would have expired on June 30, 1985. The project would have been located on the Willamette River in Clackamas County, Oregon.

Publishers Paper Company filed the request on August 6, 1984, and the surrender of the preliminary permit for Project No. 5830 is deemed accepted as of August 6, 1984, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–24663 Filed 9–17–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. SA84–25–000]

Phelps Dodge Corp.; Petition for Continuation of Temporary Exemption Relief and Request for Interim Relief

Issued: September 13, 1984.

On August 30, 1984, petitioner, Phelps Dodge Corporation (Phelps Dodge), 2600 North Central Avenue, Phoenix, Arizona, 85004, filed with the Federal Energy Regulatory Commission

(Commission) a petition for a continuation of the temporary relief granted to it by Order of the Director, Office of Pipeline and Producer Rates on September 22, 1983,[1] under section 206(d) of the Natural Gas Policy Act of 1978 (NGPA).[2]

The September 22, 1983 order granted Phelps Dodge temporary relief from incremental pricing surcharges for its Ajo and Bisbee, Arizona, and Tyronne, New Mexico, facilities for the period beginning with the September 1983 billing period, and extending through the billing period of September, 1984. Phelps Dodge's August 30, 1984 petition seeks a continuance of this temporary relief for the subject refineries for an additional twelve month period. Phelps Dodge also requests interim relief, to be granted effective October 1, 1984.

The procedurs applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure.[3] Any person desiring to participate in this proceeding must file a motion to intervene under Subpart K, within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-25664 Filed 9-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5278-003]

Yankee Power Co.; Surrender of Exemption

September 14, 1984.

Take notice that Yankee Power Company, Exemptee for the North Fork Plume Creek Hydro Project No. 5278, has requested that its Exemption be terminated. The order granting Exemption for Project No. 5278 was issued on August 2, 1982. The project would have been located on North Fork Plume Creek in Pend Oreille County, Washington.

Yankee Power Company filed the request on August 6, 1984, and the surrender of the Exemption for Project No. 5278 is deemed accepted as of August 6, 1984, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24665 Filed 9-17-84; 8:45 am]

BILLING CODE 6717-01-M

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[1] *See* Order of the Director, OPPR, Docket Nos. SA83-12-000, SA83-13-000, and SA83-14-000, 24 FERC ¶ 62,354 (1983).

[2] 15 U.S.C. 3301-3432 (1982).

[3] 18 CFR 385.1101-385.1117 (1983).

[Docket No. QF84-465-000]

CalWind Resources, Inc., Encino, CA; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 13, 1984.

On August 23, 1984, CalWind Resources, Inc. (Applicant) of 4267 Mooncrest Place, Encino, California 91436 submitted for filing an application for certification of a facility as a qualifying small power production 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 approximately 9 miles southwest of Techachapi, California and will consist of 238 wind turbine generators rated at 65 kW each. The total electric power production capacity will be approximately 9 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24850 Filed 9-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-381-001]

International Paper Co., Natchez Mill; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

September 13, 1984.

On July 26, 1984, International Paper Company (Applicant), of 77 West 45 Street, New York, New York 10036, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located at the Applicant's paper mill in Natchez, Mississippi. The facility's primary energy sources are biomass in the forms of wood and spent pulping liquor, oil and gas. The rebuilt turbine/generator was restored to service in May 1979. The Applicant seeks to qualify as new capacity, the rebuilt 23.4 MW unit as new capacity within the meaning of § 292.304(b)(1).

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24859 Filed 9-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-458-000]

McGrew and Associates, Wells Creeks; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 13, 1984.

On August 23, 1984, McGrew and Associates (Applicant) of P.O. Box 31359, 1914 North, 34th Street, Seattle, Washington 98103-1359, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 15.3 megawatt hydroelectric facility is located near the North Fork Nooksack River on Wells Creek in Whatcom County, Washington.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of

Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24660 Filed 9-17-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-459-000]

McGrew and Associates, Ruth Creek; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 13, 1984.

On August 23, 1984, McGrew and Associates, (Applicant) of P.O. Box 31359, 1919 North 34th Street, Seattle, Washington 98103-1359, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 2.8 megawatt hydroelectric facility is located near the North Fork Nooksack River on Ruth Creek in Whatcom County, Washington.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. Clt closes not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24661 Filed 9-17-84; 8:45]

BILLING CODE 6717-01-M

[Docket No. QF84-460-000]

McGrew and Associates, Swamp Creek; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 13, 1984.

On August 23, 1984, McGrew and Associates (Applicant), of P.O. Box 31359, 1914 North 34th Street, Seattle, Washington 98103-1359 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 3.5 megawatt hydroelectric facility is located near the North Fork Nooksack River on Swamp Creek in Whatcom County, Washington.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-24662 Filed 9-17-84; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for filing Applications for Refund from funds obtained from Windham Gas and Oil Company in settlement of enforcement proceedings brought by DOE's Economic Regulatory Administration.

Date and Address: Applications for refund must be postmarked by December 17, 1984, should conspicuously display a reference to case number HEF-0198, and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2094.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuence of the Decision and Order set out below. The Decision and Order establishes procedures to distribute funds obtained as a result of consent order between Windham Gas and Oil Company and DOE. The consent order settled all disputes between DOE and Windham concerning possible violations of DOE price regulations with respect to

the firm's sales of motor gasoline during the period March 1, 1979 through August 31, 1979.

Any member of the public who believe that they are entitled to a refund in this proceeding may file Applications for Refund. All Applications should be postmarked by December 17, 1984, and should be sent to the address set forth at the beginning of this notice. Applications for refunds in excess of $100 must be filed in duplicate and these applications will be made available for public inspection between the hours of 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Dated: August 27, 1984.

George B. Breznay,

Director, Office of the Hearings and Appeals.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: Windham Gas and Oil Company
Date of Filing: October 13, 1983
Case Number: HEF–0198

August 27, 1984.

This proceeding involves a Petition for the Implementation of Special Refund Procedures filed by the Economic Regulatory Administration (ERA) with the Office of Hearings and Appeals (OHA) pursuant to the provisions of 10 CFR Part 205, Subpart V. Under those procedural regulations, ERA may request that OHA formulate and implement special procedures to make refunds in order to remedy the effects of actual or alleged violations of the Department of Energy (DOE) regulations. ERA filed the petition in this case in connection with a consent order that it entered into with Windham Gas and Oil Company (Windham), a division of Ropet Incorporated.

Windham was a marketer of petroleum products which it sold to resellers and end-users in the Windham, Ohio area during the period of federal price controls, and was therefore subject to the Mandatory Petroleum Price Regulations set forth at 10 CFR Part 212, Subpart F. A DOE audit of Windham's records revealed possible violations of DOE price regulations with respect to the firm's sales of motor gasoline during the period March 1, 1979, through August 31, 1979 (hereinafter) referred to as the audit period).

In order to settle all claims and disputes between Windham and DOE regarding the firm's sales of motor gasoline during the audit period, Windham and DOE entered into a consent order on February 10, 1981. Under the terms of the consent order Windham agreed to remit $36,000 to DOE. Windham has paid DOE the $36,000, which is being held in an interest-bearing escrow account established with the United States Treasury pending a determination of its proper distribution. As of July 31, 1984, the Windham escrow account had earned $14,194.47 in interest.

On March 20, 1984, we issued a Proposed Decision and Order tentatively setting forth procedures to distribute refunds to parties who were injured by Windham's alleged violations. 49 FR 12742 (March 30, 1984). In the proposed decision we described a two-stage process for the distribution of the funds made available by the Windham consent order. In the first stage, we will refund money to identifiable purchasers of motor gasoline who were injured by Windham's pricing practices during the period March 1 through August 31, 1979. After meritorious claims are paid in the first stage, a second stage of the refund procedure may be necessary if funds remain. *See generally Office of Special Counsel,* 10 DOE ¶ 85,048 (1982) (hereinafter cited as *Amoco*) (refund procedures established for first stage applicants, second stage refund procedures proposed).

This decision establishes procedures for filing claims in the first stage of the Windham refund proceeding. We will describe the information that a purchaser of Windham motor gasoline should submit in order to demonstrate that it is eligible to receive a portion of the consent order funds. In establishing these requirements, we will address comments filed in response to the first-stage proposal in the March 20 decision. We will not, however, determine procedures for a second stage of the refund process in this decision. Our determination concerning the disposition of any remaining funds will necessarily depend on the size of the fund. It is therefore premature for us to address the issues raised by commenters regarding the disposition of funds remaining after all the first-stage claims have been paid.

I. Jurisdiction

We have considered ERA's Petition for the Implementation of Special Refund Procedures and determined that it is appropriate to establish such a proceeding with respect to the Windham consent order fund. In our proposed decision and in other recent decisions, we have discussed at length our jurisdiction and authority to fashion special refund procedures. *See, e.g., Office of Enforcement,* 9 DOE ¶ 82,553 at 85,284 (1982). We have received no comments challenging our authority to fashion special refund procedures in this case. We will therefore grant ERA's petition and assume jurisdiction over the distribution of the Windham consent order funds.

II. First-Stage Refund Procedures

A. Refunds to Injured Purchasers. The Windham consent order funds will be distributed to claimants who satisfactorily demonstrate that they have been injured by Windham's alleged violations. In order to receive a refund, each claimant will be required to submit a schedule of monthly purchases of Windham motor gasoline for the period March 1 through August 31, 1979. If the gasoline was not purchased directly from Windham, the claimant must include a statement setting forth his reasons for believing the product originated with Windham. In addition, a reseller or retailer of motor gasoline that files a claim will be required to establish that it absorbed the alleged overcharges and was thereby injured. A demonstration of injury can be made in two ways. First, each claimant that is a reseller or a retailer, must show as an initial matter that it maintained "banks" of unrecovered increased product costs in order to demonstrate that it did not subsequently recover those costs by increasing its prices.[1] *See Office of Enforcement,* 10 DOE ¶ 85,029 at 88,125 (1982) (hereinafter cited as *Ada*). These two groups of claimants will also have to demonstrate that, at the time they purchased motor gasoline from Windham, market conditions would not permit them to increase their prices to pass through the additional costs associated with the alleged overcharges.

Second, a reseller or retailer may rely on a presumption of injury and supply no further proof of injury. As in many prior special refund cases, we will adopt a presumption that small purchasers were injured to some extent by the pricing practices which led to the issuance of the consent order. *See, e.g., Uban Oil Co.,* 9 DOE ¶ 82,541 (1982). A reseller or retailer claimant will not be required to submit any further proof of injury if its refund claim is based on a monthly purchase level below a threshold level of 50,000 gallons. (*2*) The adoption of a particular level of purchases below which a claimant need not submit any additional evidence of injury is based on several considerations. First, the cost of compiling information sufficient to show

injury may be expensive. Second, our experience indicates that many refund applicants will be small businesses, such as single outlet retailers, who generally maintain a less sophisticated record keeping system than larger firms. The threshold level is set to minimize unnecessary burdens on small businesses who might otherwise be precluded from receiving refunds to redress their injuries. We considered these factors in setting the threshold level at 50,000 gallons per month, as well as the per-gallon refund amount in conjunction with the length of the audit period, that is, the amount a successful claimant would be entitled to receive if it purchased the threshold amount each month of the audit period. A successful claimant who purchased 50,000 gallons of Windham motor gasoline during each of the six months of the audit period will receive refund of $1,248, excluding interest.

A reseller or retailer which made only spot purchases from Windham probably sustained no injury, and must clearly demonstrate injury if it files a refund application. We have previously noted that spot purchasers "tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases * * * at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers." *Vickers* at 85,396–97. We believe that this rationale holds true in the present case. A spot purchaser therefore should submit sufficient evidence to establish that it was unable to recover the increased prices it paid for the Windham motor gasoline it purchased. *See Amoco* at 88,200.

Claimants who were ultimate consumers of Windham motor gasoline had no opportunity to pass on the costs associated with the alleged overcharges, and therefore will not be required to submit any further proof of injury in order to qualify for a refund. *See Standard Oil Co. (Indiana/Union Camp Corp.*, 11 DOE ¶ 85,007 (1983); *Standard Oil Co. (Indiana/Elgin, Joliet, and Eastern Railway*, 11 DOE ¶ 85,105 (1983) (end-users of various refined petroleum products granted refunds solely on the basis of documented purchase volumes). Therefore, in this proceeding an end-use consumer need only) document the specific quantities of Windham motor gasoline it purchased during the audit period in order to receive a refund.

A successful refund applicant will receive a refund based upon a volumetric method of allocating refunds. Under this method, a per-gallon refund amount is calculated by dividing the settlement amount by the total gallons of motor gasoline covered by the consent order. The refund amount in this case will be $.0041597 per gallon ($36,000 received from Windham divided by 8,654,369 gallons of motor gasoline sold by Windham during the audit period), exclusive of interest. Successful claimants' refunds will be calculated by multiplying their eligible purchase volumes by the per-gallon refund amount. Successful claimants will also receive a proportionate share of the interest accrued on the consent order fund since it was remitted to DOE. Although we are adopting a volumetric method for allocating refunds, any claimant that believes it was injured by an amount greater than the volumetric figure may submit evidence to support its claim to a larger refund.

As in previous cases, we will establish a minimum refund amount of $15.00 for first stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15.00 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982); *see also 10 CFR 205.286(b).*

B. Application for Refund. After having considered all the comments received concerning the first-stage proceedings tentatively adopted in our March 20 proposed decision, we have concluded that applications for refund should now be accepted from parties who purchased Windham motor gasoline. An application must be in writing, signed by the applicant, and specify that it pertains to the Windham Consent Order Fund, Case Number HEF–0198.

An applicant should indicate from whom the motor gasoline was purchased and, if the applicant is not a direct purchaser from Windham it should also indicate the basis for its belief that the motor gasoline which it purchased originated from Windham. Each applicant should report its volume of purchases by month for the period of time for which it is claiming it was injured by the alleged overcharges. Each applicant should specify how it used the Windham motor gasoline, such as whether it was a reseller or ultimate user. If the applicant is a reseller, it should state whether it maintained banks of unrecouped product cost increases from the date of the alleged violation through January 27, 1981. An applicant who did maintain banks should furnish OHA with a schedule of its cumulative banks calculated on a quarterly basis from March 1, 1979, through January 27, 1981. (*3*) The applicant must submit evidence to establish that it did not pass on the alleged injury to its customers, if the applicant is a reseller. For example, a firm may submit market surveys or information about changes in its profit margins or sales volume to show that price increases to recover alleged overcharges were infeasible. The applicant should report any past or present involvement as a party in DOE enforcement actions. If these actions have terminated, the applicant should furnish a copy of a final order issued in the matter. If the action is ongoing, the applicant should briefly describe the action and its current status. The applicant is under a continuing obligation to keep OHA informed of any change in status during while its application for refund is being considered. *See* 10 CFR 205.9(d). Each application must also include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name, position title, and telephone number of a person who may be contacted by us for additional information concerning the application.

All applications for refund must be filed in duplicate. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Forrestal Building, Room 1E–234, 1000 Independence Avenue, Washington, D.C. Any applicant that believes that its application contains confidential information must so indicate on the first page of its application and submit two additional copies of its application from which the confidential information has been deleted, together with a statement specifying why any such information is privileged or confidential.

All applications should be sent to: Windham Consent Order Refund Proceeding, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. Applications for refund of a portion of the Windham consent order funds must be postmarked within 90 days after publication of this Decision and Order in the **Federal Register**. *See* 10 CFR 205.286. All applications for refund received within the time limit specified will be processed pursuant to 10 CFR 205.284.

It is Therefore Ordered That:

(1) The Petition for the Implementation of Special Refund Procedures filed by the Economic Regulatory Administration in Case No. HEF–0198 be granted.

(2) Applications for Refunds from the funds remitted to the Department of Energy by Windham Gas and Oil Company pursuant to the consent order executed on February 10, 1981, may now be filed.

(3) All applications must be postmarked within 90 days after publication of this Decision and Order in the **Federal Register**.

Dated: August 27, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Notes

(1). The price rules applicable to sales of motor gasoline by retailers were amended effective July 16, 1979. 44 FR 42542 (July 19, 1979). The amended regulation, 10 CFR 212.93(a)(2), provided for a fixed per-gallon markup of 15.4 cents (later increased) for retail sales of motor gasoline, and eliminated the "banking" provisions formerly in effect. Since the fixed markup rule was in effect during part of the period covered by the Windham consent order, no showing of cost banks will be required of retailers after July 16, 1979. The use of banking remained optional for larger resellers of motor gasoline; firms that elected to continue cost banking will be required to submit this information throughout the audit period if they apply for refunds based on purchases greater than 50,000 gallons per month.

(2). Claimants whose purchases exceed 50,000 gallons per month during the period for which a refund is claimed, but who cannot establish that they did not pass through the price increases, or who limit their claims to the threshold amount, will be eligible for a refund for purchases up to the 50,000 gallons-per-month threshold amount without being required to submit evidence of injury. *See* Office of Enforcement, 8 DOE ¶ 82,597 at 85,396 (1981) (hereinafter *Vickers*); *see also Ada* at 88,122.

(3). *See* note 1 *supra.*

[FR Doc. 84–24598 Filed 9–17–84; 8:45 am]

BILLING CODE 6450–01–M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals; DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding $1,866.23 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings involving Midwest Industrial Fuels, Inc., a reseller retailer of motor gasoline located in La Crosse, Wisconsin.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should conspicuously display a reference to case number HEF–0130.

FOR FURTHER INFORMATION CONTACT: Gary Comstock, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to a consent order entered into by Midwest Industrial Fuels, Inc. which settled possible pricing violations in the firm's sale of No. 2 fuel oil to customers during the period November 1, 1973 through April 30, 1974.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account funded by Midwest pursuant to the consent order. The DOE has tentatively decided that the consent order funds should be distributed to the two wholesale purchasers which DOE's audit indicated may have been overcharged. In addition, applications for refund from purchasers not identified by the DOE audit will be considered. Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register** and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Dated: August 27, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: Midwest Industrial Fuels, Inc.

Date of Filing: October 13, 1983.

Case Number: HEF–0130.

August 27, 1984.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of alleged or actual violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. The Subpart V process is typically used in situations where DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the extent of such persons' injuries. For a more detailed discussion of Subpart V, *see Office of Enforcement,* 9 DOE ¶ 82,508 (1982), and *Office of Enforcement,* 8 DOE ¶ 82,597 (1981).

I. Background

In accordance with the provisions of Subpart V, ERA, on October 13, 1983, filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Midwest Industrial Fuels, Inc. (Midwest). Midwest is a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR § 212.31, and is located in LaCrosse, Wisconsin. A DOE audit of the firm's records revealed possible pricing violations amounting to $269,653.12 with respect to sales of No. 2 fuel oil during the period November 1, 1973, through April 30, 1974. In order to settle all claims and disputes between Midwest and the DOE regarding the firm's sales of No. 2 fuel oil during the audit period, Midwest and the DOE entered into a consent order on August 31, 1981, in which the firm agreed to make refunds amounting to $137,000.41 (including interest). According to the Midwest consent order, the alleged overcharges affected two classes of customers. Separate processes were established by which Midwest would make refunds directly to certain of its customers who were allegedly injured, as well as place funds in escrow for DOE to distribute. First, $135,135.18, representing alleged

overcharges on sales of No. 2 fuel oil to end users, was to be refunded directly to those purchasers.(1) In addition, $1,866.23 representing alleged overcharges with respect to sales of No. 2 fuel oil to certain wholesale purchasers was to be deposited by Midwest into an interest-bearing escrow account for ultimate distribution by DOE. This Decision concerns the distribution of the $1,866.23 that Midwest deposited into the escrow account on September 15, 1981, plus accrued interest to date.

II. Proposed Refund Procedures

During DOE's audit of Midwest, two wholesale purchasers were identified as having allegedly been overcharged. While the DOE audit file represents only preliminary determinations, does not necessarily reflect actual overcharges, nor provide conclusive evidence as to the identity of possible refund recipients or the amount of money that they should receive in a Subpart V proceeding, it is reasonable to use the information contained in the audit file for guidance. *See Armstrong and Associates/City of San Antonio,* 10 DOE ¶ 85,050 at 88,259 (1983). In *Marion Corp.,* 12 DOE ¶ 85,014 (1984), we stated that "the information contained in the . . . audit file can be used for guidance in fashioning a refund plan which is likely to correspond more closely to the injuries probably experienced than would a distribution plan based solely on a volumetric approach." 12 DOE at 88,031. In previous cases of this type, we have proposed that the funds in the escrow account be apportioned among the customers identified by the audit. *See, e.g., Bob's Oil Co.,* 12 DOE ¶ 85,024 (1984); *Brown Oil Co.,* 12 DOE ¶ 85,028 (1984); and *Reinhard Distributors, Inc.,* Case No. HEF-0163 (July 13, 1984) (proposed decision). In view of the small amount of money involved in this proceeding, it would seem that the most efficient method of accomplishing restitution would be simply to distribute the escrow funds to those firms identified by the audit as injured by Midwest's pricing practices. The wholesale purchasers identified by the audit, with the share of the settlement amount allotted to each by ERA, are listed below:

Purchaser	Share of settlement amount[2]
Big Bear Stores	$1,444.27
Amoco (retail station)	421.96

NOTE: See footnote at end of document.

We have no other information regarding the identity or location of these purchasers. We are therefore presently unable to proceed with a distribution of refunds to them. We will, in an effort to better identify these two purchasers, provide Midwest and various service station associations in Wisconsin, Iowa, and Minnesota with copies of this proposed decision, in addition to publishing notice in the **Federal Register.** We will accept information regarding the identity and present locations of these purchasers for a period of 45 days from the date of publication of notice of a final Decision and Order in this proceeding in the **Federal Register.**

We also recognize that there may have been other wholesale purchasers not identified by the ERA audit, as well as downstream purchasers, who may have been injured as a result of Midwest's pricing practices during the audit period and would therefore be entitled to a portion of the consent order funds. If additional meritorious claims are filed, we will adjust the figures listed above accordingly. Actual refunds will be determined only after analyzing all appropriate claims.(3) Finally, we will establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See e.g., Uban Oil Co.,* 9 DOE ¶ 82,541 at 85,225 (1982). *See also* 10 CFR 205.286(b).

In order to receive a refund, each claimant will be required either to submit a schedule of its monthly purchases from Midwest of No. 2 fuel oil, or to submit a statement verifying that it purchased petroleum products from Midwest and is willing to rely on the data in the audit file. Claimants must indicate, as well, whether they have previously received a refund, from any source, with respect to the alleged overcharges identified in the ERA audit underlying this proceeding. Purchasers not identified by the ERA audit will be required to provide specific information concerning the date, place, price, and volume of product purchased, the name of the firm from which the purchase was made, and the extent of any injury alleged. Each applicant must also state whether there has been a change in ownership of the firm since the audit period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than the other owners or provide a signed statement from the other owners indicating that they do not claim a refund.

Distribution of the Remainder of the Consent Order Funds

In the event that money remains after all meritorious claims have been disposed of, undistributed funds could be distributed in a number of ways in a subsequent proceeding.(4) However, we will not be in a position to decide what should be done with any remaining funds until the initial stage of this refund procedure is completed. We encourage the submission by interested parties of proposals which address alternative methods of distributing any remaining funds.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Midwest Industrial Fuels, Inc., pursuant to the consent order executed on August 31, 1981, will be distributed in accordance with the foregoing determination.

Footnotes

(1) On October 15, 1981, Midwest advised DOE that it had made full payment of direct refunds to end users as specified in the consent order.

(2) The share of the escrow fund which the listed purchasers are to receive represents 50.8 percent of the amount each was allegedly overcharged, and is consistent with the terms of the consent order which settled for 50.8 percent of the total amount of alleged overcharges identified by the audit.

(3) Purchasers identified in the ERA audit as having allegedly been overcharged may also submit information to show that they should receive refunds larger than those indicated above.

(4) If we are unable to locate either of the firms named in the audit, and no other purchaser files a claim, we will terminate the initial stage of this refund proceeding and reserve the funds for distribution in a susequent proceeding.

[FR Doc. 84-24599 Filed 9-17-84; 8:45 am]
BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for filing Applications for Refund from funds obtained from U.S. Compressed Gas Company in settlement of enforcement proceedings brought by DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Applications for refund must be postmarked by December 17, 1984, should conspicuously display a reference to

case number HEF–0188, and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–2094.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order establishes procedures to distribute funds obtained as a result of consent order between U.S. Compressed Gas Company (USC) and DOE. The consent order settled all disputes between DOE and USC concerning possible violations of DOE price regulations with respect to the firm's sales of propane during the period November 1, 1973 through September 30, 1976.

Any members of the public who believe that they are entitled to a refund in this proceeding may file Applications for Refund. All Applications should be postmarked by December 17, 1984, and should be sent to the address set forth at the beginning of this notice. Applications for refunds in excess of $100 must be filed in duplicate and these applications will be made available for public inspection between the hours of 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Dated: August 28, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: U.S. Compressed Gas Company.

Date of Filing: October 13, 1983.

Case Number: HEF–0188.

August 28, 1984.

This proceeding involves a Petition for the Implementation of Special Refund Procedures filed by the Economic Regulatory Administration (ERA) with the Office of Hearings and Appeals (OHA) pursuant to the provisions of 10 CFR Part 205, Subpart V. Under those procedural regulations, ERA may request that OHA formulate and implement special procedures to make refunds in order to remedy the effects of actual or alleged violations of the Department of Energy (DOE) regulations. ERA filed the petition in this case in connection with a consent order that it entered into with U.S. Compressed Gas Company (USC).

USC was a marketer of propane which it sold to resellers and end-users in the King of Prussia, Pennsylvania area during the period of federal price controls, and was therefore subject to the Mandatory Petroleum Price Regulations set forth at 10 CFR Part 212, Subpart F. An ERA audit of USC's records revealed possible violations of DOE price regulations with respect to the firm's sales of propane during the period November 1973 through September 1976 (hereinafter referred to as the audit period). In the audit, ERA identified by name more than 100 customers who were allegedly overcharged in their purchases of USC propane during the audit period.(*1*)

In order to settle all claims and disputes between USC and DOE regarding the firm's sales of propane during the audit period, USC and DOE entered into a consent order on April 28, 1980. Under the terms of the consent order USC agreed to remit $57,000 to DOE. USC has paid DOE the $57,000, which is being held in an interest-bearing escrow account established with the United States Treasury pending a determination of its proper distribution. As of June 30, 1984, the USC escrow account had earned $21,264.27 interest.

On May 24, 1984, we issued a Proposed Decision and Order tentatively setting forth procedures to distribute refunds to parties who were injured by USC's alleged violations. 49 FR 23225 (June 5, 1984). In the proposed decision we described a two-stage process for the distribution of the funds made available by the USC consent order. In the first stage, we will refund money to identifiable purchasers of propane who were injured by USC's pricing practices during the period November 1973 through September 1976. After meritorious claims are paid in the first stage, a second stage of the refund procedure may be necessary if funds remain. *See generally Office of Special Counsel, Economic Regulatory Administration: In re Standard Oil Company (Indiana),* 10 DOE ¶ 85,048 (1982) (hereinafter cited as *Amoco*) (refund procedures established for first stage applicants, second stage refund procedures proposed).

This decision establishes procedures for filing claims in the first stage of the USC refund proceeding. We will describe the information that a purchaser of USC propane should submit in order to demonstrate that it is eligible to receive a portion of the consent order funds. We will not, however, determine procedures for a second stage of the refund process in this decision. Our determination concerning the disposition of any remaining funds will necessarily depend on the size of the fund. It is therefore premature for us to address issues regarding the disposition of funds remaining after all the first-stage claims have been paid. The comments filed in response to our May 24 proposed decision were filed by various States and involve disposition of funds remaining after the conclusion of first stage proceedings. Therefore, they will not be discussed here.

I. Jurisdiction

We have considered ERA's Petition for the Implementation of Special Refund Procedures and determined that it is appropriate to estabish such a proceeding with respect to the USC consent order fund. In our proposed decision and in other recent decisions, we have discussed at length our jurisdiction and authority to fashion special refund procedures. *See, e.g., Office of Enforcement, Economic Regulatory Administration: In re Adams Resources and Energy, Inc.,* 9 DOE ¶ 82,553 at 85,284 (1982). We have received no comments challenging our authority to fashion special refund procedures in this case. We will therefore grant ERA's petition and assume jurisdiction over the distribution of the USC consent order funds.

II. First-Stage Refund Procedures

A. Refunds to Injured Purchasers

The USC consent order funds will be distributed to claimants who satisfactorily demonstrate that they have been injured by USC's alleged violations. In order to receive a refund, each claimant will be required to submit a schedule of monthly purchases of USC propane for the period November 1973 through September 1976. If the propane was not purchased directly from USC, the claimant must include a statement setting forth his reasons for believing the product originated with USC. In addition, a reseller or retailer of propane that files a claim will be required to establish that it absorbed the alleged overcharges and was thereby injured. As an initial matter, each claimant that is a reseller or a retailer must show as an initial matter that it maintained "banks" of unrecovered increased product costs in order to demonstrate

that it did not subsequently recover those costs by increasing its prices. *See Office of Enforcement, Economic Regulatory Administration: In re Ada Resources, Inc.*, 10 DOE ¶ 85,029 at 88,125 (1982) (hereinafter cited as *Ada*). These two groups of claimants will also have to demonstrate that, at the time they purchased propane from USC, market conditions would not permit them to increase their prices to pass through the additional costs associated with the alleged overcharges.

As in many prior special refund cases, we will adopt a presumption that small purchasers were injured to some extent by the pricing practices which led to the issuance of the consent order. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). A reseller or retailer claimant will not be required to submit any further proof of injury if its refund claim is based on a monthly purchase level below a threshold level of 50,000 gallons. (*2*) The adoption of a particular level of purchases below which a claimant need not submit any additional evidence of injury is based on several considerations. First, the cost of compiling information sufficient to show injury may be expensive. Second, our experience indicates that many refund applicants will be small businesses, such as single outlet retailers, who generally maintain a less sophisticated record keeping system than larger firms. The threshold level is set to minimize unnecessary burdens on small businesses who might otherwise be precluded from receiving refunds to redress their injuries. We considered these factors in setting the threshold level at 50,000 gallons per month, as well as the per-gallon refund amount in conjunction with the lenght of the audit period, that is, the amount a successful claimant would be entitled to receive if it pruchased the threshold amount each month of the audit period. Under the presumption of injury which we are adopting in this case, a successful claimant who purchased 50,000 gallons of USC propane during each of the thirty-five months of the audit period will receive a refund of approximately $3,600 excluding interest.

A reseller or retailer which made only spot purchases from USC probably sustained no injury, and must clearly demonstrate injury if it files a refund application. We have previously noted that spot purchasers "tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases . . . at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers." *Office of Enforcement, Economic Regulatory Administration: In re Vickers Energy Corp.*, 8 DOE ¶ 82,597 at 85,396–97 (1981). We believe that this rationale holds true in the present case. A spot purchaser therefore should submit sufficient evidence to establish that it was unable to recover the increased prices it paid for the USC propane it purchased. *See Amoco* at 88,200.

Claimants who were ultimate consumers of USC propane had no opportunity to pass on the costs associated with the alleged overcharges, and therefore will not be required to submit any further proof of injury in order to qualify for a refund. *See Standard Oil Co. (Indiana)/Union Camp Corp.*, 11 DOE ¶ 85,007 (1983); *Standard Oil Co. (Indiana)/Elgin, Joliet, and Eastern Railway*, 11 DOE ¶ 85,105 (1983) (end-users of various refined petroleum products granted refunds solely on the basis of documented purchase volumes). Therefore, in this proceeding an end-user or a consumer need only document the specific quantities of USC propane it purchased during the audit period in order to receive a refund.

A successful refund applicant will receive a refund based upon a volumetric method of allocating refunds. Under this method, a per-gallon refund amount is calculated by dividing the settlement amount by the total gallons of motor gasoline covered by the consent order. The refund amount in this case will be $.002061 per gallon ($57,000 received from USC divided by 27,648,180 gallons of propane sold by USC during the audit period), exclusive of interest. Successful claimants' refunds will be calculated by multiplying their eligible purchase volumes by the per-gallon refund amount. Successful claimants will also receive a proportionate share of the interest accrued on the consent order fund since it was remitted to the DOE. Although we are adopting a volumetric method for allocating refunds, any claimant that believes it was injured by an amount greater than the volumetric figure may submit evidence to support its claim to a larger refund.

As in previous cases, we will establish a minimum refund amount of $15.00 for first stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15.00 outweights the benefits of restitution in those situations. *See e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982); *see also* 10 CFR 205.286(b).

B. Application for Refund

After having considered all the comments received concerning the first-stage proceedings tentatively adopted in our May 24 proposed decision, we have concluded that applications for refund should now be accepted from parties who purchased USC propane. An application must be in writing, signed by the applicant, and specify that it pertains to the USC Consent Order Fund, Case Number HEF–0188.

An applicant should indicate from whom the propane was purchased and, if the applicant is not a direct purchaser from USC, It should also indicate the basis for its belief that the propane which it purchased originated from USC. Each applicant should report its volume of purchases by month for the period of time for which it is claiming it was injured by the alleged overcharges. Each applicant should specify how it used the USC propane such as whether it was a reseller or ultimate consumer. If the applicant is a reseller, it should state whether it maintained banks of unrecouped product cost increases from the date of the alleged violation through January 27, 1981. An applicant who did maintain banks should furnish OHA with a schedule of its cumulative banks calculated on a quarterly basis from November 1973, through January 27, 1981. The applicant must submit evidence to establish that it did not pass on the alleged injury to its customers, if the applicant is a reseller. For example, a firm may submit market surveys or information about changes in its profit margins or sales volume to show that price increases to recover alleged overcharges were infeasible. The applicant should report any past or present involvement as a party in DOE enforcement actions. If these actions have terminated, the applicant should furnish a copy of a final order issued in the matter. If the action is ongoing, the applicant should briefly describe the action and its current status. The applicant is under a continuing obligation to keep OHA informed of any change in status during while its applications for refund is being considered. *See* 10 CFR 205.9(d). Each application must also include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name, position title, and telephone number of a person who may be contacted by us for additional information concerning the application.

All applications for refund must be filed in duplicate. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Forrestal Building, Room 1E–234, 1000 Independence Avenue, Washington, D.C. Any applicant that believes that its application contains confidential information must so indicate on the first page of its application and submit two additional copies of its application from which the confidential information has been deleted, together with a statement specifying why any such information is privileged or confidential.

All applications should be sent to: USC Consent Order Refund Proceedings, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. Applications for refund of a portion of the USC consent order funds must be postmarked within 90 days after publication of this Decision and Order in the **Federal Register.** *See* 10 CFR 205.286. All applications for refund received within the time limit specified will be processed pursuant to 10 CFR 205.284.

It Is Therefore Ordered That:

(1) The Petition for the Implementation of Special Refund Procedures filed by the Economic Regulatory Administration in Case No. HEF/0188 is hereby granted.

(2) Applications for Refunds from the funds remitted to the Department of Energy by U.S. Compressed Gas Company, pursuant to the consent order executed on April 28, 1980, may now be filed.

(3) All applications must be postmarked within 90 days after publication of this Decision and Order in the **Federal Register.**

Dated: August 28, 1984.

George B., Breznay,

Director, Office of Hearings and Appeals.

Notes

(1) The purchasers of USC propane were listed only by name and it was impossible to directly notify them of this refund proceeding. The proposed decision was published in the **Federal Register,** and copies were sent to the National LP-Gas Association and newspapers in the King of Prussia area.

(2) Claimants whose purchases exceed 50,000 gallons per month during the period for which a refund is claimed, but who cannot establish that they did not pass through the price increases, or who limit their claims to the threshold amount, will be eligible for a refund for purchases up to the 50,000 gallons-per-month threshold amount without being required to submit evidence of injury. *See* Office of Enforcement, Economic Regulatory Administration: In re Vickers Energy Corp., 8 DOE ¶ 82,597 (1981) at 85,396; *see also Ada* at 88,122.

[FR Doc. 84–24600 Filed 9–17–84; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[AD–FRL–2600–6]

National Emission Standards for Hazardous Air Pollutants; Addition of Coke Oven Emissions to List of Hazardous Air Pollutants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Addition to the list of hazardous air pollutants.

SUMMARY: This notice announces the Administrator's decision to list coke oven emissions as a hazardous air pollutant under section 112 of the Clean Air Act. The decision to list coke oven emissions as a hazardous air pollutant is based on the Administrator's findings that coke oven emissions pose a significant risk to the public.

Emission standards for wet-coal charged by-product coke oven batteries will be proposed in Spring 1985. A public hearing will be held to provide interested persons an opportunity presentation of data, views, or arguments concerning the listing of coke oven emissions as a hazardous air pollutant and the proposed standard for wet-coal charged by-product coke oven batteries.

DATES: *Comments.* Comments on this listing decision must be received on or before the close of the comment period on the emission standards for coke oven batteries to be proposed at a later date.

Public Hearing. A public hearing on this listing decision will be held, if requested, in conjunction with any hearing on the proposed emission standards for coke ovens. The time and place of the hearing will be announced in the emission standard proposal notice.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A–130), Attention: Docket Number A–83–33, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Kent Berry, Strategies and Air Standards Division, (MD–12), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC., 27711, telephone (919) 541–5504 or FTS 629–5504.

SUPPLEMENTARY INFORMATION:

Background

Section 112 of the Clean Air Act requires the Administrator to list as hazardous air pollutants, those pollutants which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness. Listing of a pollutant under section 112 signifies the Administrator's intent to develop emission standards for one or more stationary source categories emitting that pollutant.

As part of EPA's efforts to determine whether to regulate coke oven emissions under section 112 or other Clean Air Act provisions, EPA prepared several documents relevant to this decision. These included an assessment of the health effects of coke oven emissions,[1] a risk assessment for ambient coke oven exposures, and an exposure assessment for coke oven emissions. These documents were reviewed at a public Science Advisory Board (SAB) meeting on May 30 and 31, 1978. The SAB is an advisory group of nationally prominent scientists from outside EPA. Based on the SAB comments and those received from the public, the health and exposure documents were revised (1)(2). The portion of the risk assessment document dealing with the calculation of the "unit risk" number (a measure of the carcinogenic potency of coke oven emissions) was combined with a discussion of the qualitative evidence of carcinogenicity and was released to the public for comment on April 26, 1982 (47 FR 17860). Public SAB meetings to review successive drafts of this document were held on August 2–3, 1982, December 8–9, 1982, June 10, 1983, and September 22–23, 1983.[2] In an April

[1] As used in this notice, the term "coke oven emissions" refers to emissions that arise directly from the coke oven, and does not include emissions from other facilities associated with the battery (i.e. battery stacks, quench towers, or by-product plant). It is quite probable that the large majority of the worker exposure (and risk) to cancer-causing pollutants from coke ovens was due to emissions from the battery and not the ancillary facilities at the coke plant.

[2] The final document, entitled "Carcinogen Assessment of Coke Oven Emissions," EPA–600/6–82–003F, February 1984, is available from the Center for Environmental Research Information, 20 West St. Clair St., Cincinnati, Ohio 45268, (513) 684–7531. The external review drafts and public comments on the drafts of this document are available for inspection and copying in the docket. The transcripts of the SAB meetings are available for inspection and copying at the US EPA Committee Management Staff, Vicki Bailey, Room M2515, 401 M St., SW., Washington, D.C. 20460, (202) 382–5036.

11, 1984 letter to the Administrator, the SAB provided its comments on the document and its general agreement with the adequacy of the document.

Qualitative Assessment of Carcinogenicity

The production of coke by the carbonization of bituminous coal leads to the atmospheric release of chemically complex emissions, including polycyclic organic matter (POM), aromatic compounds (e.g., beta-napthylamine, benzene), and trace metals (e.g., arsenic, beryllium, cadmium, chromium, nickel) which are of concern due to their potential carcinogenic or cocarcinogenic effects. Extensive epidemiological studies of coke oven workers have shown them to be at an excess risk of mortality from lung cancer, prostate cancer, and kidney cancer. A dose-response relationship was established in terms of both the length of employment and intensity of exposure according to work area at the top or the side of the coke oven. Coke oven emission extracts have been shown to be carcinogenic in a number of animal bioassays. The Carcinogen Assessment Document concludes that coke oven emissions are carcinogenic to humans, and the SAB unanimously concurred with this conclusion.

While epidemiological studies have clearly established a dose-response relationship between cancer in workers and occupational exposure to coke oven emissions, it has not been proven through epidemiological studies that exposure to coke oven emissions at ambient levels causes cancers. Epidemiological studies that have revealed a statistically significant association between occupational exposure and cancer for substances such as asbestos, benzene, vinyl chloride, and ionizing radiation, as well as for coke oven emissions, are not as easily applied to the general public with its inherent number of confounding variables such as a much more diverse and mobile exposed population, a lack of consolidated medical records, and limited historical exposure data. Given the above characteristics, EPA considers it improbable that any epidemiological association, short of very large increases in cancer, can be detected among the public with any reasonable certainty. As discussed below, EPA has taken the position, shared by other Federal regulatory agencies, that in the absence of sound scientific evidence to the contrary, carcinogens should be considered to pose some cancer risk at any exposure level. The significance of this risk addressed in the following section

Public Health Risks

Estimation of Cancer Potency

The first element in conducting a risk assessment for coke oven emissions is the estimation of the carcinogenic potency of the emissions, which is expressed as the "unit risk." The unit risk estimate for an air pollutant is defined as the lifetime cancer risk occurring in a population in which all individuals are exposed continuously from birth throughout their lifetimes to a concentration of 1 $\mu g/m^3$ of the agent in the air they breathe. The data used for estimating the unit risk for coke oven emissions are based on the extensive epidemiological studies of coke oven workers which demonstrated an excess cancer risk for persons exposed to high concentrations of these emissions. An extrapolation model then be used to predict the response at much lower community levels. It is assumed, unless evidence exists to the contrary, that if a carcinogenic response occurs at the dose levels used in a study, then responses will occur at all lower doses with an incidence determined by the extrapolation model.

It is not possible to verify any mathematical extrapolation model that relates carcinogen exposure to cancer risks at the extremely low concentrations which must be dealt with in evaluating environmental hazards. For practical reasons, such low levels of risk cannot be measured directly either by animal experiments or by epidemiological studies. EPA, therefore, depends on the current understanding of the mechanisms of carcinogenesis for guidance as to which risk model to use. At the present time, the dominant view of the carcinogenic process involves the concept that most agents that cause cancer also cause irreversible damage to DNA. This position is reflected by the fact that a very large proportion of agents that cause cancer are also mutagenic. There is reason to expect that the quantal type of biological response, which is characteristic of mutagenesis, is associated with a linear non-threshold dose-response relationship. Indeed, there is substantial evidence from mutagenesis studies with both ionizing radiation and a wide variety of chemicals that this type of dose-response model is the appropriate one to use. This is particularly true at the lower end of the dose-response curve. At higher doses, there can be an upward curvature probably reflecting the effects of multi-stage processes on the mutagenic response. The linear non-threshold dose-response relationship is also consistent with the relatively few epidemiological studies of cancer responses to specific agents that contain enough information to make the evaluation possible (e.g., radiation-induced leukemia, breast and thyroid cancer, liver cancer induced by aflatoxins in the diet). There is also some evidence from animal experiments that is consistent with the linear non-threshold model.

The Carcinogen Assessment Document provides a number of different potency estimates for coke oven emissions using two different models (a multi-stage, or polynomial, model and Weibull or power model) as well as different assumptions for adjusting dose to account for the latency period between exposure and the onset of cancer (referred to as the "lag time"). The range of the unit risk estimate under the various assumptions covers five orders of magnitude. The document presents a composite unit risk estimate based on the geometric mean of the four different lag times from the multi-stage model, adjusted to have the largest linear term that is still consistent with the experimental data. [3] This number, 6.2×10^{-4} per $\mu g/m^3$ of benzene soluble organics from coke ovens, is judged to be the most plausible upper-bound risk estimate. It is not, however, the highest unit risk number calculated; the unit risk using *only* the 15-year lag data is twice as high as this "composite" figure. This estimate applies to lung cancer only and does not account for the risks of contracting prostate, kidney, or other cancers which have also been shown to be elevated in coke oven workers. Quantitative data were not sufficient to estimate the risk of contracting these other cancers.

The health assessment document also presents maximum likelihood estimates of the muti-stage model for the four lag times. The maximum likelihood estimates are based on the parameter values for the multi-stage model that maximize the probability of observing the results found in the epidemiology studies. The difference between the maximum likelihood estimate and the 95% upper-bound estimate depends on the lag time. At the 15-year lag time the upper-bound estimate is 2 times higher than the maximum likelihood estimate, while at the 0 lag time, the difference is more than 2 orders of magnitude. The relative difference between estimates is higher for the shorter lag times because the maximum likelihood estimate for linear term is zero. In such cases, the maximum likelihood low dose risk

[3] This is termed the "95% upper bound," since it is consistent with the best fit, or maximum likelihood estimate, at the 95% confidence level.

estimates are extremely sensitive to small changes in the data; parameter estimates that yield almost as high a value for the likelihood function as the maximum likelihood estimates generate much higher predicted risks at the low doses. Furthermore, a lag time of 0 years is less biologically plausible; most human lung cancers occur 20–30 years after exposure to known carcinogens. Accordingly, the longer lag times are more realistic. The maximum likelihood and upper-bound unit risk estimates are summarized below.

MAXIMUM LIKELIHOOD AND 95 PERCENT UPPER-BOUND UNIT RISK ESTIMATES FOR DIFFERENT LAG TIMES

Lag time	Maximum likelihood	95 percent upper-bound
0	2.26×10^{-4}	3.14×10^{-4}
5	4.67×10^{-4}	4.45×10^{-4}
10	3.54×10^{-4}	6.22×10^{-4}
15	6.29×10^{-4}	1.26×109^{-3}

During the public and SAB review of the Carcinogen Assessment Document the American Iron and Steel Institute (AISI) submitted to the Agency information contending that the nonlinear, or Weibull model fits the occupational data better than the linear model in the observed range, gives environmental risk estimates that are lower by an order of magnitude or more than the multi-stage model, and is biologically acceptable. AISI, through their consultants (Consultants in Epidemiology and Occupational Health, Inc. (CEOH)), argued that a composite estimate should average the results from the Weibull and the multi-stage models and should not use data adjusted for the latency period (i.e., use only zero lag time data or, at most, the zero and 5-year lag data). CEOH argued that the zero lag data should be used because it uses all the exposure data, that it contains the most reliable data and most recent exposures, and that recent exposures may have an "enhancing" effect which should not be excluded. Finally, CEOH argued for using the best fit as well as the 95% upper bound for estimating the unit risk. Using the CEOH assumptions, the composite unit risk would be one to more than two orders of magnitude lower than the EPA composite.

As discussed in the Carcinogen Assessment Document, both the Weibull model and the 0- and 5-year lag time for the maximum likelihood estimate are nonlinear at the unit risk concentration. Because a linear model is consistent with current carcinogenic theory and data on other environmental carcinogens, the use of either the Weibull model or the maximum likelihood estimates for these lag times would have the potential for understimating the actual risk. In contrast, the 95% upper-bound estimate of the multi-stage model is a conservative estimate of the actual risk, i.e., it is not likely that the true risk would be much more than the 95% upper-bound, but it may well be considerably lower.

With respect to the lag time issue, the CEOH arguments involving the need to use the most recent data because they are most complete and reliable are not relevant if, in fact, such exposures do not contribute to the cancers which were observed. It is likely that the carcinogenicity of coke oven emissions involves both an initiation as well as a promotion component, with the initiation component probably having little effect for the 10 years immediately preceding the onset of cancer. Since the relative importance of the initiating and promoting components of coke oven emissions are not known, one assumption of lag time cannot be chosen over another on the basis of available data. Thus, EPA has given equal weight to the different lag times by taking the geometric mean of the four lag times. While the SAB took no direct position on the lag time issue, their endorsement of the linear approach indirectly supports inclusion of the 10– and 15–year lag data, since these data are linear and the zero lag data are not.

Exposure

There are currently about 42 wet-coal charged by-product coke plants in existence in the United States, some of which are temporarily shut down but are included in the exposure analysis. Many of these plants are located in or near large population centers, so that the exposed population living within 50 km of a coke oven is quite large. Exact estimates of mass emissions from coke ovens are difficult to obtain and are imprecise because of the fugitive and variable nature of coke oven emissions. However, a variety of emission tests permit an estimate of the range of emissions from the various emission points under the current regulatory baseline. This baseline represents the collective effect of equipment and work practice standards established by the Occupational Safety and Health Administration, State Implementation Plan (SIP) requirements developed to attain the national ambient air quality standards for particulate matter, and consent decrees negotiated under the SIP's. The emission estimates are in terms of the benzene soluble organic (BSO) portion of the particulate matter emitted from charging operations, topside leaks, and door leaks. The emission estimates are expressed in terms of BSO because BSO was used as an indicator of exposure to coke oven emissions in the epidemiology studies and subsequently as an indicator of the carcinogenic potency of coke oven emissions in the Carcinogen Assessment Document. These are presented as ranges to reflect the considerable uncertainty in the emission estimates. The estimated emissions under the regulatory baseline for charging, topside, and door leaks are 150–1,580 metric tons per year.

These emissions, even at the low end of the ranges, result in significant public exposure. This is due to the magnitude of the emissions as well as their low release height (these are fugitive emissions and not emitted through a stack). The most exposed individuals are estimated to be exposed to annual average BSO concentrations ranging from 5.7 to 59 $\mu g/m^3$. The number of people estimated to be exposed to annual average BSO concentrations exceeding 1 $\mu g/m^3$ is 1700 to 117,000. These ranges reflect the ranges in emissions discussed above.

To produce quantitative expressions of public health risks, a numerical expression of public exposure is needed, i.e., of the numbers of people exposed to the various concentrations of coke oven emissions. The difficulty of defining public exposure was noted by the national Task Force on Environmental Cancer and Heart and Lung Disease in their 5th Annual Report to Congress, in 1982.[3] They reported that "* * * Proportion of the American population works some distance away from their homes and experiences different types of pollution in their homes, on the way to and from work, and in the workplace. Also, the American population is quite mobile, and many people move every few years." They also noted the necessity and difficulty of dealing with very long-term exposures because of "* * * the long latent period required for the development and expression of neoplasia (cancer) * * *" To develop quantitative expressions of public exposure to coke oven emissions, it was necessary to use assumptions and a computerized model.

The exposure model assumes that individuals are continuously exposed at their place of residence for a 70-year period to a constant source of coke oven emissions. Census data were used to locate people with respect to the emitting sources, and the exposed population consisted of all the people estimated to be living within a radial

distance of 50 kilometers from the sources. By combining population locations and concentrations, the exposure model produced estimates of exposure at selected radial distances from each identified source and summed the exposure estimates for each source. As used in this notice, the term "exposure" means the product of the estimated ambient air concentration of BSO from coke ovens and the estimated number of people exposed to that concentration. The units of exposure are people—$\mu g/m^3$.

AISI also submitted a number of comments relative to the exposure estimates for coke oven emissions. They contended that due to overestimates in emissions as well as modeling deficiencies, EPA had overstimated public exposure by "considerably more than an order of magnitude." EPA has examined the emission estimates carefully and believes that the likely range of emissions has been adequately bounded. Several of AISI's comments relating to the need to use meteorological data at each coke oven location, more accurate population distribution data, buoyancy and building wake effects, and treatment of the emissions as a line source rather than a point source have since been addressed through additional modeling.

Quantitative Estimates of Public Health Risks

By combining the estimates of public exposure with the unit risk, two types of quantitative estimates are produced. The first, called maximum lifetime risk, relates to the individual or individuals estimated to live in the area of highest concentration as estimated by the dispersion model. The second type of risk estimate, called aggregate risk, is a summation of all the risks to people living within 50 kilometers of a source and is customarily summed for all the sources in a particular category. The aggregate risk is expresed as incidences of cancer among all of the exposed population after 70 years of exposure; for statistical convenience, it is often divided by 70 and expressed as cancer incidences per year.

There also are risks of fatal cancers other than lung cancer, nonfatal cancer, and serious genetic effects, which could not be quantitatively estimated; however, EPA qualitatively considers all of these risks when it makes regulatory decisions on the need to control emissions of coke over emissions.

Using the techniques described above (including the upper-bound unit risk number), which generally produce conservative estimates of risk, the following estimates of annual lung cancer incidence and lifetime risk were calculated at the regulatory baseline:

Cancer Cases per year: 8.6(1.5–15.7)[4]

Number of Plants Causing Various Levels of Individual Risk:

Greater than 1 in 100—6

Between 1 in 100 and 1 in 1000—32

Less than 1 in 1000—4

AISI contends that more "realistic" estimates of risk would be two orders of magnitude less than EPA's upper-bound estimates, with maximum individual risks being "much lower than many risks (such as smoking one pack of cigarettes or drinking one can of diet soda per day, flying 3,000 miles per year, or being killed by lightning) that are regularly accepted by society." Thus, AISI concludes that coke over emissions do not pose a significant health hazard of the kind Congress intended to be regulated under section 112 of the Clean Air Act.

As noted above, EPA does not agree that AISI's risk estimates are more plausible or valid than EPA's. As a matter of prudent public health policy, EPA has chosen to use techniques for estimating risk that are plausible but not likely to underestimate the true risk. Even if AISI's two orders of magnitude adjustment were correct, it is not true that the maximum individual lifetime risk from coke ovens is much less than the activities mentioned by AISI (except for cigarette smoking). Furthermore, EPA does not agree that the presence of other unregulated or tolerated health risks, equal or greater in magnitude than those estimated for exposure to coke oven emissions, obviates the need for regulation. Activities such as smoking and air travel are essentially voluntary in nature with recognized risks. The risk of someone being struck by lightning, while largely involuntary, would be difficult to reduce effectively. For coke oven emissions, however a large component of the health risk is involuntary and unknown. At the same time, reasonable actions are available that can reduce the risks from exposure to coke oven emissions.

EPA continues to believe that the well-documented evidence of the carcinogenicity of coke oven emissions, the quantity of emissions from coke ovens, the observed and estimated ambient concentrations, the proximity of large populations to emitting sources, and the numerical estimates of health risks (including consideration of the uncertainties of such estimates) support the determination that exposure to coke oven emissions "can reasonably be anticipated to result in an increase in mortality or an increase in serious, irreversible, or incapacitating reversible, illness" (section 112 (a)(1) of the Clean Air Act).

The hazardous air pollutant designated by today's action automatically becomes a hazardous substance under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). (See CERCLA section 101(14)). CERCLA requires that persons in charge of facilities from which hazardous substances have been released in quantities that are equal to or greater than the reportable quantities (RQs) immediately notify the National Response Center (NRC) of the release. (See CERCLA section 103 and 48 FR 23552 (May 25, 1983). The toll-free telephone number of the NRC is (800) 424–8802; in the Washington, D.C. metropolitan area (202) 426–2675.

For those hazardous substances for which RQs have not been assigned, a statutory RQ of one pound within a 24-hour period will be assigned for CERCLA notification purposes until the RQs are adjusted by regulation.

Under Executive Order 12291, EPA must judge whether this action is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not major because it imposes no additional regulatory requirements on States or sources. A separate determination will be made with respect to the emission standards for coke ovens proposed under section 112(b). This action was submitted to the Office of Management and Budget for review. Any comments from OMB and any EPA responses are available in the docket. Pursuant to 5 U.S.C. 605(6), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities because a listing under section 112 imposes no requirements in and of itself. This action does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 (U.S.C. 3501 et. seq.).

Notice is hereby given that the Administrator, pursuant to section 112(b)(1)(A) of the Act, amends the list of hazardous air pollutants to read as follows:

List of Hazardous Air Pollutants

* * * * *

8. Coke oven emissions.

[4] Based on the mid-point of the emission estimates; range is shown in parenthesis.

Dated: September 10, 1984.

William D. Ruckelshaus,

Administrator.

References

(1) U.S. Environmental Protection Agency, "An Assessment of the Health Effects of Coke Oven Emissions Germane to Low Level Exposures," Revised External Review Draft, November 1978.

(2) Suta, B.E., "Human Population Exposures to Coke Oven Emissions," October 1978 (Revised May 1979).

(3) U.S. Environmental Protection Agency et al., "Environmental Cancer and Heart and Lung Disease," Fifth Annual Report to Congress by the Task Force on Environmental Cancer and Heart and Lung Disease, August 1982.

[FR Doc. 84-24499 Filed 9-17-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59167A; FRL-2672-8]

Certain Chemicals; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of two applications for test marketing exemptions (TMEs) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME-84-74 and TME-84-75. The test marketing conditions are described below.

EFFECTIVE DATE: September 7, 1984.

FOR FURTHER INFORMATION CONTACT: Candy Brassard, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-202, 401 M Street, SW., Washington, DC 20460, (202-382-3480).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury

EPA hereby approved TME-84-74 and TME-84-75. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the TME applications, and for the time periods and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volumes, number of workers exposed to the new chemicals, and the levels and durations of exposure must not exceed those specified in the applications. All other conditions and restrictions described in the applications and in this notice must be met. The following additional restrictions apply. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME. In addition, the Company shall maintain the following records until five years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA.

1. The applicant must maintain records of the quantity of the TME substances produced and must make these records available to EPA upon request.

2. The applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

TME 84-74

Date of Receipt: July 30, 1984.

Notice of Receipt: August 10, 1984 (49 FR 32109).

Applicant: Products Research and Chemical Corporation.

Chemical: (S) Reaction product of methylene-bis-(4-cyclohexyl isocyanate) with the polymer of ethanol, 2-mercapto oxirane extended, hydroxy terminated.

Use: (S) Coating for aircraft.

Production Volume: 500 kg.

Number of Customers: Ten.

Worker Exposure: Manufacture: a total of 3 workers for 6 hours per day for up to 15 days per year. Processing: a total of 40 workers for 8 hours per day for up to 8 days per year.

Test Marketing Period: Two years.

Commencing on: September 7, 1984.

Risk Assessment: No significant health or environmental concerns were identified. The estimated worker exposure and environmental release of the substance are expected to be low. The test marketing substance will not pose any unreasonable risk of injury to health or the environment.

Public Comments: None.

TME 84-75

Date of Receipt: July 31, 1984.

Notice of Receipt: August 10, 1984 (49 FR 32109).

Applicant: Products Research and Chemical Corporation.

Chemical: (S) Reaction product of methylene-bis-(4-cyclohexyl isocyanate) with the polymer of ethanol, 2,2'-thiobis; ethanol, 2-mercapto; and oxirane methyl.

Use: (S) Coating for aircraft.

Production Volume: 500 kg.

Number of Customers: Ten.

Worker Exposure: Manufacture: a total of 3 workers for 6 hours per day for up to 15 days per year. Processing: a total of 40 workers for 8 hours per day for up to 8 days per year.

Test Marketing Period: Two years.

Commencing on: September 7, 1984.

Risk Assessment: No significant health or environmental concerns were identified. The estimated worker exposure and environmental release of the substance are expected to be low. The test marketing substance will not present any unreasonable risk of injury to health or the environment.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: September 7, 1984.

Don R. Clay,

Director, Office of Toxic Substance.

[FR Doc. 84-24631 Filed 9-17-84; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59165B; FRL-2672-7]

Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of four applications for test marketing exemptions (TMEs) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME-84-67, TME-84-68, TME-84-69, and TME-84-70. The test marketing conditions are described below.

EFFECTIVE DATE: September 7, 1984.

FOR FURTHER INFORMATION CONTACT: James Alwood, Premanufacture Notice Management Branch, Chemical Control

Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–215, 401 M St. SW., Washington, DC 20460, (202–382–3741).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME–84–67, TME–84–68, TME–84–69, and TME–84–70. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the TME applications, and for the time periods and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volumes, number of workers exposed to the new chemicals, and the levels and durations of exposure must not exceed those specified in the applications. All other conditions and restrictions described in the applications and in this notice must be met. The following additional restrictions apply. A bill of lading accompanying each shipment must state that use of the substances is restricted to that approved in the TMEs. In addition, the Company shall maintain the following records until five years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substances produced and must make these records available to EPA upon request.

2. The applicant must maintain records of the dates of shipment to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substances.

TME 84–67

Date of Receipt: July 17, 1984.

Notice of Receipt: July 27, 1984 (49 FR 30241).

Voluntary Suspension of Review Period: July 20, 1984 through July 29, 1984.

Applicant: Confidential.

Chemical: (G) Acrylate copolymer.

Use: (S) Anti-foulant.

Production Volume: 23,000 kg.

Number of customers: 5.

Worker Exposure: Manufacturing, processing, and use—dermal, up to 20 workers.

Test Marketing Period: 1 year.

Commencing on: September 7, 1984.

Risk Assessment: No significant health or environmental concerns were identified. The estimated worker exposure and environmental release of the test market substance are expected to be low. The test market substance will not pose any unreasonable health or environmental risks.

Public Comments: None.

TME–84–68

Date of Receipt: July 17, 1984.

Notice of Receipt: July 27, 1984 (49 FR 30241).

Voluntary Suspension of Review Period: July 20, 1984 through July 29, 1984.

Applicant: Confidential.

Chemical: (G) Acrylate Copolymer.

Use: (S) Anti-foulant.

Production Volume: 23,000 kg.

Number of Customers: 5.

Worker Exposure: Manufacturing, processing, and use—dermal, up to 20 workers.

Test Marketing Period: One year.

Commencing on: September 7, 1984.

Risk Assessment: No significant health or environmental concerns were identified. The estimated worker exposure and environmental release of the test market substance are expected to be low. The test market substance will not present any unreasonable risk of injury to health or the environment.

Public comments: None.

TME–84–69

Date of Receipt: July 17, 1984.

Notice of Receipt: July 27, 1984 (49 FR 30241).

Voluntary Suspension of Review Period: July 20, 1984 through July 29, 1984.

Applicant: Confidential.

Chemical: (G) Acrylate copolymer.

Use: (S) Anti-foulant.

Production volume: 23,000 kg.

Number of Customers: 5.

Worker Exposure: Manufacturing, processing, and use—dermal, up to 20 workers.

Test Marketing Period: One year.

Commencing on: September 7, 1984.

Risk Assessment: No significant health or environmental concerns were identified. The estimated worker exposure and environmental release of the test market substance are expected to be low. The test market substance will not present any unreasonable risk of injury to health or the environment.

Public Comments: None.

TME–84–70

Date of Receipt: July 17, 1984.

Notice of Receipt: July 27, 1984 (49 FR 30241).

Voluntary Suspension of Review Period: July 20, 1984 through July 29, 1984.

Applicant: Confidential.

Chemical: (G) Acrylate Copolymer.

Use: (S) Anti-foulant.

Production Volume: 23,000 kg.

Number of Customers: 5.

Worker Exposure: Manufacturing, processing, and use—dermal, up to 20 workers.

Test marketing Period: One year.

Commencing on: September 7, 1984.

Risk Assessment: No significant health or environmental concerns were identified. The estimated worker exposure and environmental release of the test market substance are expected to be low. The test market substance will not present any unreasonable risk of injury to health or the environment.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: September 7, 1984.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 84–24632 Filed 9–17–84; 8:45 am]

BILLING CODE 6560–50–M

[SA–FRL–2673–2]

Science Advisory Board; Environmental Health Committee, Open Meeting

Under Pub. L. 92–463, notice is hereby given that a two-day meeting of the Environmental Health Committee of the Science Advisory Board will be held on October 3–4, 1984, in Conference Room 3906–3908, Waterside Mall, U.S. Environmental Protection Agency, 401 M Street, Southwest, Washington, D.C. The meeting will start at 9:15 a.m. on

October 3, 1984, and adjourn not later than 4 p.m. on October 4, 1984.

The principal purposes of the meeting will be:

First on October 3, 1984, (1) to be briefed on the programs and initiatives of the Office of Health Research in EPA's Office of Research and Development (ORD); (2) to receive an informational briefing on overall Agency activities regarding ethylene oxide; (3) to review and comment on the scientific adequacy of a draft Health Assessment Document (HAD) on ethylene oxide prepared by the Office of Health and Environmental Assessment (OHEA) in ORD. The HAD is dated April, 1984 (EPA–600/8–84–009A).

Second, on October 4, 1984, to continue the review and comment on the HAD for ethylene oxide; (4) to hear an update for the EHC on the use of its reviews by the Office of Air Quality Planning and Standards; (5) to review additional information from the Office of Toxic Substances regarding a research study, "Design Options for a Retrospective Validation Study of PMN Health Hazard Assessment;" (6) to discuss a report from the HAD Subcommittee for Improving the Quality of HAD reviews; and (7) to discuss upcoming issues of current interest to the members.

For information on how to obtain copies of the draft HAD please write the ORD Publications Office, Center for Environmental Research Information, U.S. EPA, Cincinnati, Ohio 45268 or call (513) 684–7562.

The meeting will be open to the public. Any member of the public wishing to attend, participate, submit a paper, or wishing further information should contact Dr. Daniel Byrd, Executive Secretary to the EHC, or Mrs. Patti Howard, by telephone at (202) 382–2552 or by mail to: Science Advisory Board (A–101F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 before c.o.b. September 28, 1984.

Dated: September 11, 1984.

Terry F. Yosie,

Staff Director, Science Advisory Board.

[FR Doc. 84–24752 Filed 9–17–84; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

September 11, 1984.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511.

Copies of the submissions are available from Doris Peacock, Agency Clearance Officer, (202) 632–7513. Persons wishing to comment on these information collections should contact Marty Wagner, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395–4814.

OMB Number: 3060–0315
Title: Section 76.221, Sponsorship identification; list retention; related requirements
Action: Extension
Respondents: Businesses (including small businesses)
Estimated Annual Burden: 352 Recordkeepers; 176 Hours

OMB Number: 3060–0316
Title: Section 76.305, Records to be maintained locally by cable television system operators for public inspection
Action: Extension
Respondents: Businesses (including small businesses)
Estimated Annual Burden: 3,200 Recordkeepers; 332,800 Hours

OMB Number: 3060–0314
Title: Section 76.209, Fairness doctrine; personal attacks; political editorials
Action: Extension
Respondents: Businesses (including small businesses)
Estimated Annual Burden: 850 Respondents; 2,210 Hours

OMB Number: 3060–0313
Title: Section 76.205, Origination cablecasts by candidates for public office
Action: Extension
Respondents: Businesses (including small businesses)
Estimated Annual Burden: 850 Recordkeepers; 4,250 Hours

William J. Tricarico,

Secretary, Federal Communications Commissions.

[FR Doc. 84–24593 Filed 9–17–84; 8:45 am]

BILLING CODE 6712–01–M

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

The Federal Communications Commission has submitted the following information collection requirements of OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L 96–511.

Copies of these submissions are available from Doris R. Peacock, Agency Clearance Officer, (202) 632–7513. Persons wishing to comment on an information collection should contact Marty Wagner, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395–4814.

OMB No.: 3060–0019
Title: Application for a Radio Station License or Modification Thereof Under Part 23 or 25
Form No.: FCC 403
Action: Extension
Respondents: Wireline and radio common carriers applying for license upon completion of construction, or seeking to modify an existing license
Estimated Annual Burden: 3,000 Responses, 30,000 Hours.

OMB No.: 3060–0029
Title: Application for New Commercial or Noncommercial Educational Broadcast Station License
Form No.: FCC 302
Action: Revision
Respondents: Commercial AM, FM and TV stations and Noncommercial FM and TV stations (including small businesses)
Estimated Annual Burden: 962 Responses, 257,420 Hours.

OMB No.: 3060–0034
Title: Application for Construction Permit for Noncommercial Educational Broadcast Station
Form No.: FCC 340
Action: Revision
Respondents: Noncommercial educational AM, FM and TV stations
Estimated Annual Burden: 544 Responses, 41,344 Hours.

OMB No.: 3060–0059
Title: Statement Regarding the Importation of Radio Frequency Devices Capable of Causing Harmful Interference
Form No.: FCC 740
Action: Revision
Respondents: Importers of radio frequency devices (including small businesses)
Estimated Annual Burden: 240,000 Responses, 20,160 Hours.

OMB No.: 3060–0090
Title: Registration of Canadian Radio Station Licensee and Application for Permit to Operate in the United States.
Form No.: FCC 410
Action: Extension
Respondents: Canadian licensees requesting permission to operate mobile units in the U.S.

Estimated Annual Burden: 223 Responses, 19 Hours.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-24591 Filed 9-17-84; 8:45 am]

BILLING CODE 6712-01-M

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee); Main Committee Meeting

September 12, 1984

The next meeting of the Space WARC Advisory Committee is scheduled for October 1, 1984. The principal objective of the meeting will be to review the status of U.S. preparations for the Space WARC, including a review of the work plan and coordinated schedule of the working groups within the Committee. Details regarding the date, place and agenda of the meeting are provided below.

Chairman: S.E. Doyle (916) 355-6941.
Vice Chairman: R.F. Stowe (703) 442-5022.
Date: Monday, October 1, 1984.
Time: 10:00 A.M.-1:00 P.M.
Location: Federal Communications Commission, 1919 M Street, NW., Room 856, Washington, D.C. 20554.

Agenda

(1) Adopted of Agenda
(2) Review of Minutes
(3) Work Pland Review and Schedule
—Service and Bands Working Group
—Planning Working Group
—Technical and Economic Working Group
—International Regulatory Working Group
—Broadcast Satellite Services Working Group
(4) Coordinated Schedule of Meetings
(5) Other Business
(6) Adjournment

Note.—The Steering Working Group will meet from 9:00-10:00 A.M. in the above location on the same date.

William J. Tricarico,

Secretary, Federal Communitation Commissions.

[FR Doc. 84-24589 Filed 9-17-84; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1478]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

September 10, 1984.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Cable Television syndicate Exclusivity and Carriage of Sports Telecasts. (RM-4138)

Filed by: Philip R. Hochberg, Attorney for National Basketball Association, National Hockey League and North American Soccer League on 8-8-84.

Subject: Petition to exempt Digital Electronic Organs From Part 15 of the FCC Rules. (RM-4460)

Filed by: Donald E. Ward and Chester F. Naumowicz, Attorneys for Allen Organ Company on 8-23-84.

Subject: Investigation of Access and Divestiture Related Tariffs. (CC 83-1145, Phase I)

Filed by:

William G. Milne, General Counsel and Daniel A. Huber, Assistant General Counsel for U.S. Telephone, Inc., on 5-2-84.

Randall B. Lowe and Tanina D. Liammari, Attorneys for The Association of Long Distance Telephone Companies on 5-30-84.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-24590 Filed 9-17-84; 8:45 am]

BILLING CODE 6712-01-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 he Washington, D.C. 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, D.C. 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.: 221-004153-001.

Title: Freeport, Texas Terminal Premises Agreement.

Parties:

Brazos River Harbor Navigation District (Freeport, Texas), (Brazos).

(Standard Fruit and Steamship (Standard).

Synopsis: Agreement No. 221-004153-001 modifies the basic agreement to state that all construction referred to in the original agreement has been accomplished. Changes were made in the amount of rent to be paid by Standard to Brazos for the exclusive use of the facilities.

Agreement No.: 224-0104642.

Title: Oakland Marine Terminal Agreement.

Parties:

The Port of Oakland (Port).

Stevedoring Services of America (SSA).

Synopsis: The agreement provides that the Port will assign to SSA the responsibility of management, terminal operation and cargo solicitation services at the Port's Charles P. Howard Terminal. SSA will utilize the said area and the two container cranes therein for the berthing of vessels and the loading and discharging of cargoes and operations thereto. The term of the agreement is for five years with an extension option.

Dated: September 13, 1984.

By order of the federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 84-24698 Filed 9-17-84; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Alamo Corporation of Texas; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section § 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. Unless otherwise noted, such activities will be conducted throughout the United States.

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 Reserve Bank indicated or the offices of the Board of Governors not later than October 10, 1984.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Alamo Corporation of Texas,* Alamo, Texas; to engage in those trust and fiduciary activities permitted by Texas law and Regulation Y, by acquiring certain assets of Business Benefits Corporation, Houston, Texas, whose business consists of providing consultation and record keeping services for defined benefit and contribution retirement plans.

Board of Governors of the Federal Reserve System, September 12, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-24581 Filed 9-17-84; 8:45 am]

BILLING CODE 6210-01-M

Susquehanna Bancshares, Inc., et al.; Notice of Applications to Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) 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 commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 10, 1984.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105.

1. *Susquehanna Bancshares, Inc.,* Lititz, Pennsylvania; to engage *de novo* through its subsidiary, Susque-Bancshares Life Insurance Company, Phoenix, Arizona, in underwriting as reinsurer, credit life and accident and health insurance directly related to extensions of credit by Farmers First Bank, Lititz, Pennsylvania, and Citizens National Bank & Trust Company of Waynesboro, Waynesboro, Pennsylvania. These activities would be conducted in southcentral Pennsylvania.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Maryland Bancorp,* Baltimore, Maryland, and *Allied Irish Banks Limited,* Dublin, Ireland; to engage *de novo* through their subsidiary, First Maryland Life Insurance Company, in underwriting, as reinsurer, credit life and credit disability insurance which is directly related to extensions of credit by affiliates of First Maryland Bancorp. These activities would be conducted in the State of Virginia.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Shell Rock Bancorporation,* Shell Rock, Iowa; to engage *de novo* in the making or acquiring of loans or other extensions of credit such as would be made by a commercial financial company, including commercial loans secured by a borrower's inventory, accounts receivable or other assets. These activities would be conducted in the State of Iowa.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *American Heritage Bancorp, Inc.,* El Reno, Oklahoma; to engage *de novo* in general insurance agency activities, except the sale of life insurance and annuities, by a bank holding company with less than $50 million in assets.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Bancorp Hawaii, Inc.* Honolulu, Hawaii; to engage through its existing subsidiary, Bancorp Life Insurance of Hawaii, Inc., Honolulu, Hawaii, in underwriting as a reinsurer of credit life insurance in conjunction with short-term consumer lending activities of Bank of Hawaii. These activities would be conducted in American Samoa, Koror, Kwajalein, Ponape and Yap.

Board of Governors of the Federal Reserve System, September 12, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-24582 Filed 9-17-84; 8:45 am]

BILLING CODE 6210-01-M

United Virgina Bankshares 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 October 11, 1984.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *United Virginia Bankshares Incorporated,* Richmond, Virginia; to acquire 20.5 percent or more of the voting shares or assets of Citizens Trust Company, Portsmouth, Virginia.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *FMB Bancshares, Inc.,* Lakeland, Georgia; to become a bank holding company by acquiring 80 percent of the voting shares of Farmers & Merchants Bank, Lakeland, Georgia.

2. *Golden Summit Corporation* Milton, Florida; to acquire 100 percent of the voting shares or assets of American Security State Bank, Pensacola, Florida, a *de novo* bank.

3. *Peoples Bancshares of Natchitoches, Inc.,* Natchitoches, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of The Peoples Bank & Trust Company, Natchitoches, Louisiana.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago Illinois 60690:

1. *Arlington Bank Corporation,* Arlington, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Arlington State Bank, Arlington, Indiana.

2. *First American Corporation,* Elk Grove Village, Illinois; to acquire 20.2 percent or more of the voting shares of Meadowview Bancorp, Inc., Chicago, Illinois, thereby indirectly acquiring First Bank of Meadowview, Kankakee, Illinois.

3. *Meadowview Bancorp, Inc.,* Chicago, Illinois; to become a bank holding company by acquiring 80 percent or more of the voting shares of First Bank of Meadowview, Kankakee, Illinois.

4. *M.S.B. Bancorporation, Inc.,* Marion, Wisconsin; to become a bank holding company by acquiring at least 90 percent of the voting shares of Marion State Bank, Marion, Wisconsin.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Fairmont Farmers State Company,* Fairmont, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers State Bank, Fairmont, Nebraska.

2. *Security Bancorporation, Inc.,* St. Joseph, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Security National Bank, St. Joseph, Missouri.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Coppell Financial Corporation, Inc.,* Dallas, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of Coppell Bank, N.A., Coppell, Texas, a *de novo* bank.

Board of Governors of the Federal Reserve System, September 12, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-24583 Filed 9-17-84; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 84-0764—Champion International Corporation's proposed acquisition of voting securities of St. Regis Corporation.	Aug. 27, 1984.
(2) 84-0765—Champion International Corporation's proposed acquisition of voting securities of St. Regis Corporation.	Do.
(3) 84-0768—Champion International Corporation's proposed acquisition of assets of St. Regis Corporation.	Do.
(4) 84-0798—Esselte AB's proposed acquisition of voting securities of Nielsen Moulding Design Corporation (Helmar Nielsen, UPE).	Aug. 28, 1984.
(5) 84-0852—Merrill Lynch & Company Incorporated's proposed acquisition of voting securities of Palm Beach, Incorporated.	Do.
(6) 84-0819—Paine Webber Group Incorporated's proposed acquisition of voting securities of Rouse Real Estate Finance, Incorporated (The Rouse Company, UPE).	Aug. 29, 1984.
(7) 84-0790—The Coca-Cola Company's proposed acquisition of voting securities of The Mid-Atlantic Bottling Company.	Do.
(8) 84-0800—Security Centres Holding PLC's proposed acquisition of voting securites of Holmes Protection, Incorporated (Jacques G. Murray, UPE).	Do.
(9) 84-0810—The Times Mirror Company's proposed acquisition of voting securities of Tejon Ranch Company.	Do.
(10) 84-0828—Hawker Siddeley Group PLC's proposed acquisition of voting securities of Safetran Systems Corporation (CCI Corporation, UPE).	Do.
(11) 84-0843—Farah Manufacturing Company, Incorporated's proposed acquisition of assets of General Holdings, Limited, Geno Limited and Generra Sportswear, Company, Incorporated.	Do.
(12) 84-0848—Lexitel Corporation's proposed acquisition of voting securities of LDX, Incorporated (Kansas City Southern Industries, Incorporated, UPE).	Do.
(13) 84-0849—Kansas City Southern Industries, Incorporated's proposed acquisition of voting securities of Lexitel Corporation.	Do.
(14) 84-0850—First Boston Incorporated's proposed acquisition of voting securities of RaceCo Incorporated.	Do.
(15) 84-0851—First Boston Incorporated's proposed acquisition of voting securities of Amerace Corporation.	Do.
(16) 84-0856—Bass Investments Ltd. Partnership's proposed acquisition of voting securities of Amerace Corporation.	Do.
(17) 84-0806—The May Department Stores Company's proposed acquisition of assets of Meshulam Riklis.	Aug. 30, 1984.
(18) 84-0811—Nippon Oil & Fats Company, Ltd.'s proposed formation of a joint venture corporation, Metal Coatings International Incorporated.	Do.
(19) 84-0814—Diamond Shamrock Corporation's proposed formation of a joint venture corporation, Metal Coatings International Incorporated.	Do.
(20) 84-0846—Merrill Lynch and Company, Incorporated's proposed acquisition of voting securities of Becker Paribas Holdings, Incorporated (Compagnie Financiere de Paribas, UPE).	Do.
(21) 84-0862—Provident Mutual Life Insurance Company of Philadephia's proposed acquisition of voting securities of W.H. Newbold's Son & Company, Incorporated.	Do.
(22) 84-0864—ITT Corporation's proposed acquisition of voting securities of Yamaha, Motor Corporation, USA and assets of Yamaha Motor Corporation (Yamaha Motor Company, Ltd, UPE).	Do.
(23) 84-0867—Texas Eastern Corporation's proposed acquisition of voting securities of NORPAC Exploration Service, Incorporated.	Do.

Transaction	Waiting period terminated effective
(24) 84-0755—United Artists Communications, Incorporated's proposed acquisition of voting securities of General Electric Cablevision Corporation (General Electric Company, UPE).	Aug. 31, 1984.
(25) 84-0756—General Electric Company's proposed acquistion of voting securities of United Artists Communications, Incorporated.	Do.
(26) 84-0825—TRW Incorporated's proposed acquisition of voting securities of D.A.B. Industries, Incorporated.	Sept. 5, 1984.
(27) 84-0829—Royal Dutch Petroleum Company's proposed acquisition of assets of W. R. Grace & Company.	Do.
(28) 84-0836—Sonat, Incorporated's proposed acquisition of voting securities of Boise Cascade Corporation.	Sept. 6, 1984.
(29) 84-0838—Boise Cascade Corporation's proposed acquisition of assets of Boise Southern Company	Do.
(30) 84-0842—Sonat, Incorporated's proposed acquisition of assets of Boise Southern Company	Do.
(31) 84-0858—Tenneco Incorporated's proposed acquisition of voting securities of Multistate Oil Properties N. V., (Amero Realty Investments N. V., Mr. Gunter Sachs, UPE)	Do.
(32) 84-0873—Bass Brothers Enterprises, Incorporated's proposed acquisition of voting securities of American Motor Inns, Incorporated	Do.
(33) 84-0820—The Philadelphia Saving Fund Society's proposed acquisition of assets of the Mortgage Banking Operations of three Corporations (Norvald L. Ulvestad, UPE).	Sept. 7, 1984.
(34) 84-0853—The Circle K Corporation's proposed acquisition of assets of General Host Corporation	Do.
(35) 84-0859—Inspiration Resources Corporation's proposed acquisition of voting securities of Universal Resources Corporation	Do.
(36) 84-0860—Legrand S. A.'s proposed acquisition of voting securities of Pass & Seymour, Incorporated	Do.
(37) 84-0865—Legrand S. A.'s proposed acquisition of voting securities of Pass & Seymour, Incorporated	Do.

FOR FURTHER INFORMATION CONTACT: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

Emily H. Rock,

Secretary.

[FR Doc. 84-24700 Filed 9-17-84; 8:45 am]

BILLING CODE 6750-01-M

Senior Executive Service; Announcement of Membership of Performance Review Boards

The Federal Trade Commission has two Performance Review Boards.

The members of the first Board are:

Wallace S. Snyder
Richard Higgins
Winston S. Moore

The members of the second Board are:

Amanda Pedersen
Ronald S. Bond
Barbara Clark

For further information, please call Stephen C. Benowitz, Director of Personnel, Federal Trade Commission, (202) 523-3986.

Stephen C. Benowitz,

Director of Personnel.

[FR Doc. 84-24699 Filed 9-17-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-84258]

Alaska; Proposed Withdrawal and Opportunity for Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice provides an opportunity for public comment pursuant to a proposed withdrawal and reservation of lands requested by the United States Air Force, Tactical Air Command, on May 21, 1984, for support of an existing facility.

EFFECTIVE DATE: Date of publication; comments must be received on or before December 17, 1984.

ADDRESS: Comments and meeting requests should be sent to Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

FOR FURTHER INFORMATION CONTACT: Mary Jane Clawson, Alaska State Office, (907) 271-5060.

On May 21, 1984, the United States Air Force, Tactical Air Command, filed an application to withdraw the following described land from settlement, sale, location, or entry under the general public lands laws, including the mining laws, subject to valid existing rights:

A parcel of land situated within Sections 14, 15, 22 and 23, Township 23 North, Range 18 West, Umiat Meridian, Barrow Recording District, Second Judicial District, State of Alasks; said parcel being more particularly described as follows:

COMMENCING at U.S.C. & G.S. Station "Point Barrow"—South Base—1945;
Thence South 88°40'55" West, a distance of 4632.56 feet, more or less, to a point;
Thence north, a distance of 146.00 feet, more or less, to the mean high water line of Imikpuk Lake;
Thence northerly, along said mean high water line, a distance of 4300.00 feet, more or less, to a point on the northerly end of said lake, said point being located on an approximate bearing of South 43° East, 275.00 feet, more or less, and approximately South 52°35' West, 625.00 feet, more or less, from the southwesterly terminus of the Point Barrow Airfield Centerline, as extended, said point being also THE TRUE POINT OF BEGINNING;
Thence on an approximate bearing of North 43° West, a distance of 625.00 feet, more or less, to the mean high water line of the Chukchi Sea;
Thence northeasterly, along said mean high water line, a distance of 6000.00 feet, more or less, to a point being located on an approximate bearing of North 34°50' West, 380.00 feet, more or less, and approximately North 52°35' East, 300.00 feet, more or less, from the northeasterly terminus of said airport centerline, as extended;
Thence on an approximate bearing of South 34°50' East, a distance of 485.00 feet, more or less, to the north—south center section line of Section 14, Township 23 North, Range 18 West, Umiat Meridian;
Thence South, along said north—south center section line, a distance of 975.00 feet, more or less, to the mean high water line of the North Salt Lagoon;
Thence southwesterly along said mean high water line, a distance of 3000.00 feet, more or less, to a point on the east boundary line of Section 22 of said township and range;
Thence West, a distance of 600.00 feet, more or less;
Thence South, a distance of 1062.00 feet, more or less;
Thence on an approximate bearing of South 50° West, a distance of 480.00 feet, more or less, to the mean high water line of said Imikpuk Lake;
Thence northwesterly, along said mean high water line, a distance of 1000.00 feet, more or less, to the Point of Beginning.

The area described contains approximately 150 acres located near Pt. Barrow, Alaska.

The purpose of the proposed withdrawal is for support of an existing facility.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of publication of this notice in the Federal Register, the lands will be segregated as specified above unless the application is denied or canceled, or the withdrawal is approved prior to that date. The temporary uses which will be permitted during this segregative period are licenses, permits, cooperative agreements, or other discretionary land use authorizations of a temporary nature.

The temporary segregation of the lands in connection with a withdrawal application or proposal shall not affect administrative jurisdiction over the lands, and the segregation shall not have the effect of authorizing any use of the lands by the applicant agency.

Mary Jane Clawson,

Chief, Branch of Lands.

[FR Doc. 84-24605 Filed 9-17-84; 8:45 am]

BILLING CODE 4310-JA-M

Susanville, CA, District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Tour and Meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94-579 (FLPMA) that a meeting of the Susanville District Advisory Council will be held on October 4 and 5, 1984.

The meeting will begin at 10:00 a.m. on October 4, in the Conference Room of the Bureau of Land Management Office, 705 Hall Street, Susanville CA. On October 5, the Council will be taken on a field trip to examine issues surrounding Eagle Lake, fuel wood cutting, and prescribed fire.

The Agenda will include:

(1) Nevada State Government's Wilderness Consistency Review Process.

(2) A report on the seasons wildfire impacts and proposal rehabilitation.

(3) BLM's prescribed fire plans.

(4) Eagle Lake water level issues.

(5) Updates on numerous on-going programs.

The meeting is open to the public and time will be provided for public comment.

FOR FURTHER INFORMATION CONTACT: Alan Hoffmeister, Public Affairs Officer, (916) 257-5381.

C. Rex Cleary,

District Manager, Susanville.

[FR Doc. 84-24634 Filed 9-17-84; 8:45 am]

BILLING CODE 4310-40-M

[C-083504, C-083507]

Small Tract Classification; Cancellation, Opening of Public Lands; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Cancellation of Small Tract Classification and Opening of Public Lands.

SUMMARY: This order terminates classifications made under the authority of the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682(a)) which was repealed by the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2751; 43 U.S.C. 1712) and opens the land to operation of the public land laws and the general mining laws.

FOR FURTHER INFORMATION CONTACT: Colorado State Office, 2020 Arapahoe Street, Denver, Colorado 80205.

By virtue of the authority vested in the Secretary of the Interior by section 202 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1712, it is ordered as follows:

1. Small Tract Classification No. 15 of November 8, 1955, published in the Federal Register of November 17, 1955, at page 8523 and Small Tract Classification No. 18 of July 7, 1957, published in the Federal Register of July 10, 1957, at page 4865 are hereby canceled

2. At 10 a.m. on October 11, 1984, the lands will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on October 11, 1984, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Sixth Principal Meridian

T. 3 N., R. 76 W.;
Sec. 22, lots 10 and 16.
T. 1 N., R. 91 W.,
Sec. 36, lots 11, 12, 19, 27, 31, 32, 33, 34, 35, 36, 38, 39, 52, 59 and 60.

The areas described aggregate 49.29 acres in Grand and Rio Blanco Counties.

3. At 10 a.m. on October 11, 1984, the lands described will be opened to location under the United States mining laws. Appropriation of the lands described in paragraph two above under the general mining laws prior to the date and time of opening is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in the local courts.

4. These lands have been and will remain open to applications and offers under the mineral leasing laws.

Dated: September 5, 1984.

Richard E. Richards,

Acting Chief, Branch of Lands & Minerals Operations, Colorado State Office.

[FR Doc. 84-24604 Filed 9-17-84; 8:45 am]

BILLING CODE 4310-JB-M

[Serial No. I-13343]

Exchange of Public and Private Lands; Idaho

The United States has issued an exchange conveyance document to National American Enterprises, Inc., 2358 South 3600 West, Salt Lake City, Utah 84419, for the following-described lands under section 206 of the Federal Land Policy and Management Act of 1976:

Boise Meridian, Idaho

T. 2 N., R. 3 E.,
Sec. 15, SW¼;
Sec. 17, SE¼NE¼, E½SE¼;
Sec. 20, NE¼NE¼;
Sec. 23, NE¼SE¼;
Sec. 25, N½SW¼;
Sec. 35, SW¼SW¼, W½W½W½SE¼ SW¼.

Comprising 485.00 acres of public land.

In exchange for these lands, the United States acquired the following-described lands:

Boise Meridian, Idaho

T. 2 N., R. 3 E.,
Sec. 10, NE¼NE¼SW¼, S½NW¼SE¼; E½SW¼SE¼;
Sec. 14, N½NW¼;
Sec. 15, N½NE¼NE¼, SE¼NE¼NE¼;
Sec. 23, N½NE¼NE¼,
Sec. 24, N½SW¼NW¼, NE¼NE¼SW¼, S½NE¼SE¼, N½NW¼SE¼, SW¼ NW¼SE¼, SE¼SE¼.
T. 2 N., R. 4 E.,
Sec. 19, lot 4 except for 120 foot square parcel described as follows:

Beginning at a point on south line of section 19 from which the southwest corner of section 19 bears N.89°32'30" W. a distance of 1146.15 ft., from point of beginning with metes and bounds:

S. 89°32'30" E. 120.0 ft.
N. 0°27'30" E. 120.0 ft.
N. 89°32'30" W. 120.0 ft.
S. 0°27'30" W. 120.0 ft. to point of beginning.

Sec. 30: lots 1 and 2. W½SE¼NW¼, NE¼ SW¼.

Comprising 480.4 acres of private land.

The purpose of this exchange was to acquire the non-Federal land which has high historical values, livestock grazing, and wildlife habitat. The public interest was well served through completion of the exchange.

Dated: September 7, 1984.

Louis B. Bellesi,

Deputy State Director for Operations.

[FR Doc. 84-24607 Filed 9-17-84; 8:45 am]

BILLING CODE 4310-GG-M

National Park Service

Concurrent Jurisdiction—Units of the National Park Service Situated in the State of North Carolina

Notice is hereby given that effective as of the 27th day of July 1984, concurrent jurisdiction was established over National Park Service lands and waters within the following units of the National Park System situated in the State of North Carolina:

Blue Ridge Parkway
Cape Hatteras National Seashore
Cape Lookout National Seashore
Carl Sandburg Home National Historic Site
Fort Raleigh National Historic Site
Great Smoky Mountains National Park
Guilford Courthouse National Military Park
Moores Creek National Military Park
Wright Brothers National Monument

Concurrent jurisdiction was established by virtue of a Memorandum of Agreement between the United States of America, acting through the Director of the National Park Service, in accordance with the Act of October 7, 1976, (90 Stat. 1939; 16 U.S.C. 1a–3) and the Act of February 1, 1940, (54 Stat. 19, as amended; 40 U.S.C. 255) and the State of North Carolina, acting through its Governor, in accordance with the General Statutes of North Carolina 104–11.1 and 104–31.

The Honorable James B. Hunt, Jr., Governor of the State of North Carolina, executed this Memorandum of Agreement on June 28, 1983. Concurrent jurisdiction was established upon execution of this Memorandum of Agreement by Russell E. Dickenson, Director of the National Park Service, on July 27, 1984.

Bob Baker,

Regional Director, Southeast Region, National Park Service.

[FR Doc. 84-24666 Filed 9-17-84; 8:45 am]

BILLING CODE 4310-70-M

Notice of Intention To Negotiate Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Guest Services, Inc., authorizing it to continue to provide food and beverage, merchandise and souvenirs, tennis, ice skating, marina and related services for the public within the National Capital Region for a period of up to twenty-five (25) years from January 1, 1985.

This proposed contract requires/authorizes a construction and improvement program. The construction and improvement program required/authorized was previously addressed in the National Environmental Policy Act document (Final Environmental Impact Statement on this proposed rehabilitation of the National Mall and the Development Concept Plan for the Washington Monument Grounds within the National Capital Region).

An assesment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment and finding of no significant impact may be reviewed in the National Capital Region.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1991, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, National Capital Region, 1100 Ohio Drive, SW., Washington, D.C., for information as to the requirements of the proposed contract.

Dated: September 7, 1984.

Manus J. Fish, Jr.,

Regional Director, National Capital Region.

[FR Doc. 84-24648 Filed 9-17-84; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 7, 1984. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by October 3, 1984.

Carol D. Shull,

Chief of Registration, National Register.

ARKANSAS

Ashley County

Parkdale, *Williams, Dr. Robert George, House*, AR 8 and 209

Benton County

Siloam Springs, *Alfrey-Brown House*, 1001 S. Washington St.

Cleburne County

Heber Springs vicinity, *Winkley Bridge*, E of Heber Springs at Little Red River

Cleveland County

Rison vicinity, Mt. Carmel Methodist Church, N of Rison off U.S. 79

Desha County

Arkansas City, *Arkansas City High School*, Robert S. Moore and Presidents Sts.

Lonoke County

Lonoke *Rock Island Depot*, U.S. 70 and Center St.

Montgomery County

Pine Ridge, *Huddleston Store and McKinzie Store*, AR 88

Pulaski County

Little Rock, *First Church of Christ, Scientist*, 20th and Louisiana Sts.

INDIANA

Dubois County

Jasper vicinity, *Opel, John, House (Green Tree Hotel)*, St. James St.

IOWA

Keokuk County

Sigourney vicinity, *Lancaster School*, SE of Sigourney

KANSAS

Atchison County

Atchison, *Howard, Frank, House*, 305 North Terrace

Lyon County

Emporia, *Plumb, Mrs. Preston B., House*, 224 E. 6th Ave.

Sedgwick County

Wichita, *Lassen Hotel*, Market Ave. and 1st St.

LOUISIANA

East Feliciana Parish

Clinton, *Woodside*, St. Helena St.

Lafayette Parish

Youngsville, *Dupleix House*, 106 Lafayette St.

Lincoln Parish

Simsboro vicinity, *Walnut Creek Baptist Church*, NW of Simsboro off I–20

Ouachita Parish

Monroe, *Lower Pargoud*, 2111 S. Grand St.

West Feliciana Parish

Laurel Hill, *St. John's Episcopal Church*, Old Laurel Hill Rd.

MICHIGAN

Washtenaw County

Ypsilanti, *Eastern Michigan University Historic District*, Cross St., Washtenaw and Forest Aves.
Ypsilanti, *Pease Auditorium*, College Pl.

MINNESOTA

Meeker County

Litchfield, *Litchfield Opera House*, 126 N. Marshall Ave.

MISSISSIPPI

Pike County

Magnolia, *Annex, The (Magnolia MRA)*, 225 Magnolia St.
Magnolia, *Berryhill House (Magnolia MRA)*, 265 W. Railroad Ave.
Magnolia, *Buie Building (Magnolia MRA)*, 110 E. Railroad Ave.
Magnolia, *Carraway House (Magnolia MRA)*, 420 N. Clark St.
Magnolia, *Chadwick, George, House (Magnolia MRA)*, 560 N. Cherry St.
Magnolia, *Depot (Magnolia MRA)*, 101 E. Railroad Ave.
Magnolia, *Everette-Gottig-Bilbo House (Magnolia MRA)*, 109 E. Myrtle St.
Magnolia, *Holmes House (Magnolia MRA)*, 405 N. Cherry St.
Magnolia, *Lanier House (Magnolia MRA)*, 400 N. Clark St.
Magnolia, *Lieb-Rawls House (Magnolia MRA)*, 303 Magnolia St.
Magnolia, *Mullen House (Magnolia MRA)*, 515 N. Cherry St.
Magnolia, *Myrtle Street Historic District (Magnolia MRA)*, W. Myrtle St. between N. Clark and N. Prewitt Sts.
Magnolia, *Norwood-TWL Building (Magnolia MRA)*, 131 W. Railroad Ave.
Magnolia, *Simmons House (Magnolia MRA)*, 489 Prewitt St.
Magnolia, *Southtown Historic District (Magnolia MRA)*, Roughly bounded by Minnehaha Creek, Illinois Central RR, Bay, Laurel, and Prewitt Sts.
Magnolia, *Stogner House (Magnolia MRA)*, 550 N. Cherry St.

NEW YORK

Rensselaer County

Troy, *Oakwood Cemetery*, 101st St.

TENNESSEE

Davidson County

Nashville, *Federal Reserve Bank of Atlanta (Marr and Holman Buildings in Downtown Nashville TR)*, 226 N. 3rd Ave.
Nashville, *Noel Hotel (Marr and Holman Buildings in Downtown Nashville TR)*, 200–204 N. 4th Ave.
Nashville, *Rich-Schwartz Building (Marr and Holman Buildings in Downtown Nashville TR)*, 202–204 N. 6th Ave.
Nashville, *Robertson, James, Hotel (Marr and Holman Buildings in Downtown Nashville TR)*, 118 N. 7th Ave.
Nashville, *Tennessee Supreme Court Building (Marr and Holman Buildings in Downtown Nashville TR)*, 401 N. 7th Ave.
Nashville, *U.S. Post Office (Marr and Holman Buildings in Downtown Nashville TR)*, 901 Broadway
Nashville, *Warner Building (Marr and Holman Buildings in Downtown Nashville TR)*, 535 Church St.

TEXAS

Bexar County

San Antonio, *South Alamo Street-South St. Mary's Street Historic District*, Bounded by the San Antonio River, S. Alamo, S. St. Mary's, and Temple Sts.

Jefferson County

Beaumont, *Duke, Holmes, House*, 694 Forrest St.

Tarrant County

Fort Worth, *Allen Chapel AME Church*, 116 Elm St.

VERMONT

Bennington County

Bennington vicinity, *Old Bennington Historic District*, Roughly bounded by Rutland RR, Monument Ave. and Circle, West Rd., Seminary Lane, Elm and Fairview Sts.

VIRGINIA

Bedford (Independent City)

Bedford Historic District, Roughly bounded by Longwood, Bedford, and Mountain Aves., Peaks, Oak, Grove, and Washington Sts.

Bristol (Independent City)

Virginia Intermont College, Moore and Harmeling Sts.

Buckingham County

Gravel Hill, *Buckingham Female Collegiate Institute Historic District*, VA 617

Falls Church (Independent City)

Mount Hope, 203 Oak St.

Hampton (Independent City)

Victoria Boulevard Historic District, Roughly bounded by Sunset Creek, Armisted and Linden Aves., and Bridge St.

Louisa County

Bumpas vicinity, *Jerdone Castle*, N of Bumpas

Newport News (Independent City)

Hotel Warwick, 25th St. and West Ave.

Norfolk (Independent City)

U.S. Post Office and Courthouse, 600 Granby St.

Portsmouth (Independent City)

Park View Historic District, Roughly bounded by Elm and Parkview Aves., Fort Lane, Blair, and Harrell Sts.

Richmond (Independent City)

Randolph School, 300 S. Randolph St.
Virginia War Memorial Carillon, 1300 Blanton Ave.

Tazewell County

Cedar Bluff, *Clinch Valley Roller Mills*, River Street Dr.

Waynesboro (Independent City)

Fishburne Military School, 225 S. Wayne Ave.

WISCONSIN

St. Croix County

Hudson, *Darling, Frederick L., House (Hudson and North Hudson MRA)*, 617 3rd St.
Hudson, *Dwelley, William, Hose (Hudson and North Hudson MRA)*, 1002 4th St.
Hudson, *Hudson Public Library (Hudson and North Hudson MRA)*, 304 Locust St.
Hudson, *Humphrey, Herman L., House (Hudson and North Hudson MRA)*, 803 Orange St.
Hudson, *Johnson, August, House (Hudson and North Hudson MRA)*, 427 St. Croix St.
Hudson, *Johnson, Dr. Samuel C., House (Hudson and North Hudson MRA)*, 405 Locust St.
Hudson, *Lewis-Williams House (Hudson and North Hudson MRA)*, 101 3rd St.
Hudson, *Merritt, Samuel T., House (Hudson and North Hudson MRA)*, 904 7th St.
Hudson, *Second Street Commercial District (Hudson and North Hudson MRA)*, Roughly 1st, 2nd, Walnut, and Locust Sts.
Hudson, *Sixth Street Historic District (Hudson and North Hudson MRA)*, Roughly 6th St. between Myrtle and Vine Sts.
Hudson, *Williams, T.E., Block (Hudson and North Hudson MRA)*, 321 2nd St.
North Hudson, *Chicago, St. Paul, Minneapolis and Omaha Railroad Car Shop Historic District (Hudson and North Hudson MRA)*, Roughly bounded by Gallahad Rd., Sommer, 4th and St. Croix Sts.

[FR Doc. 84–24649 Filed 9–17–84; 8:45 am]
BILLING CODE 4310–70–M

Upper Delaware National Scenic and Recreational River; Upper Delaware Citizens Advisory Council; Meeting

AGENCY: National Park Service, Interior; Upper Delaware Citizens Advisory Council.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: September 28, 1984, 7:00 p.m.

ADDRESS: Town of Tusten, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764–0159, (717) 729–7135.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95–625, 16 U.S.C. 1274 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will include items regarding continuance of discussion of requirements for a river management plan; discussion of recent study session on concerns of riparian landowners. The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Council c/o Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764–0159. Minutes of meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Upper Delaware National and Recreational River, River Road, 1¾ miles north of Narrowsburg, N.Y.; Damascus Township, Pennsylvania.

Dated: September 7, 1984.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 84–24647 Filed 9–17–84; 8:45 am]

BILLING CODE 4710–70–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30553]

Camp LeJeune Railroad Co.; Lease Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts the lease and operation by the Camp LeJeune Railroad Company of (1) 5.4 miles of rail line between Marin Junction and Kellum, NC and (2) from Kellum to Havelock, NC, a distance of approximately 35.9 miles of rail line near Camp LeJeune, NC, from the requirement of prior approval under 49 U.S.C. 11343. A notice of exemption will be issued separately regarding the acquisition of the line of rail between Marine Junction and Kellum, NC.

DATES: This exemption shall be effective on September 17, 1984. Petitions to reopen must be filed by October 9, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30553 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioners' representative: Nancy S. Fleischman, Norfolk Southern Corporation, 1050 Connecticut Avenue, NW., Suite 740, Washington, DC 20036.

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

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: September 11, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Secretary.

[FR Doc. 84–24615 Filed 9–17–84; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–43 (Sub-115X)

Illinois Central Gulf Railroad Co.; Abandonment Exemption in Evansville, IN

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 10903 *et seq.* the abandonment by the Illinois Central Gulf Railroad Company (IGC) of its 0.30-mile line of railroad in Evansville, IN, subject to labor conditions.

DATES: This exemption shall be effective on September 17, 1984. Petitions to reopen must be filed by October 9, 1984.

ADDRESSES: Send pleadings referring to Docket No. AB–43 (Sub No. 115X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioners' Representative: Richard M. Kamowski, Illinois Central Gulf Railroad Company, 233 North Michigan Avenue, Chicago, IL 60601.

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

SUPPLEMENTARY INFORMATION: Additional is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: September 10, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Secretary.

[FR Doc. 84–24614 Filed 9–17–84; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30515]

LaSalle and Bureau County Railroad Co.; Exemption; Acquisition, Operation, Trackage Rights, and Securities

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10901 and 11301, respectively, (1) the acquisition by LaSalle and Bureau County Railroad Company (LaSalle) of trackage rights over the former main line of the Chicago, Rock Island, and Pacific Railroad Company (Rock Island) between the Chicago Loop and Blue Island, IL, plus acquisition and operation of various adjacent tracks and properties formerly owned by Rock Island that LaSalle has been operating under a service order and temporary exemption; and (2) issuance of $1.6 million in corporate debt securities.

DATES: This exemption is effective on September 18, 1984. Petitions to reopen must be filed by October 9, 1984.

ADDRESSES: Send petitions referring to Finance Docket No. 30515 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423; and

(2) Petitioner's representative, Peter A. Gilbertson, Suite 350, 1575 Eye Street, NW., Washington, DC 20005.

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

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: September 7, 1984.

By the Commission, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

James H. Bayne,

Secretary.

[FR Doc. 84-24619 Filed 9-17-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30536]

Nittany & Bald Eagle Railroad Co; Modified Rail Certificate

September 12, 1984.

On July 25, 1984, a notice was filed by the Nittany & Bald Eagle Railroad Company (N&BE) for a modified rail certificate of public convenience and necessity under 49 CFR 1150, Subpart C for operation of three lines of railroad in Pennyslvania as particularly described below:

(a) The Bald Eagle Branch between milepost 3.0 at Vail in Blair County and milepost 32.0 at Milesburg in Centre County;

(b) The Bellefonte Secondary Track between milepost 30.8 at its connection with the Bald Eagle Branch in Milesburg in Centre County and milepost 42.5 at Lemont, also in Centre County;

(c) The Pleasant Gap Industrial Track between mileposts 0.0 and 3.0 in Pleasant Gap, in Centre County.

These rail segments formerly were owned and operated by Consolidated Rail Corporation (Conrail). In Docket No. AB-167 (Sub-No. 392N), decided February 25, 1982, the Commission authorized Conrail to abandon a portion of the line in (a) above. In Docket No. AB-167 (Sub-No. 457N), decided September 16, 1983, the Commission authorized Conrail to abandon the remainder of line (a) and, in addition, lines (b) and (c).

The Susquehanna Economic Development Administration—Council of Governments Joint Rail Authority (SEDA), a political subdivision of the state of Pennsylvania, has acquired the lines in question from Conrail and, effective July 27, 1984, has leased the lines to N&BE for an initial period of five years. On August 1, 1984, N&BE commenced operations over the lines and instituted interchange with Conrail at milepost 3.0 in Bald Eagle.

This notice shall be served upon the Association of American Railroads (Car Service Division) as agent of all railroads subscribing to the car-service and car-hire agreements, and upon the American Short Line Railroad Association.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-24618 Filed 9-17-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30548]

The Pittsburgh & Lake Erie Railroad Co.; Merger of Lake Erie and Eastern Railroad Co.; Exemption

Decided: September 11, 1984:

On August 13, 1984, the Pittsburgh & Lake Erie Railroad Company (P&LE) and its wholly-owned subsidiary, Lake Erie and Eastern Railroad Company (LE&E), filed a notice of exemption for the merger of LE&E into P&LE. P&LE owns all of the outstanding stock of LE&E. Consummation of the merger will simplify P&LE's corporate structure and allow P&LE to achieve various efficiencies and economies such as the elimination of separate accounting records, board of directors, and minute books. Since LE&E is operated as an integral part of P&LE, the merger will not result in any changes in the transportation services offered or the operations performed along LE&E lines.

This is a transaction within a corporate family and will not result in any changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. Therefore, it is an exempt transaction pursuant to 49 CFR 1180.2(d)(3).

As a condition to the use of this exemption, any employees affected by this transaction shall be protected pursuant to *New York Dock Ry.-Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 84-24617 Filed 9-17-84; 8:45 am]

BILLING CODE 7035-01-M

[Decision-Notice OP2 MCF-15877; Vol. OP2-450]

Motor Carrier Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a requst for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the

Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: September 12, 1984.

By the Commission.

James H. Bayne,

Secretary.

Volume OP2-450

No. MC-F-15877

DAVID DANZEISEN, HOWARD FOX, MARTIN STRAHL, AND SAMUEL B. ZINDER (PETITIONERS) (98 Cutter Mill Road, Great Neck, NY 11021)—CONTINUANCE IN CONTROL—MOUNTAIN VIEW COACH LINES, INC. (MOUNTAIN) (Route 9W, West Coxsackie, NY 12192), VANGUARD INTERSTATE TOURS, INC. (VANGUARD) (1 Westerly Road, Ossining, NY 10562), and MHS BUS COMPANY (MHS) (92 Middle Neck Road, Great Neck, NY 11021). Filed July 17, 1984. Representative: Samuel B. Zinder, P.C., 98 Cutter Mill Road, Great Neck, NY 11021.

Petitioners seek authority to continue in control of Mountain, Vanguard, and MHS. MHS was recently granted authority for nation-wide charter and special authority in MC-164951 conditioned upon approval of common control by the petitioners. All four petitioners are in a control relationship as to MHS. David Danzeisen, Martin Strahl and Samuel Zinder control Mountain, a common carrier of passengers (MC-47495), and David Danzeisen also controls Vanguard, a common carrier of passengers (MC-5723). All three carriers possess nation-wide charter and special authority.

Howard Fox controls a passenger broker, Trails West, Inc. (MC-130062).

Note.—This notice does not purport to be a complete description of the operating rights of the carriers involved.

[FR Doc. 84-24616 Filed 9-17-84; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importers of Controlled Substances; First State Chemical Co.; Registration

By Notice dated May 11, 1984, and published in the **Federal Register** on May 22, 1984 (49 FR 21572), McNeilab, Inc., dba First State Chemical Company, 803 Fourth Street, Wilmington, Delaware 19801, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Raw Opium (9600)	II
Concentrate of Poppy Straw (9670)	II

No comments or objections have been received. Therefore, pursuant to section 1008 (a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: September 12, 1984.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 84-24637 Filed 9-17-84; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Labor-Management Standards

Administration of Federal Sector Labor Organizations Standards of Conduct; Redesignation and Reassignment of Functions

AGENCY: Office of the Assistant Secretary for Labor-Management Standards, Labor.

ACTION: Notice of Redesignation of Titles and Reassignment of Duties.

SUMMARY: This Document announces redesignations and reassignments involving the administration of the requirements of the Standards of Conduct for Federal Sector Labor Organizations, 5 U.S.C. 7120, 29 CFR Parts 207-209, which resulted from a realignment and reorganization of the administering agency.

FOR FURTHER INFORMATION CONTACT: Kay Oshel, Chief, Division of Interpretations and Standards, Office of Standards, Technical Assistance and Disclosure, Office of Labor-Management Standards, Department of Labor, Washington, D.C. 20210, telephone 202-523-7373.

SUPPLEMENTARY INFORMATION: Pursuant to Secretary of Labor's Order 3-84, dated May 3, 1984, 49 FR 20578, the agency which has as one of its functions the administration of the Standards of Conduct for Federal Sector Labor Organizations, 5 U.S.C. 7120, 29 CFR Parts 207-209, has been redesignated as the Office of Labor-Management Standards (OLMS), headed by an Assistant Secretary for Labor-Management Standards. The previous title of the official responsible for administering the Standards of Conduct was the Assistant Secretary for Labor-Management Relations, head of the Labor-Management Services Administration (LMSA). Other positions within LMSA which had responsibility for Standards of Conduct matters but which no longer exist are the Director of the Office of Labor-Management Standards Enforcement (LMSA) and the Regional Administrators of LMSA

Consequently, the duties of the Assistant Secretary for Labor-Management Relations set forth in the regulations, 29 CFR Parts 207-209, shall be carried out by the Assistant Secretary for Labor-Management Standards. The duties of the Regional Administrators, LMSA set forth in the regulations shall be carried out by the Area Administrators, OLMS. The duties of the Director, LMSE set forth in the regulations in connection with enforcing the standards relating to trusteeships and the election and removal of officers, 29 CFR 208.26-208.30, shall be carried out by the Director, Office of Elections, Trusteeships, and International Union Audits, OLMS. The other enforcement duties of the Director, LMSE set forth in the regulations shall be carried out by the Area Administrators, OLMS.

Signed at Washington, D.C., this 7th day of September, 1984.

Ronald J. St. Cyr,

Acting Assistant Secretary for Labor-Management Standards.

[FR Doc. 84-24701 Filed 9-17-84; 8:45 am]

BILLING CODE 4510-29-M

Employment and Training Administration

[TA-W-15, 344]

Audiofidelity Enterprises, Incorporated, Rahway, NJ; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 31, 1984 in response to a worker petition received on May 23, 1984 which was filed on behalf of workers at Audiofidelity Enterprises, Incorporated, Rahway, New Jersey.

The petitioner has requested that the petition be withdrawn. Consequently further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 10th day of September 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-24691 Filed 9-17-84; 8:45 am]

BILLING CODE 4510-23-M

Unwrought Copper; Industry Study Report

On July 16, 1984, the U.S. International Trade Commission (ITC) determined that increased imports of unwrought copper products are a substantial cause of serious injury to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974. (49 FR 30040).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever ITC begins an investigation under the import relief provisions of the Act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance, and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The U.S. Department of Labor has concluded its report on unwrought copper products. The report found as follows:

1. The Department of Labor (DOL) has received and processed 126 petitions for trade adjustment assistance involving workers in the copper industry since April 3, 1975, the effective date of the adjustment assistance program, including 65 received during the July 1978–June 1984 period. Sixty petitions were certified covering 16,673 workers, and 66 petitions were denied, terminated or withdrawn. An additional two petitions covering industry workers were in process as of the report date.

As of March 31, 1984, DOL had paid $53,786,080 in trade readjustment allowances (TRA) to 15,937 workers formerly employed in plants producing copper products. Workers certified during 1978–1983 were paid $3,107,469. Job search allowances of $190,824 were paid to 1,123 industry workers, job relocation allowances of $547,082 were paid to 772 industry workers, and 2,700 workers entered training as of March 31, 1984.

2. Average employment of production and related workers in the unwrought copper industry declined steadily from 1981 through 1983. Permanent employment levels are expected to continue declining during 1984–1985. Industrywide temporary layoffs are also expected.

3. Unemployment rates for 13 of 22 areas with facilities producing unwrought copper were above the national unemployment rate of 7.6 percent (unadjusted) for April 1984. Reemployment prospects for present and potentially separated workers in the industry appear to be poor-to-fair.

4. A total of $29.7 million is available in Fiscal Year 1984 to provide training, job search and relocation allowances to eligible unwrought copper workers as well as all other eligible workers of industries adversely affected by import competition under the trade adjustment assistance program. Funding for Fiscal Year 1985 is expected to be continued at about Fiscal Year 1984 levels and will be provided from both Title III funds of the Job Training Partnership Act (JTPA) and discretionary funds available to the Secretary.

All worker trade adjustment assistance program benefits and allowances, including TRA which are entitlements funded separately from the Federal Unemployment Benefit and Allowances (FUBA) account, will expire on September 30, 1985, unless the legislative authority is extended. Dislocated workers, including import impacted workers, should benefit from $427.2 million which has been set aside for the administration and delivery by the States of dislocated worker benefits under Title III of JTPA for the October 1983–June 30, 1985 period, and an additional $223.0 million requested for the July 1, 1985–June 30, 1986 period.

Copies of the Department report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting Larry Ludwig, Office of Trade Adjustment Assistance, U.S. Department of Labor, 601 D Street, NW., Room 6020, Washington, D.C. 20213 (phone 202–376–7163).

Signed at Washington, D.C. this 4th day of September 1984.

Patrick J. O'Keefe,

Deputy Assistant Secretary of Labor.

[FR Doc. 84-24694 Filed 9-17-84; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; New Extended Benefit Period in Puerto Rico

This notice announces the beginning of a new Extended Benefit Period in Puerto Rico, effective on September 9, 1984.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. The Extended Benefit Program takes effect during periods of high unemployment in a State, to furnish up to 13 weeks of extended unemployment benefits to eligible individuals who have exhausted their rights to regular unemployment benefits under permanent State and Federal unemployment compensation laws. The Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulation (20 CFR Part 615).

In accordance with section 203(d) of the Act, each State unemployment compensation law provides that there is a State "on" indicator in the State for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured employment under the State unemployment compensation law equalled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator. A benefit period will be in effect for a minimum of 13 consecutive weeks, and will end the third week after there is an "off" indicator.

Determination of "on" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured

unemployment in the State, for the period consisting of the week ending on August 25, 1984, and the immediately preceding 12 weeks, rose to a point that equals or exceeds the State trigger rate, so that for that week there was an "on" indicator in the State.

Therefore, a new Extended Benefit Period commenced in the State with the week beginning on September 9, 1984.

Information for Claimants

The duration of extended benefits payable in the new Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins, and who has exhausted all rights under the State unemployment compensation law to regular benefits before the beginning of the new Extended Benefit Period. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the State named above, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on September 12, 1984.

Patrick J. O'Keefe,

Deputy Assistant Secretary for Employment and Training.

[FR Doc. 84-24690 Filed 9-17-84; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance; Blaw-Knox Equipment et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period September 3, 1984–September 7, 1984

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sale or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of article like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

In the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA–W–15, 334; Blaw-Knox Equipment, Pittsburg, PA

TA–W–15, 327; Fick Foundry Co., Tacoma, WA

In the following case the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–15, 367; National Steel Service Center, Inc., Boonton, NJ

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

Affirmative Determinations

TA–W–15, 238; General Motors Corp., General Motors Assembly Div., Fremont CA

A certification was issued covering all workers separated on or after May 2, 1983.

TA–W–15, 306; Kaiser Steel Corp., Raton Coal Properties, Raton, NM

A certification was issued covering all workers separated on or after March 7, 1983 and before September 30, 1983.

TA–W–15, 373; Levi Strauss & Co., Ramer, TN

A certification was issued covering all workers separated on or after June 1, 1984.

TA–W–15, 369; Ralston Purina Co., Van Camp Seafood Div., San Diego, CA

A certification was issued covering all workers separated on or after June 1, 1983.

I hereby certify that the aforementioned determinations were issued during the period September 3, 1984–September 7, 1984. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: September 11, 1984.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 84-24693 Filed 9-17-84; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL SCIENCE FOUNDATION

Developmental Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting.

Name: Advisory Panel for Developmental Biology.

Date and time: October 4, 5, 6, 1984, starting at 9:00 A.M., to 5:00 P.M.

Place: Room 338, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Donald E. Fosket, Program Director, Developmental Biology Program, Room 332–H, National Science Foundation, Washington, D.C. 20550, telephone 202/357–7989.

Purpose of advisory panel: To provide advice and recommendations concerning support of research in developmental biology.

Agenda

To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF July 6, 1979.

Dated: September 13, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84-24638 Filed 9-17-84; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Ecology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Ecology.

Date and time: October 4 & 5, 1984—8:30 a.m. to 5:00 p.m. each day.

Place: Room 1141, National Science Foundation, 1800 G St. NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Patrick W. Flanagan, Program Director, Ecology (202) 357-9734, Room 1140, National Science Foundation, Washington, D.C. 20550.

Purpose of panel: To provide advice and recommendations concerning support of research in ecology.

Agenda

Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on July 6, 1979.

Dated: September 13, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84-24640 Filed 9-17-84; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Ecosystem Studies; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Ecosystem Studies.

Date and time: October 4 & 5, 1984—8:30 a.m. to 5:00 p.m. each day.

Place: Room 1224, National Science Foundation, 1800 G St., NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact person: Dr. James R. Gosz, Program Director, Ecosystem Studies (202) 357-9596, Room 1140, National Science Foundation, Washington, D.C. 20550.

Purpose of Panel: To provide advice and recommendations concerning support for research in ecosystem studies.

Agenda

Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: September 13, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84-24639 Filed 9-17-84; 8:45 am]

BILLING CODE 7555-01-M

Committee on Equal Opportunities in Science and Technology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Committee on Equal Opportunities in Science and Technology.

Place: Rm. 540, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Dates: Thursday and Friday, October 4-5, 1984.

Time: Thursday, 9-5 p.m.; Friday, 9-3 p.m.

Type of meeting: Open.

Contact person: Ms. Jane Stutsman, Executive Secretary of the Committee, National Science Foundation, Rm. 425, 1800 G Street, NW., Washington, D.C. 20550 Telephone: 202/357-9418.

Purpose of committee: To provide advice to the Foundation on policies and activities of the Foundation to encourage full participation of women, minorities, the handicapped and other groups currently underrepresented in scientific, engineering, professional and technical fields.

Summary minutes: May be obtained from the contact person at the above stated addresses.

Agenda

To review progress by the two subcommittees of the NSF Committee on Equal Opportunities in Science and Technology and to meet with the Director and other NSF staff.

Dated: September 13, 1984.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 84-24641 Filed 9-17-84; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-13]

Babcock & Wilcox Company; Notice of Proposed Issuance of Orders Authorizing Disposition of Component Parts and Terminating Facility License

The U.S. Nuclear Regulatory Commission (Commission) is considering issuance of Orders authorizing Babcock & Wilcox Company (licensee) to dispose of the component parts of the research reactor in their possession, in accordance with the licensee's application dated August 7, 1984, and terminating the Facility Operating License No. CX-10.

The first of these would be issued following the Commission's review and approval of the licensee's detailed plan for decontamination of the facility and disposal of the radioactive components, or some alternate disposition plan for the facility. This Order would authorize implementation of the approved plan. Following completion of the authorized activities and verification by the Commission that acceptable radioactive contamination levels have been achieved, the Commission would issue a second Order terminating the facility license and any further NRC jurisdiction over the facility. Prior to issuance of each Order, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By October 18, 1984, the licensee may file a request for a hearing with respect to issuance of either or both of the subject Orders and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding may file a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's

"Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate Order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any Order which may be entered on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first pre-hearing conference schedule in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the actions under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the Order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Cecil O. Thomas: (petitioner's name and telephone number); (date petition was mailed); (Babcock & Wilcox Company); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to T. D. Corkran, Esq, Contract Research Division, Babcock & Wilcox Company, 1562 Beeson Street, Alliance, Ohio 44601.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)–(v) and 2.714(d).

For further details with respect to this action, see the licensee's application dated August 7, 1984, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C.

Dated at Bethesda, Maryland, this 11th day of September 1984.

For the Nuclear Regulatory Commission.

Cecil O. Thomas,

Chief, Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 84-24697 Filed 9-17-84; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published August 21, 1984 (49 FR 33187). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. It is expected that the sessions of the full Committee meeting designated by an asterisk(*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the October 1985 ACRS full Committee meeting can by obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–3267, ATTN: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

GESSAR II, September 20 and 21, 1984, *Los Angeles, CA*—POSTPONED.

Fire Protection, September 26, 1984, Washington, DC. The Subcommittee will review the actuation of fire protection systems and the effect on various safety systems throughout nuclear plants.

Reactor Radiological Effects, September 27 and 28, 1984, Washington, DC. On Thursday, the Subcommittee will (1) continue its discussion of NRC Staff proposed amendments to 10 CFR Part 20 to specify residual radioactive contamination limits, and (2) be briefed by and hold discussions with the NRC Staff on the status of the following Generic Safety Issues: Radiation Protection Plans, Reactor Coolant Activity Limits for Operating Reactors, Control Room Habitability, Iodine Spiking, and Radiation Source Control. On Friday, the Subcommittee will be briefed by and hold discussions with (1) the NRC Staff on its evaluation of TMI-2 cleanup endpoint alternatives, and (2) DOE on its systematic approach regarding reactor safety and radiation protection research.

Reactor Operations, October 9, 1984, Washington, DC. The Subcommittee will review the NRC Staff recent experiences at operating nuclear power plants.

Combined Reliability and Probabilistic Assessment/Limerick,

October 9 and 10, 1984, Washington, DC. The Subcommittees will begin their review of the probabilistic risk assessment (PRA) for the Limerick plant and to complete its review of the Standard Review Plan items outstanding on the Limerick operating license (OL) review.

Human Factors, October 10, 1984, Washington, DC. The Subcommittee will explore experience levels or reactor operators, especially at new plants scheduled to come on line. Updates on other activities such as training and qualifications package and the Human Factors Program Plan may be appropriate.

Emergency Core Cooling Systems, October 16 and 17, 1984, Washington, DC. The Subcommittee will continue its review of the joint NRC/Babcock and Wilcox Owners Group/B&W/EPRI integral test program.

Combined GESSAR II/Reliability and Probabilistic Assessment, October 18 and 19, 1984, location to be determined. This will be the first in a series of meetings to review the General Electric Standard Safety Analysis Report to extent the Final Design Approval so that it will be applicable to future plants. The discussions on October 18 will focus on deterministic/SRP type issues. The discussions on October 19 will focus on the GESSAR II treatment of severe accidents and the Probabilistic Risk Assessment performed in connection with the GESSAR II design.

Braidwood Station, Date to be determined (October/November), Washington, DC. The Subcommittee will continue to review the application for an operating license for the Braidwood Plant.

Combined Reactor Operations/ Reliability and Probabilisitic Assessment, November 14 1984, Washington, DC. The Subcommittees will discuss current status of the work related to steam generator overfill.

Emergency Core Cooling Systems, November 28, 1984, Washington, DC. The Subcommittee will discuss (1) the Yankee Atomic Electric request for an exemption to Appendix K to 10 CFR 50.46 and (2) analysis work performed as part of the ATWS resolution effort.

Decay Heat Removal Systems, November 29, 1984 (tentative), Washington, DC. The Subcommittee will continue the review of the NRC Staff effort to resolve USI A–45, "Shutdown Decay Heat Removal Requirements."

Air Systems, November 29 and 30, 1984, Washington, DC. The Subcommittee will review the report to the NRC Working Group on Control Room Habitability.

Metal Components, Date to be determined (November), Washington, DC. The Subcommittee will review draft report on pipe break, pipe crack implementation document (NUREG–0313, Rev. 2), proposed PTS Rule, and degraded bolting.

Westinghouse Water Reactors, Date to be determined (November, tentative), Washington, DC. The Subcommittee will begin its review of the Westinghouse Advanced Pressurized Water Reactor for Preliminary Design Approval.

Hope Creek Generating Station Unit 1, Date to be determined (November/ December), Salem County, NJ. The Subcommittee will discuss certain design changes and modification for the Hope Creek Generating Station.

Seismic Design of Piping, Date to be determined (November/December), Washington, DC. The Subcommittee will review draft reports issued by the NRC Piping Review Committee on Dynamic Loads and Load Combinations and Seismic Design requirements of piping.

Combined GESSAR II/Reliability and Probabilistic Assessment, December 4 and 5, 1984, location to be determined. This will be the second in a series of meetings to review the General Electric Standard Safety Analysis Report to extend the Final Design Approval so that it will be applicable to future plants. The meeting will focus on the GESSAR II treatment of severe accidents and the Probabilistic Risk Assessment performed in connection with the GESSAR II design. External events will be considered.

Safeguards and Security, December 12, 1984, Washington, DC. The Subcommittee will review design features for protection against sabotage at commercial nuclear power reactors, to explore the potential consequences of successful sabotage at nonpower reactors, and to hear how the NRC Staff reviews and evaluates licensees' security plans.

Electrical Systems, Date to be determined, Washington, DC. The Subcommittee will discuss Westinghouse Advanced Pressurized Water Reactor Integrated Control and Protection System.

Palo Verde Nuclear Generating Station, Date to be determined, Maricopa County, AZ. The Subcommittee will review the final reports for various construction deficiencies and the results of the preoperational testing as requested in ACRS letter dated December 15, 1981.

Electric Systems, Date to be determined, Washington, DC. The Subcommittee will discuss the recent plant experience with the loss of AC power.

ACRS Full Committee Meeting

October 11–13, 1984: Items are *tentatively* scheduled.

*A. *Consideration of Class 9 Accidents*—Discuss ACRS comments regarding the frequency and severity of nuclear power plant accidents that involve severe core damage.

*B. *Backfitting of Nuclear Power Plants*—Discuss proposed NRC procedures for backfitting nuclear power plants.

*C. *BWR Pipe Cracks*—Discuss proposed NRC procedures (NUREG–0313, Rev. 2) regarding inspection and repair of primary coolant system pipe cracking in boiling water reactors.

*D. *Qualifications of Nuclear Power Plant Personnel*—Discuss proposed ACRS comments regarding requirements for operating experience of nuclear power plant operators.

*E. *Pressurized Thermal Shock*—Discuss results of research applicable to this matter and proposed NRC rule (10 CFR Part 50) regarding this topic.

*F. *Operating Experiences at Nuclear Facilities*—The members will hear and discuss reports by representatives of the NRC Staff regarding recent abnormal events and incidents at nuclear facilities.

*G. *Unresolved Safety Issues*—Discuss ACRS comments regarding evaluation of generic safety and their selection as USI's.

*H. *ACRS Subcommittee Activities*—The members will hear and discuss reports of assigned ACRS subcommittee activities regarding nuclear power plant safety including such items as quality assurance in design and construction of nuclear power plants, potential system interactions of fire protection systems, PRA evaluation of nuclear power plants, BWR pipe cracking, maintenance practices at foreign nuclear facilities, and shutdown decay heat removal provisions in foreign nuclear power plants.

*I. Future ACRS Activities—The members will discuss anticipated ACRS subcommitte activities and items proposed for consideration by the full committee including preparation of the ACRS annual report to the U.S. Congress regarding the NRC Safety Research Program and the anticipated scope and nature of long-range committee activities.

November 1–3, 1984—Agenda to be announced.

December 13–15, 1984—Agenda to be announced.

Dated: September 12, 1984.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 84-24696 Filed 9-17-84; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, SG 301-4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Standard Format and Content Guide for Access Authorization Plans for Nuclear Power Plants" and is intended for Division 5, "Materials and Plant Protection." It is being developed to describe the standard format and content of information required in the access authorization plan submitted as part of an application for a license to operate a nuclear power plant.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, by November 15, 1984.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland this 11th day of September 1984.

For the Nuclear Regulatory Commission.

Frank P. Gillespie,

Director, Division of Risk Analysis and Operations, Office of Nuclear Regulatory Research.

[FR Doc. 84-24695 Filed 9-17-84; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 14153; 812-5632]

Vanguard Special Tax-Advantaged Retirement Fund, Inc., et al.; Application for Order Exempting Applications and Approving Certain Affiliated Transactions

September 12, 1984.

Notice is hereby given that The Wellington Fund, Inc., Windsor Fund, Inc., Ivest Fund, Inc., Gemini Fund, Inc., Explorer Fund, Inc., W.L. Morgan Growth Fund, Inc., Wellesley Income Fund, Inc., Vanguard Fixed Income Securities Fund, Inc., Vanguard Money Market Trust, Qualified Dividend Portfolio I, Inc., Qualified Dividend Portfolio II, Inc., Vanguard Index Trust, Vanguard Municipal Bond Fund, Inc., Trustees' Commingled Equity Fund, Inc., Vanguard Qualified Dividend Portfolio III, Inc. (the "Funds"), Vanguard Special Tax-Advantaged Retirement Fund (the "Retirement Fund"), and The Vanguard Group, Inc. (together with the Funds and the Retirement Fund, "Applicants"), 1300 Morris Drive, P.O. Box 876, Valley Forge, Pennsylvania, 19482, filed an application on July 11, 1983, and amendments thereto on January 19, and August 17, 1984, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicants from the provisions of Section 12(d)(1) of the Act, and pursuant to section 17(d) of the Act and Rule 17d-1 thereunder to permit Applicants to establish and operate the Vanguard Special Tax-Advantaged Retirement Fund as hereinafter described. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and rules thereunder for applicable authority.

The Funds are registered diversified, management investment companies, each a no-load, open-end fund, except for Gemini Fund, Inc. The Vanguard Group, Inc. ("Vanguard Group"), a wholly and jointly owned subsidiary of the Funds, provides corporate management, administrative, transfer agency, and distribution services to the Funds pursuant to an agreement ("Agreement") approved by shareholders of each constituent member of the Vanguard Funds. Vanguard Group provides such services on an at-cost basis to the Funds and provides investment supervision to four of them on an at-cost basis. Subject to approval by the Funds, Vanguard Group may contract with others to provide similar services similar with all revenues derived therefrom applied to reduce the cost of the Funds to operate Vanguard Group. Registered as an investment adviser under the Investment Advisers Act of 1940, and as a transfer agent under the Securities Exchange Act of 1934 ("1934 Act"), Vanguard Group has two wholly owned subsidiaries: Vanguard Marketing Corporation, a registered broker-dealer under the 1934 Act, and Vanguard Fiduciary Trust Company, a trust company organized under the Banking Code of the Commonwealth of Pennsylvania.

Vanguard Group's operations have been, Applicants state, conducted in accordance with the terms of a Commission order dated November 3, 1983 (Investment Company Act Release No. 13613), which permitted the Funds to increase their capital contributions to Vanguard Group. The Board of Directors of the Funds, the Board of Trustees of the Retirement Fund, and the Board of Directors of Vanguard Group consist presently of the same individuals, eight of whom have no affiliation with the Funds of Vanguard Group other than as Directors or Trustees.

Applicants have registered the Retirement Fund as a non-diversified, open-end management investment company, and propose to register its shares under the Securities Act of 1933. The Retirement Fund is primarily

intended as a diversified investment program for investors qualifying under the tax deferred retirement plan provisions of the Internal Revenue Code. Its first series will concentrate its portfolio investments in several specified Funds (two common stock funds a bond fund, and a money market fund); subsequent series will have different portfolio combinations in the Funds.

The Retirement Fund will enter into a Special Servicing Agreement ("Special Agreement") with Vanguard Group whereby Vanguard Group will provide dividend disbursing, shareholder servicing, and transer agent service. The Retirement Fund will not be a party to the Agreement nor a member of the Funds. Investment decisions of the Retirement Fund will be made by its Board of Trustees; however, the Declaration of Trust authorizes the Board to retain an investment adviser, provided an order from the Commission so authorizing is obtained, and shareholder approval is given. Applicants state there is no present intention for the Retirement Fund to retain an investment adviser.

Applicants represent that the Special Agreement provides that the Retirement Fund will pay for services to be rendered by Vanguard Group or reimburse Vanguard Group for payments for services obtained from other persons only to the extent that the aggregate value of such amount exceeds the value of the benefits that are expected to inure to Vanguard Group and the Funds from the operation of the Retirement Fund. Should the direct financial benefits to the Funds and Vanguard Group exceed the aggregate of such costs (which Applicants expect), then the Retirement Fund will not be charged for the services. For example, Applicants state that they believe that administrative savings will result from maintaining one set of shareholder accounts in the Retirement Found and one account for the Retirement Fund in each underlying Fund, rather than multiple shareholder accounts for each underlying fund. Applicants expect that the use of the underlying Funds' portfolios to manage the investment of assets will avoid duplicative costs that would arise from operating another active portfolio. Applicants also believe that the cost of distributing shares of one retirement fund will be less than the cost of marketing multiple funds to retirement investors. Furthermore, Applicants argue that the Funds will profit through the Retirement Fund's operations as a result of lower advisory fee rates by virtue of declining fee schedules, and other beneficial economies of scale. Applicants believe the above stated and other benefits will be substantial and will serve to reduce or eliminate costs incurred to operate the Retirement Fund. Applicants have agreed to have the Retirement Fund's Board of Trustees (the common board also serving all the Funds) monitor the experience of the Retirement Fund for the first two fiscal years of its existence to determine whether the cost savings experienced by the Other Vanguard Funds and the Retirement Fund from operation of the Retirement Fund as a fund holding company is as anticipated. Should the Board conclude that operation of the Retirement Fund does not result in economic benefits to all shareholders, Applicants have undertaken to so notify the Commission. Other advantages cited by Applicants to support its proposal include the convenience and economy of obtaining a diversified investment vehicle suitable for retirement savings, since many potential shareholders in the Fund could not economically maintain an account in several individual Funds.

Applicants note that section 12(d)(1) of the Act is intended to prevent the duplicative costs and other adverse consequences to investors incident to the pyramiding of investment companies. Applicants submit that their proposal is structured so as to eliminate the negative aspects of fund holding companies. For example, with respect to duplicative and excessive costs and fees to investors, Applicants point out that, since both the Retirement Fund and the underlying Funds are no-load funds, duplicative sales charges will not occur. In addition, Applicants state that duplicative advisory fees caused by investment company layering will not be present here because the Retirement Fund does not intend to pay any advisory fee other than fees charged by the underlying Funds. Section 12(d)(1) was also intended to preclude excessive and duplicative administrative expenses. Applicants argue that the administrative costs of the Retirement Fund under the Special Agreement will be, at most, nominal and will be fully off-set by other economic benefits to shareholders.

Applicants further note that another concern of section 12(d)(1) was the adusive control problems resulting from the concentration of voting power in a fund holding company or from the threat of large-scale redemptions by the fund holding company. To prevent the former problem, Applicants have consented to the voting provisions of section 12(d)(1)(E) of the Act. The Retirement Fund will vote its shares in each Fund in proportion to the vote of all other shareholders in that Fund. As for the threat of large-scale redemptions, Applicants have agreed that the Retirement Fund will not acquire more than ten percent of the shares of any one underlying Fund.

To further lessen potential abuses, Applicants have agreed to limit the authority of the Retirement Funds to shift assets among the underlying Fund, absent a fundamental policy change requiring shareholder approval.

Applicants state that the range of assets allocated to each underlying Fund from any series of the Retirement Fund will not exceed 25 percent of that series' assets. Each underlying Fund will thereby be assured, Applicants assert, of a consistent pattern of investments of the Retirement Fund's assets, altered only by such fundamental policy changes.

Applicants submit that the purposes and policies fairly intended by section 12(d)(1) of the Act are not applicable to the proposed transaction, and that, therefore, this is an appropriate instance for the Commission to exercise its authority pursuant to section 6(c) of the Act to exempt Applicants from the provisions of section 12(d)(1).

Applicants are also seeking an order under section 17(d) of the Act and Rule 17d–1 thereunder approving certain affiliated transactions associated with their proposal. The Special Agreement, Applicants represent, permits the Retirement Fund to use the "Vanguard" name provided the Special Agreement remains in effect and the Retirement Fund's assets are invested solely in shares of the Funds (less monies reserved to meet current expenses and redemptions). The Funds benefit, Applicants state, from the infusion of additional capital. Proper use of the name "Vanguard" is assured because the investment performance of the Retirement Fund reflects the achievements of the underlying Funds and because Vanguard Group, under the Special Agreement, directs the daily operations of the Retirement Fund. Simultaneously, the Retirement Fund benefits through marketing advantages and identification with Vanguard Group.

Applicants represent that the services provided by Vanguard Group to the Retirement Fund will avoid duplicative costs, and are at a rate less than the market rate for comparable services. Applicants submit that the Funds will not be disadvantaged by the arrangement because the Retirement Fund's assets invested in the underlying Funds will share proportionately in the

costs of operating Vanguard Group, and that the Funds will also benefit from the greater economies of scale generated by the increased asset base. Lastly, Applicants represent that sharesholder and account distribution expenses of the selected Funds arising from sales to the Retirement Fund will be *de minimis*, so the arrangement helps assure that the investment of assets in the Retirement Fund and then in the underlying Funds will be on a basis fair to all parties.

Applicants believe the proposed arrangement is consistent with the provisions, policies and purposes of the Act and no less advantageous to any one of the Applicants and that therefore, pursuant to section 17(d) and Rule 17d-1, the Commission should issue an order approving the proposed arrangement.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 9, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for the request, and the specific issues, of fact or law that are disputed, to the Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, the Commission will consider whether to issue an order granting the application or, upon request or on its own motion, set the application down for a hearing. At that time the Commission will consider whatever additional documentation Applicants may file supporting the analysis set forth in the application (such documentation will be inserted into the application's official file maintained at the Commission and made available to the public).

By the Commission.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-24621 Filed 9-17-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14155; 811-3417]

The Chesapeake Money Fund; Application for an Order Declaring That Applicant Has Ceased To Be an Investment Company

September 12, 1984.

Notice is hereby given that The Chesapeake Money Fund ("Applicant"), 4550 Montgomery Avenue, Suite 1000N, Bethesda, Maryland 20814, registered under the Investment Company Act of 1940 ("Act") as an open-end diversified, management investment company, filed an application on August 8, 1984, for an order of the Commission, pursuant to section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. 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 applicable provisions thereof.

The application states that Applicant, which registered under the Act and filed a registration statement pursuant to section 8(b) of the Act on March 16, 1982, has never made a public offering of its securities, has fewer than 100 securityholders for purposes of section 3(c)(1) of the Act and the rules thereunder, and does not propose to make a public offering or engage in business of any kind. The application further states that Applicant does not have any securityholders or assets, that it is not a party to any litigation or administrative proceeding and does not intend to engage in business activities other than those necessary for the winding up of its affairs. Finally, the application represents that the Applicant has been dissolved under state law.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 9, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unles 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.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-24686 Filed 9-17-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23415; 70-7012]

Northeast Utilities et al; Proposed Issuance and Sale of Notes to Banks

September 12, 1984.

In the Matter of Northeast Utilities, Western Massachusetts Electric Co., 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, The Connecticut Light and Power Co., Selden Street, Berlin, Connecticut 06037.

Northeast Utilities ("NU"), a registered holding company, and two of its subsidiary companies, The Connecticut Light and Power Company ("CL&P") and Western Massachusetts Electric Company ("WMECO") have filed a proposal with the Commission pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act").

CL&P and WMECO propose to issue and sell revolving notes and term notes under a credit agreement (the "New Credit Agreement") under which CL&P and WMECO may borrow up to an aggregate of $150 million from a syndicate of commercial banks (the "Banks"). The New Credit Agreement is intended to supplement an existing credit agreement under which CL&P and WMECO may borrow up to $200 million from a different syndicate of banks (which includes certain of the Banks) (HCAR No. 22689 (November 2, 1982)). Neither of the applicants intends to make any borrowings under the New Credit Agreement until the entire amount available under the existing credit agreement has been borrowed and is outstanding. The New Credit Agreement, therefore, will provide back-up credit support for the applicants' construction programs.

Under the New Credit Agreement, CL&P and WMECO may borrow, on a first-come, first-served basis, up to the maximum amount committed for both applicants, up to $150 million for CL&P and up to $45 million for WMECO. Borrowings under the New Credit Agreement will be on a revolving basis through July 10, 1988, unless an applicant elects to convert all or any portion of the amount which it may borrow to a term loan or loans on or before July 10, 1988. Borrowings, whether revolving or term, may be repaid in whole or in part without penalty, and any amounts not converted to term notes may be reborrowed until July 10, 1988. Any revolving borrowings would mature on July 10, 1988. Any term borrowings outstanding on July 10, 1988, would mature on July 10, 1990, and would amortize in four (4) equal semi-

annual installments commencing January 10, 1989.

Any borrowings outstanding shall bear interest at the following rates: through July 10, 1987, at a rate equal to the Base Rate, and from July 11, 1987, until maturity, at a rate equal to 102 percent of the Base Rate. The Base Rate is the higher of (i) Continental Illinois National Bank and Trust Company of Chicago's floating prime rate or (ii) one half of 1 percent per annum above the latest three week moving average of secondary market offering rates in the United States for three month certificates of deposit as published weekly by the Federal Reserve Bank of New York. So long as the credit available under the New Credit Agreement is not utilized, CL&P and WMECO will pay a commitment fee of one quarter of 1 percent per annum on the average unused portion of the commitment. If either should ever make a borrowing under the New Credit Agreement, the commitment fee will automatically increase to three eighths of 1 percent per annum on the average unused portion of the commitment from the date of the borrowing to July 10, 1983, and, in addition, there will be a retroactive adjustment to the commitment fee previously paid or payable, such that, for the preceding twelve (12) months or the time from the effective date of the New Credit Agreement to the time of borrowing, whichever is shorter, the adjusted commitment fee will be equal to three eighths of 1 percent per annum times the total amount available under the New Credit Agreement.

The Banks have requested NU to execute and deliver an undertaking in support of the New Credit Agreement. The undertaking is substantially the same as the undertaking given by NU in support of the Existing Credit Agreement.

The funds to be derived by CL&P and WMECO from the issue and sale of the revolving notes or term notes under the New Credit Agreement will be applied, together with other funds available to these companies, only to pay current construction expenses and operating expenses and to repay short-term debt. CL&P's construction program expenditures for 1984 and 1985 are estimated to be $556,192,000 and $430,359,000, respectively (including allowance for funds used during construction ("AFUDC")). WMECO's construction program expenditures for 1984 and 1985 are estimated to be $111,670,000 and $85,047,000, respectively (including AFUDC).

The proposal and amendments thereto 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 October 9, 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.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-24685 Filed 9-17-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21303; File No. SR-MSE-84-6]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Stock Exchange, Inc.; Relating to Amendments to MSE's Arbitration Procedures

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 27, 1984, the Midwest Stock Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Term of Substance of the Proposed Rule Change

Attached to the filing as Exhibit is the text of the proposed amendment to Article VIII, Rule 24 of the Rules of the Midwest Stock Exchange, Incorporated.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statement concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purposes of the proposed rule changes are to: (i) Permit the simplified small claims procedures to be used in disputes involving up to $5,000; (ii) permit the filing of certain cases even though more than six years shall have elapsed from the occurrence of the event giving rise to the dispute; (iii) permit additional peremptory challenges in cetain cases and specifying that there are unlimited challenges for cause; (iv) permit the arbitrators to bar certain defenses at hearings when they have not been pleaded; (v) permit the Arbitration Director to make preliminary determinations regarding severance; (vi) permit amendments after a responsive pleading has been filed; and (vii) raise fees in selected cases.

The proposed changes are consistent with section 6(b)(5) of the Securities Exchange Act of 1934, in that they promote just and equitable principles of trade by insuring that members and member organizations and the public have an impartial forum for the rsolution of their disputes.

(B) Self-Requlatory Organization's Statement of Burden on Competition

The Midwest Stock Exchange, Incorporated does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comment have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th St., NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th St., NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 9, 1984.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: September 10, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-24687 Filed 9-17-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21305; File No. SR-AMEX-84-24]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc.; Relating To Changes to Rule 601 (Panel of Arbitrators), Rule 602 (Designation of Arbitrators), Rule 604 (Submission Limitations), Rule 605 (Initiation of Proceedings), Rule 614 (Amendments), Rule 618 (Schedule of Fees), Rule 619 (Simplified Procedure), and Rule 620 (Member Small Claims Procedure)

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 31, 1984, the American Stock Exchange, Inc. ("Amex" or the "Exchange") filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The Amex is proposing to amend its arbitration rules to (i) conform them to recent changes in the securities industry's Uniform Arbitration Code concerning public customer versus member arbitrations and (ii) to expedite the handling of member versus member controversies. The text of the proposed amendments is attached as Exhibit A to this Form 19b-4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose.

I. *SICA Rule Changes.* A uniform arbitration code (the "Uniform Code") has been developed by the Securities Industry Conference on Arbitration ("SICA"), which is composed of representatives of the Amex, nine other self-regulatory organizations, four public members, and the Securities Industry Association. The Uniform Code, as implemented by the various self-regulatory organizations, has established throughout the securities industry a uniform system of public customer versus member arbitration procedures. The proposed rule changes are intended to conform the Amex's arbitration rules to recent amendments to the Uniform Code approved by SICA.

1. *Challenges to the Panel's Composition.* Presently, a peremptory challenge cannot be made in small claims proceedings and is limited, when available, to only one per party. In addition, the rules do not state that each party has unlimited challenges for cuase, although this has been SICA policy. Rule 602(e) is proposed to be amended to give each party the right to one peremptory challenge, even in small claims proceedings, and to permit additional peremptory challenges in cases involving multiple parties if the Director of Arbitration determines that to be in the "interests of justice." Lastly, the rule would specifically state that there will be unlimited challenges for cause.

2. *Time Limitations*: Currently, the six year statute of limitations to commence an arbitration proceeding applies even if a court thereafter attempts to direct a case to arbitration. In addition, under the current rule, the time limitations for commencing a suit in court is not tolled (suspended) until *all* the parties to an arbitration have filed duly executed Submission Agreements.

The proposed amendment to Rule 604(a) prevents the six year time limitation on arbitrations from barring the submission of a claim which is directed to arbitration by a court. Rule 604(d) is proposed to be amended to provide that where permitted by law, the statute of limitations for a court proceeding will be tolled when only a claimant, rather than all parties, files a submission agreement. This will prevent a case from being time-barred due to difficulties in obtaining the signature of the opposing party. In this event, the six year time limitation on submissions will be extended for such period as the court retains jurisdiction.

3. Answer—Defenses: At present, it is only the claimant, and not the respondent, who is required to specify the relevant facts in an arbitration proceeding. While the respondent is required to designate all available defenses in his answer, respondents frequently limit their written defense to a general denial and wait for the hearing to disclose the actual, more specific defense.

In addition, under the current rule, the respondent is not required to specify the relevant facts that it will rely upon at the hearing. This often results in delay caused by discovery requests and may prevent the panel from understanding the arguments before the hearing.

Proposed amendments to Rule 605(b) would permit the arbitrators, within their discretion, to (i) bar a respondent, responding claimant, cross-claimant or third party respondent from presenting any facts or defenses at the hearing if that party pleads only a general denial as an answer, and (ii) bar that party from presenting facts or defenses at the hearing if they have not been included in the answer and the arbitrators

believe these facts to be relevant and the defenses available at the time the answer was filed.

4. *Joining and Consolidating*: Rule 605(c) deals with the joining and consolidation of claims but does not provide for consolidating or severing claims involving multiple claimants, respondents or third party respondents. A proposed amendment to Rule 605(c) would permit the Director of Arbitration to determine preliminarily whether such parties should proceed in the same or separate arbitrations.

5. *Amendments to Pleadings*: Presently, a party may not amend its pleadings once responsive pleadings have been received, except when permitted by the arbitration panel. Rule 614 is proposed to be amended to permit amended pleadings, as a matter of right, prior to the appointment of a panel. Once a panel is appointed, no new or different pleading may be filed, unless it is responsive to an amended pleading permitted under the revised rule or unless the panel so permits.

6. Schedule of Fees: Filing fees are purposely low so that customers are not discouraged from commencing an arbitration proceeding. The schedule of such fees is based on the amount in dispute but does not approximate the Exchange's costs in administering arbitration proceedings. Presently, the maximum filing fee, for claims over $100,000, is $550 per session and the maximum fee which can be awarded by the arbitrators in their decision is also $550 per session. Lastly, no rule permits the arbitrators to assess fees if a matter has been settled or withdrawn after the commencement of the first hearing session.

Proposed amendments to Rule 618 (a), (b) and (f) would raise filing fees in virtually all cases to keep pace with the rising costs of administering arbitration proceedings. The maximum filing fee would be raised to $750 per session but would remain significantly lower than costs related to court proceedings. The amendments would also permit fees to be assessed by the arbitrators in any matter settled or withdrawn subsequent to the first hearing session. In addition, the adoption of a uniform schedule of filing fees by the SROs will discourage forum shopping by claimants.

7. *Small Claims:* Proposed amendments to Rule 619 would raise the jurisdictional limit for small claims proceedings from $2,500 to $5,000, exclusive of interest and costs. The rule is also proposed to be amended to include a filing fee schedule. The fees for small claims would be $15 for claims of $1,000 or less, $25 for claims of more than $1,000 to $2,500, and $100 for claims of more that $2,500 to $5,000. Presently the fee is $15 for all small claims proceedings. Since approximately 10% of this past year's cases are within the $2,500 to $5,000 range, the amendments will lower the Exchange's costs by permitting the selection of fewer arbitrators in those cases. The increased fee will not be unfair to claimants since it is only $10 more than is presently imposed.

II. *Member Controversies.*

1. *Industry Arbitrators:* When a business dispute arises between members of the Exchange, the panel selected to hear the matter is comprised entirely of industry arbitrators. Currently, Rule 601 defines Group 1 industry arbitrators as "members, partners of member firms and officers of member corporations." A less restrictive definition would permit the Exchange to select more representative industry panels and facilitate the selection of panels, particularly in out-of-town hearings. For example, an account executive, branch manager or bank office employee may have excellent securities experience but for whatever reason may not be an "officer or partner" of a member organization. Since registered employees are permitted to serve on Exchange disciplinary panels when the respondent is an employee, they should also be permitted to serve on arbitration panels. The Amex is therefore proposing to amend Rule 601 to enlarge the definition of industry arbitrators to "members and persons associated with members and member organizations." This definition will satisfy the Exchange's objectives while assuring that all panel members have some nexus to the Amex.

2. *Number of Arbitrators for Member Controversies:* Rule 602(b) requires three arbitrators for member controversies between $2,500 and $100,000 and five arbitrators for controversies exceeding $100,000. The proposed amendment to that rule states that "at least three but not more than five arbitrators" can hear member cases of $10,000 or more. This change would enable the Exchange to use three member panels in cases (involving over $100,000) where five would now be required. The adoption of this amendment would: (1) Reduce the Exchange's cost in administering arbitrations by reducing the number of honorariums paid; (2) reduce the scheduling difficulties encountered when trying to get five arbitrators and the parties to agree on a hearing date; and (3) reduce the caseload since more arbitrators could be appointed to more cases. Reducing the required number of arbitrators to three for any member controversy over $10,000 would also be consistent with arbitration procedures at other forums, such as the American Arbitration Association.

3. *Member Small Claims Procedure:* Rule 620(a) states that there shall be one arbitrator for member controversies not exceeding $5,000. A proposed amendment to the rule would raise the amount in controversy to $10,000.

Typically, a number of member controversies are in the $5,000-$10,000 range and most cases involve straightforward factual situations (*e.g.*, failure to pay brokerage commissions, overbilling). This amendment would thus reduce the Exchange's costs for administering claims between $5,000 and $10,000 without compromising the arbitration process since three arbitrators would not be needed to hear such matters.

(2) Basis.

The proposed amendments are consistent with section 6(b) of the Securities Exchange Act of 1934, in general, and Section 6(b)(5) in particular, in that they promote just and equitable principles of trade and protect investors and the public interest by insuring that members, member organizations and the public have an impartial forum for the resolution of their disputes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the proposed rule changes will impose any burden on competition because (a) the SICA proposed rule changes will be equally applicable to all participants in the securities industry and (b) the member controversy proposed rule changes simplify existing procedures to facilitate the prompt resolution of disputes.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule changes.

II. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 9, 1984.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 10, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-24689 Filed 9-17-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21304; File No. SR-MSE-84-7]

Self-Regulatory Organizations; Proposed Rule Change By Midwest Stock Exchange, Inc.; Relating to Proposed Fee Schedule for Late Filings of Financial and Operational Reports

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 27, 1984, the Midwest Stock Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached to the filing as Exhibit is the text of the proposed amendment to MSE Article XI, Rule 4, Interpretations and Policies .02.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A primary responsibility of the Exchange is to enforce compliance by its members with the provisions of the Securities Exchange Act of 1934 (the Act), the rules and regulations thereunder and the rules of the Exchange. The Exchange is proposing to establish a fee schedule for late filings of monthly, quarterly and annual financial and operational reports from members which are required to file such reports under applicable Exchange and SEC Rules.

The proposed late charges are designed to encourage prompt filings of monthly, quarterly and annual financial and operational reports. Timely filings by members will allow the Exchange to fulfill its responsibility under the Act to review and evaluate members' financial and operational condition. This will allow the Exchange adequate time to initiate appropriate surveillance programs for members determined to be approaching financial and/or operational difficulties.

In addition, the reports mentioned above are used to determine whether members who are both MSE members and Midwest Clearing Corporation (MCC) participants have contributed adequate MCC Participants Fund deposits, based upon a review of the members' financial condition and activity with MCC.

The proposed late charges are consistent with section 6 of the Act in that it is designed to encourage prompt compliance by Exchange members with the rules and regulations of the SEC and the rules of the Exchange.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Stock Exchange, Incorporated does not believe that the proposed rule change will impose any burdens on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approved such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th St., NW., Washington, D.C. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 9, 1984.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 10, 1984.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 84-24688 Filed 9-17-84; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Eagle Ventures, Inc.; Surrender of License

[License No. 05/10-0104]

Notice is hereby given that, pursuant to § 107.105 of the Small Business Administration's (SBA) Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105 (1984)), Eagle Ventures, Inc. (Eagle), 700 Soo Line Building, Minneapolis, Minnesota 55402, incorporated under the laws of the State of Minnesota has surrendered its License No. 05/10-0104, which was issued by SBA on May 28, 1962.

Eagle has complied with all conditions set forth by SBA for surrender of its license.

Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above cited Regulation, the License of Eagle is hereby accepted effective July 26, 1984 and it is no longer licensed to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 11, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-24671 Filed 9-17-84; 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/06-0268]

Equity Capital Corp. of Texas; Surrender of License

Notice is hereby given that pursuant to § 107.105 of the Small Business Administration's (SBA) Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105 (1984). Equity Capital Corporation of Texas (Equity), 5333 Spring Valley Road, Dallas, Texas 75240, incorporated under the laws of the State of Texas has surrendered its License No. 06/06-0268, which was issued by SBA on September 21, 1983.

Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above cited regulations, the license of Equity is hereby accepted effective September 4, 1984, and it is no longer licensed to operate as a small business investment company.

Dated: September 11, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-24670 Filed 9-17-84; 8:45 am]

BILLING CODE 8025-01-M

[License No. 05/05-0158]

Golder, Thoma Capital Co.; Surrender of License

Notice is hereby given that, pursuant to § 107.105 of the Small Business Administration's (SBA) Rules and Regulations governing Small Business Investment Companies (13 CFR 107.105(1984)), Golder, Thoma Capital Co. (Golder), 120 South LaSalle Street, Chicago, Illinois 60603, incorporated under the laws of the State of Illinois has surrendered its License No. 05/05-0158, which was issued by SBA on August 31, 1981.

Golder has complied with all conditions set forth by SBA for surrender of its license.

Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above cited Regulation, the License of Golder is hereby accepted effective July 26, 1984 and it is no longer licensed to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 11, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-24669 Filed 9-17-84; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-0234]

Mid America Venture Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On June 20, 1984, a notice was published in the **Federal Register** (49 FR 25334) stating that an application has been filed by Mid America Venture Capital Corporation, 500 West Broadway, Louisville, Kentucky 40202 with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1984)) for a license to operate as a small business investment company.

Interested parties were given until close of business July 20, 1984, to submit their comments to SBA. No comments were received.

Notice is hereby given that pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 04/04-0234 on September 5, 1984, to Mid America Venture Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: September 11, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-24674 Filed 9-17-84; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-0230]

North Riverside Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On May 4, 1984, a notice was published in the **Federal Register** (49 FR 19175), stating that North Riverside Capital Corporation, located at 5775-D Peachtree Dunwoody Road, Atlanta, Georgia 30342, has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1984), for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business on June 4, 1984, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 04/04-0230 to North Riverside Capital Corporation, on August 24, 1984.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 11, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-24675 Filed 9-17-84; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 05/05-0186]

U.P. Investment Corp.; Application for a License To Operate as a Small Business Investment Company (SBIC)

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA Regulations (13 CFR 107.102 (1984)), by U.P. Investment Corp., 2415 14th Avenue, South, Escanaba, Michigan for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended, (15 U.S.C. et seq.).

The proposed officers, directors, and shareholders are:

Name and address	Title	Percent of direct/ indirect ownership
Edward A. Bruhnke, 2415 14th Ave., South, Escanaba, MI 49829.	Director	
Peter P. Cambier, Central Upper Peninsula, Development Center, Inc., 2415 14th Ave., South, Escanaba, MI 49829.	Manager	
Eugene C. Gauthier, 1002 South 10th St., Escanaba, MI 49829.	Director	
Herbert E. Heger, 1312 Wisconsin Ave., Gladstone, MI 49827.	Secretary/ Treasurer/ Director.	
Forrest A. Henslee, 2415 14th Ave., South, Escanaba, MI 49829.	President/ Director.	
Edgar A. Larche, 2415 14th Ave., South, Escanaba, MI 49829.	Director	
David J. Nemacheck, 2415 14th Ave., South, Escanaba, MI 49829.	Director	
James L. Smith, 2415 14th Ave., South, Escanaba, MI 49829.	Director	
Matt N. Smith, 2415 14th Ave., South, Escanaba, MI 49829.	Director	[1] 8
Joseph F. Stankowicz, 2415 14th Ave., South, Escanaba, MI 49829.	Vice President	
Detroit and Northern Savings and Loan Association, 2325 Ludington St., Escanaba, MI 49829.	Shareholder	10
First National Bank & Trust Co. of Escanaba, Escanaba, MI 49829.	Shareholder	15
First National Bank of Gladstone, 823 Delta Ave., Gladstone, MI 49837.	Shareholder	5
Gladstone State Bank, 104 South 10th St., Gladstone, MI 49837.	Shareholder	5
Northern Michigan Bank of Escanaba, 723 Ludington St., Escanaba, MI 49829.	Shareholder	15
State Bank of Escanaba, 112 North 11th St., Escanaba, MI 49829.	Shareholder	15
Escanaba Foundation, 230 Ludington St., Escanaba, MI 49829.	Shareholder	35
Michigan Financial Corp., 101 West Washington St., Marquette, MI 49855.	100 pct. shareholder of First National Bank & Trust Co. of Escanaba.	[1] 15
Northern Michigan Corp., 723 Ludington Street., Escanaba MI 49829.	100 pct. shareholder of Northern Michigan Bank of Escanaba.	[1] 15

[1] By attrition.

The services of Peter P. Cambier are provided by the Central Upper Peninsula Business Development Center, Inc. (the Center), pursuant to an agreement which provides for, among other things, the day to day management of the Applicant by the Center which has been licensed by SBA as a Section 503 Development Company.

The Applicant will begin operations with a capitalization of $500,000 and will be a source of equity capital and long-term loan funds for qualified small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of the Notice will be published in a newspaper of general circulation in Escanaba, Michigan.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 6, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-24672 Filed 9-17-84; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/07-0079]

United Capital Corp. of Illinois; Surrender of License

Notice is hereby given that United Capital Corporation of Illinois, 2001 Foothill Road, P.O. Box 109, Genoa, Nevada 89411, incorporated under the laws of the State of California has surrendered its License No. 09/07-0079, issued by the Small Business Administration on July 10, 1970.

United Capital Corporation of Illinois has complied with all the conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the Regulations promulgated thereunder, the surrender of the license of United Capital Corporation of Illinois is hereby accepted and it is no longer licensed to operate as a small business investment company, effective June 30, 1984.

(Catalog of Federal Domestic Assistance Program No. 59.011,) Small Business Investment Companies)

Dated: September 11, 1984.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 84-24673 Filed 9-17-84; 8:45 am]

BILLING CODE 8025-01-M

Georgia; Region IV Advisory Council; Public Meeting

The Small Business Administration Region IV Adivisory Council, located in the geographical area of Atlanta, Georgia, will hold a public meeting from 9:00 a.m. to 4:00 p.m., on Thursday, October 25, 1984, at the Royal Savannah Inn & Conference Center, 231 West Boundary Street, Savannah, Georgia 31401, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Clarence B. Barnes, District Director, U.S. Small Business Administration, 1720 Peachtree Road, NW., Atlanta, Georgia 30309—(404) 881-4749.

Dated: September 12, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84-24677 Filed 9-17-84; 8:45 am]

BILLING CODE 8025-01-M

Mississippi; Region IV Advisory Council; Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Jackson, Mississippi, will hold a public meeting at 9:00 a.m. on Friday, September 28, 1984, at the Ramada Inn, Route 80 East, Vicksburg, Mississippi, in the Audubon Room, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Jack Spradling, District Director, U.S.

Small Business Administration, 322 Federal Building, 100 West Capitol Street, Jackson, Mississippi 39269–0396, telephone (601) 960–4363.

Dated: September 11, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84–24678 Filed 9–17–84; 8:45 am]

BILLING CODE 8025–01–M

South Dakota; Region VIII Advisory Council; Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Sioux Falls, South Dakota, will hold a public meeting on Friday, October 5, 1984, from 9:00 a.m. to 3:00 p.m., at the Community Room, First National Bank in Sioux Falls, 100 South Phillips, Sioux Falls, South Dakota 57102, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Chester B. Leedom, District Director, U.S. Small Business Administration, Suite 101 Security Building, 101 South Main, Sioux Falls, South Dakota 57102, 605/336–2980, Ext. 231.

Dated: September 11, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84–24679 Filed 9–17–84; 8:45 am]

BILLING CODE 8025–01–M

Wyoming; Region VIII Advisory Council; Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Casper, Wyoming, will hold a public meeting at 9 a.m. on Monday, October 1, 1984, at the Wort Hotel, 50 North Glenwood, Jackson, Wyoming, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Paul Nemetz, District Director, U.S. Small Business Administration, Federal Building, Room 4001, 100 East B Street, P.O. Box 2839, Casper, Wyoming 82601 (307) 328–5761.

Dated: September 11, 1984.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 84–24676 Filed 9–17–84; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–84–17]

Petitions for Exemption; Summary of Petitions Received, Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: October 8, 1984.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on September 12, 1984.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
24222	AVIATECA	14 CFR 91.303	To allow petitioner to operate one Stage 1 Boeing 727 aircraft in noncompliance with the operating noise limits until December 31, 1987.
24234	AERONICA	do	To allow petitioner to operate one Stage 1 Boeing 720 aircraft in noncompliance with the operating noise limits to Miami airport until January 1, 1987.
24221	Japan Air Lines Co. Ltd.	do	To allow petitioner to operate Stage 1 DC–8 aircraft on charter flights in noncompliance with the operating noise limits until December 31, 1987.
24229	Capitol Air, Inc.	do	To allow petitioner to operate Stage 1 DC–8 aircraft to/from Puerto Rico in noncompliance with the operating noise limits until hush kits are installed.
24231	Rich Int'l. Airways, Inc.	do	To allow petitioner to operate two Stage 1 DC–8–62 aircraft in noncompliance with the operating noise limits until June 1, 1985.
24230	Aeroservicios Ecuatorianos	do	To allow petitioner to operate one Stage 1 DC–8–55F aircraft in noncompliance with the operating noise limits until December 31, 1987, or until quiet nacelles are available for its aircraft.
24224	Transbrasil	do	To allow petitioner to operate one Stage 1 Boeing 707 aircraft in noncompliance with the operating noise limits until July 1, 1986, or until it retrofits or replaces its aircraft, whichever is earlier.
24232	Aeromexico	do	To allow petitioner to operate five Stage 1 DC–8–51 aircraft in noncompliance with the operating noise limits until December 31, 1987.
23925	Gulfstream Aerospace Corp.	14 CFR 23.49(b)(1)	To permit type certification of Gulfstream Model 1500, single engine, pressurized fan jet airplanes with a stall speed greater than 61 knots.
24214	EG&G Special Projects Inc.	14 CFR 125.327(a)(8)	To allow petitioner to comply with § 121.571 regarding the use of fire extinguishers. Also, to allow flight attendants to be thoroughly trained in their location and use rather than briefing all passengers.
24206	Steelcase, Inc.	14 CFR Parts 21 and 91	To allow petitioner to operate Falcon 20 and Cessna Citation III aircraft utilizing the provisions of minimum equipment lists.

PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought
24204	Airexec, Inc.	14 CFR 43.3(b)	To allow petitioner to remove and install aircraft parts in its commercially operated Mitsubishi MU2 aircraft when they are to be used in air ambulance service.
23644	Dow Chemical Co.	14 CFR 21.181	To amend Exemption 3833 to allow petitioner to operate an AMD-BA Falcon 50 aircraft utilizing the provisions of a minimum equipment list.
24199	Conner Aviation	14 CFR 135.183(b)(3)	To allow operation of Gates Learjet 35A aircraft up to flight level 410 without either pilot being required to wear an oxygen mask.
24094	David Alan Smith	14 CFR 135.243(a)	To allow petitioner to serve as pilot in command in scheduled commuter operations holding a commercial pilot certificate with an instrument rating. Although petitioner successfully completed practical tests, he did not meet the minimum age requirement for issuance of an airline transport pilot certificate.
24200	MCI Communications Corp.	14 CFR 21.181	To allow petitioner to operate a Falcon 50 aircraft utilizing the provisions of a minimum equipment list.
23261	Atlantic Richfield Co.	14 CFR Parts 21 and 91	To extend Exemption 3614 which expires September 30, 1984 to allow petitioner to operate B-727 aircraft utilizing the provisions of a minimum equipment list.
24203	Dunn & Bradstreet	do	To allow petitioner to operate a Gulfstream Airspace GIII Model 1159A aircraft utilizing the provisions of a minimum equipment list.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23987	Surinam Airways Ltd.	14 CFR Part 91 Subpart E, § 91.303	To allow petitioner to operate two DC-8 aircraft until December 31, 1987, in noncompliance with the operating noise limits. Denied 8/30/84.
23955	Aer Turas Teoranta	14 CFR 91.303	To allow petitioner to operate one DC-8-63F until June 30, 1985, in noncompliance with the operating noise limits. Denied 8/31/84.
24001	TAP Air Portugal	do	To allow petitioner to continue to operate noncompliant airplanes into the U.S. until December 31, 1987. Denied 8/27/84.
23984	Transportes Aereo RIOPLATENSE, S.A.C.e.I.	do	To exempt petitioner from the January 1, 1985, noise level compliance date. Denied 8/27/84.
23999	Aerotransportes Entre Rios S.R.L.	do	To exempt petitioner from the January 1, 1985, noise level compliance date. Denied 8/27/84.
23988	Air Haiti, S.A.	do	To exempt petitioner from the January 1, 1985, noise level compliance date. Denied 8/29/84.
23953	Caribbean Air Cargo Co., Ltd.	do	To exempt petitioner from the January 1, 1985, noise level compliance date. Denied 9/29/84.
23994	Atlantic Richfield Co.	do	To exempt petitioner from the January 1, 1985, noise level compliance date. Denied 8/29/84.
23926	Dept. of Natural Resources, State of Wisconsin	14 CFR 91.73 (a) and (d)	To permit the operation of aircraft at night without lighted position lights and anti-collision lights. Denied 8/28/84.
23938	Flying Tiger Line,	14 CFR 121.583 and 121.547	To permit petitioner to provide free transportation for employee dependents on its B-727-100 freighter aircraft. Partial Grant 8/30/84.
21015	Ransome Airlines	14 CFR 135.63(c)(8)	Extension of Exemption 3316 to permit petitioner, during scheduled passenger-carrying operations conducted under Part 135, to take off with a load manifest lacking the identification of crewmembers and their crew position assignments subject to certain conditions. Granted 8/31/84.
15590	Emery-Riddle Aeronautical Univ.	14 CFR Portions of Part 141	To Extend Exemption 2329A to allow petitioner to continue to train students to a performance standard. Granted 8/31/84.
24095	Air Transport Systems	14 CFR 135.261(b)	To allow petitioner to conduct air ambulance flights without complying with the duty time and rest requirements of that section. Granted 9/5/84.
23771	Cessna Aircraft Co.	14 CFR 91.213	To amend Exemption 4050 to add the Cessna S550 (Citation SII). This would allow the Citation SII to be operated under Part 91 without a second in command. Granted 9/5/84.
24219	Eastern Airlines, Inc.	14 CFR Part 121, Appendix H	To exempt petitioner from a specific provision of Appendix H which limits the conduct of Phase IIA training and checking utilizing a Phase I simulator to 3.5 years from the date such approval was received from FAA. Granted 8/31/84.
24218	Pan Am World Airways, Inc.	do	To exempt petitioner from a specific provision of Appendix H of Part 121 which limits the conduct of Phase IIA training and checking utilizing a Phase I simulator to 3.5 years from the date such approval was received from the FAA. Granted 8/31/84.
18855	Helicopter Assc. Int'l	14 CFR Portions of Part 135	Extension of Exemption 2695D, to allow members of petitioner's association and any other Part 135 helicopter operator to operate certain aircraft without performing certain aircraft modifications, hiring additional required pilots and without complying with certain performance, operational and maintenance requirements. Granted 8/30/84.
17399	Flying Tigers	14 CFR 121.583(a)(8)	To permit petitioner to transport employees/dependents on its DC-8 cargo flights. Granted 8/30/84.

[FR Doc. 84-24577 Filed 9-17-84; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; McLean, Woodford, Marshall, and LaSalle Counties, IL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a draft supplement to the Final Environmental Impact Statement will be prepared for a four-lane highway from Federal-aid Interstate 55 (FAI-55) near Normal in McLean County to FAI-80 in LaSalle County, Illinois. The proposed project would be a part of Federal-aid Primary Route 412 (FAP 412).

FOR FURTHER INFORMATION CONTACT: James C. Partlow, District Engineer, Federal Highway Administration, 320 West Washington Street, 7th Floor, Springfield, Illinois 62701, Telephone: (217) 492-4622. R.H. Blasius, District Engineer, Illinois Department of Transportation, 700 East Norris Avenue, Ottawa, Illinois 61350, Telephone: (815) 434-6131.

SUPPLEMENTARY INFORMATION: A Draft Environmental Impact Statement fot the section of Federal-aid Primary 412 from FAI–55 near Normal in McLean County to FAI–80 in LaSalle County, Illinois was approved for circulation on March 5, 1976. During preparation of the final EIS for this action, it became apparent that funding and farmland impacts were major concerns on the southern portion of the project from U.S. 51 near Oglesby to I–55 near Normal. However, there were no similar major concerns on the northern section from I–80 to U.S. 51 near Oglesby; thus, the State decided to seek approval to proceed with design for the northern section only. The preferred alternative for this section was identified in a portion of the FEIS entitled Supplement I. The FEIS, inlcuding Supplement I, was approved on May 30, 1979. Design and construction have proceeded for the portion of the project discussed in Supplement I.

This notice deals with the preparation of the second draft supplement to the approved final EIS and presents alternative alignments for FAP 412 from U.S. 51 near Oglesby to I–55 north of Normal. To ensure that the EIS addressed logical termini, the original termini for the study will be used in this supplement. The EIS will present the current status of the portion of the project approved in Supplement I.

Supplement II will study the alternatives for upgrading approximately 51 miles of U.S. 51 to a four-lane highway with either freeway or expressway standards. Consideration will be given to utilizing as much of the existing U.S. 51 alignment and right-of-way as possible (including urban designs through intervening towns on the expressway alternative). The proposed project would provide a more efficient and safer transportation system.

Alternatives under consideration for this project include: (1) Upgrading U.S. 51 to a four-lane fully access-controlled freeway, utilizing as much of the existing U.S. 51 alignment and right-of-way as possible; (2) upgrading U.S. 51 to a four-lane partially access-controlled expressway, utilizing as much of the existing U.S. 51 alignment and right-of-way as possible; (3) constructing a fully access-controlled freeway on new alignment west of exisiting U.S. 51; (4) do nothing (no-build).

A formal scoping process will be undertaken as part of this project. Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies and to private organizations and individuals who have previously expressed interest in the proposed action. The first formal scoping meeting is expected to be conducted in early Fall, 1984.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the supplement EIS should be directed to the FHWA or IDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Executive Order 12372 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on: September 10, 1984.

James C. Partlow,

District Engineer, Springfield, Illinois.

[FR Doc. 84-24606 Filed 9-17-84; 8:45 am]

BILLING CODE 4910-22-M

Urban Mass Transportation Administration

Solicitation of Proposals for Grants; Section 3(a)(1)(C) Technology Introduction Program

AGENCY: Urban Mass Transportation Administration, DOT

ACTION: Notice.

SUMMARY: The Urban Mass Transportation Administration (UMTA) announces in this notice that it is soliciting proposals for grants under section 3(a)(1)(C), the Technology Introduction Program, of the Urban Mass Transportation Act of 1964, as amended, (UMT Act) for fiscal year 1985 funding. UMTA will select from among the proposals received, contact the submitting parties and request complete grant applications from them.

Proposers are reminded that many projects funded under section 3(a)(1)(C) are also eligible for funding under section 9 of the Act. UMTA encourages proposers to use, to the maximum extent possible, the funding available under section 9. Details on the funding sources are available at the appropriate UMTA Regional Office.

DATES: Proposals are due for the section 3(a)(1)(C) program by December 17, 1984.

ADDRESSES: Proposals for section 3(a)(1)(C) grants should be sent to the appropriate UMTA Regional Office.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to the appropriate UMTA Regional Office.

Section 3(a)(1)(C): Technology Introduction Program

Section 3(a)(1)(C) of the UMT Act, 49 U.S.C. 1602(a)(1)(C), authorizes the Secretary of Transportation to make grants or loans to assist public agencies in financing the introduction into public transportation service of new technology in the form of innovative and improved products.

UMTA's objective in financing new technology in fiscal year 1985 is to encourage transit suppliers to produce and transit operators to use, innovative technology that will promote the following emphasis areas:

- *Safety:* Technology such as fire detection/suppression systems, emergency response/rescue equipment, devices to reduce on board and boarding injuries.
- *Revenue Security:* Technology such as strip magnetic card equipment, bill handling equipment, vehicle-to-bank money handling equipment.
- *Energy Cost Reduction:* Technology such as solid state inverters, converters, controllers, alternative fuels (e.g. methanol), energy storage and regeneration systems.
- *Maintenance Cost Management:* Technology such as diagnostic equipment, and low cost maintenance management information systems, brake retarders, brake slack adjusters, and air conditioning screw compressors.

UMTA May Also Consider Other Areas in This Year's Technology Introduction Program

To meet its objective in financing new technology, UMTA will provide technical and financial assistance for an eligible agency to purchase and evaluate in revenue service limited pre-production quantities of improved products to increase confidence in operational performance and reliability. This evaluation will provide a sound and valid empirical basis for cost-effective tradeoffs in transit equipment selection decisions.

UMTA intends to publish a formal circular describing the Technology Introduction Program. In the interim, prospective applicants are referred to the **Federal Register** notice of January 1981 (46 FR 5832) which describes the background and purpose of the program. For purposes of evaluation, proposals should contain a detailed project description, a brief project abstract, budget, outline of benefits, market potential, evaluation plan, and a

discussion of the degree of development of the technology. Proposals must also include the costs and plans for data collection and evaluation and the development of a preliminary report. A complete grant application is not needed at this time. Proposers are reminded that section 3(a)(1)(C) project funding is based on a 75 percent Federal and 25 percent local source of funds.

Proposers not selected for participation in earlier section 3(a)(1)(C) announcements, may, by submitting letters of continuing interest in lieu of new proposals, revise earlier submittals for consideration in fiscal year 1985.

Ralph L. Stanley,

Urban Mass Transportation, Administrator.

[FR Doc. 84-24627 Filed 9-17-84; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1983 Rev., Supp. No. 27]

Ideal Mutual Insurance Co.; Surety Companies Acceptable on Federal Bonds; Correction

At 49 FR 31190, dated August 3, 1984, Treasury published notification of the termination of Ideal Mutual Insurance Company's certificate of authority. Paragraph two of that notice stated:

With respect to any bonds currently in force with Ideal Mutual Insurance Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the company.

This paragraph is hereby revised to:

With respect to any bonds currently in force with Ideal Mutual Insurance Company, bond-approving officers for the Government should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding.

Questions concerning this notice may be directed to the Surety Bond Branch, Finance Division, Bureau of Government Financial Operations, Department of the Treasury, Washington, DC 20226, telephone (202) 634-5745.

Dated: September 6, 1984.

Marcus W. Page,

Deputy Commissioner, Bureau of Government Financial Operations.

[FR Doc. 84-24644 Filed 9-17-84; 8:45 am]

BILLING CODE 4810-35-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 182
Tuesday, September 18, 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).

CONTENTS

1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:15 a.m., Friday, September 14, 1984.

LOCATION: Third Floor Hearing Room, 1111—18th Street, NW., Washington, DC.

STATUS: Open to the Public.

MATTERS: TO BE CONSIDERED:

FY 86 Budget

The Commission will continue its consideration of the Budget for Fiscal Year 1986.

The Commission voted unanimously that agency business required holding this meeting without seven day advance notice.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301–492–6800.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 84-24763 Filed 9-14-84; 2:31 pm]

BILLING CODE 6355-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 AM (Eastern Time), Tuesday, September 18, 1984.

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200–C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street NW., Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Votes.
2. A Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 84–6–FOIA–154–CL, concerning a request for information from a closed ADEA file.
4. Freedom of Information Act Appeal No. 84–6–FOIA–110–HQ, concerning a request for information relating to two EEOC Requests for Contract Proposals.
5. Freedom of Information Act Appeal No. 84–040–FOIA–080–NY, concerning a request for one sentence from a charge file.
6. Freedom of Information Act Appeal No. 84–07–FOIA–78–HU, concerning a request for records from a Title VII charge file.
7. Proposed Semiannual Regulatory Agenda.

Closed

1. Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commisson at (202) 634–6748.

This Notice Issued September 11, 1984.

Dated: September 11, 1984.

Treva McCall,

Executive Secretary to the Commission.

[FR Doc. 84-24730 Filed 9-14-84; 11:39 am]

BILLING CODE 6750-06-M

3

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, September 24, 1984.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel action (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 14, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 24818 Filed 9-14-84; 4:11 pm]

BILLING CODE 6210-01-M

4

FEDERAL TRADE COMMISSION

TIME AND DATES: 10:00 a.m., Tuesday, September 18, 1984.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Oral Presentations to the Commission in connection with the Protein Supplements Proposed Trade Regulation Rule.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 532–1892, Recorded Message: 532–3806.

Emily H. Rock,

Secretary.

[FR Doc. 84-24778 Filed 9-14-84; 2:56 pm]

BILLING CODE 6750-01-M

5

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of September 17, 24, 1984, and October 1, 8, 1984.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of September 17

Wednesday, September 19

10:00 a.m.
Quarterly Progress Report on Safety Goal Evaluation Report (Public Meeting)

Thursday, September 20

10:00 a.m.
Industry Views and Public Interest Group Comments on Decommissioning (Public Meeting)

2:00 p.m.

Uranium Mill Tailings Litigative Strategy (Closed—Ex. 10)
3:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Friday, September 21

9:50 a.m.
Affirmation Meeting (Public Meeting) (if needed)
10:00 a.m.
Discussion of Board Order in Shoreham (Open/Closed to be determined)
2:00 p.m.
Discussion of Remaining Questions on Backfitting (Public Meeting)

Week of September 24

Tentative

Thursday, September 27

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of Octoberr 1

Tentative

Tuesday, October 2

10:00 a.m.
Briefing/Possible Vote on UCS 2.206 Petition on TMI–1 Emergency Feedwater (Public Meeting)
2:00 p.m.
Continuation of 9/5 Discussion of Indian Point Probabilistic Risk Assessment (Public Meeting)

Wednesday October 3

2:00 p.m.
Discussion of Reexamination of Exemption Process (Public Meeting)

Thursday, October 4

10:00 a.m.
Discussion/Possible Vote on Full Power Operating License for Callaway–1 (Public Meeting)
2:00 p.m.
Semi-Annual Briefing on Appraisal of Operating Experience (Public Meeting)
3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Friday, October 5

9:30 a.m.
Staff Briefing and Discussion on Requirements for Senior Managers (Public Meeting)

Week of Octoberr 8

Tentative

Tuesday, October 9

10:00 a.m.
Discussion of Severe Accident Program for Nuclear Power Reactors—Revised Policy Statement (Public Meeting)
2:00 p.m.
Discussion of Proposed Rule on Decommissioning Nuclear Facilities (Public Meeting)

Wednesday, October 10

10:30 a.m.
Meeting with Advisory Panel on TMI–2 Cleanup (Public Meeting)
2:00 p.m.
Discussion/Possible Vote on Full Power Operating License for Catawba (Public Meeting)

Thursday, October 11

2:00 p.m.
Periodic Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)
3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Friday, October 12

10:00 a.m.
NUMARC Briefing on Fitness for Duty, Training and Requirements for Senior Managers (Public Meeting)

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado (202) 634–1410.

Dated: September 14, 1984.

George T. Mazuzan,

Office of the Secretary.

[FR Doc. 84–24792 Filed 9–14–84; 3:45 pm]
BILLING CODE 7590–01–M

6

POSTAL SERVICE
(Board of Governors)
Notice of Vote to Close Meeting

At its meeting on September 10, 1984, the Board of Governors of the United States Postal Service unanimously voted to close to public observation its meeting, scheduled for October 2, 1984, in Cleveland, Ohio. The meeting will involve: (1) A continuation of the discussion of strategies and positions in connection with possible continued collective bargaining negotiations, pursuant to chapter 12 of title 39 Unted States Code, involving parties to the 1981 National Agreements, between the Postal Service and four labor organizations representing certain postal employees, which expired in July 1984; and (2) consideration of the Postal Rate Commission's September 7, 1984, Recommended Decision in Docket No. R84–1, the omnibus rate case.

The meeting is expected to be attended by the following persons: Governors Babcock, Camp, McKean, Peters, Ryan, Sullivan, Voss and Waldman; Postmaster General Bolger; Deputy Postmaster General Finch; Secretary of the Board Harris; General Counsel Cox; Senior Assistant Postmasters General Coughlin and Morris; and Counsel to the Governors Califano.

As to the first of these agenda items, the Board is of the opinion that public access to any discussion of possible strategies that Postal Service management may decide to adopt, or the positions it may decide to assert, would be likely to frustrate action to carry out those strategies or assert those positions successfully. In making this determination, the Board is aware that the effectiveness of the collective bargaining process in labor-management relations has traditionally depended on the ability of the parties to prepare strategies and formulate positions without prematurely disclosing them to the opposite party. The public has a particular interest in the integrity of this process as it relates to the Postal Service, since the outcome of the negotiations between the Postal Service and the various postal unions, and consequently the cost, quality and efficiency of postal operations, may be adversely affected if the process is altered.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and § 7.3(c) of title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552b(b)], because it is likely to disclose information prepared for use in connection with the negotiation of collective bargaining agreements under chapter 12 of title 39, United States Code, which is specifically exempted from disclosure by section 410(c)(3) of title 39, United States Code. The Board has determined further that, pursuant to section 552b(c)(9)(B) of title 5, United States Code, and § 7.3(i) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to disclose information the premature disclosure of which is likely to frustrate significantly proposed Postal Service action. Finally, the Board of Governors has determined that the public has an interest in maintaining the integrity of the collective bargaining process and that the public interest does not require that the Board's discussion of its possible collective bargaining strategies and positions be open to the public.

As to the second agenda item, the Board is of the opinion that public access to the discussions would be likely to disclose information that will become involved in future rate or classification litigation.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, § 7.3(c) of title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting

requirements of the Government in the Sunshine Act, because it is likely to disclose information in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code. The Board has determined further, that pursuant to section 552b(c)(10) of title 5, United States Code, and § 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the litigation of a particular case involving a determination on the record after opportunity for a hearing. The Board further determined that the public interest does not require that the Board's discussion of the matter be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, § 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c) (3), (9) (B) and (10) of title 5 and sections 410(c) (3) and (4) of title 39, United States Code, and sections 7.3 (c), (i) and (j) of title 39, Code of Federal Regulations.

David F. Harris,

Secretary.

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Tuesday
September 18, 1984

Part II

Department of Commerce

National Telecommunications and Information Administration

15 CFR Part 2301

Public Telecommunications Facilities Program; Interim Revision of Rules

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

15 CFR Part 2301

[Docket No. 40898-4098]

Public Telecommunications Facilities Program; Interim Revision of Rules

AGENCY: National Telecommunications and Information Administration (NTIA), Commerce.

ACTION: Interim rules.

SUMMARY: The National Telecommunications and Information Administration (NTIA) is announcing interim revision of its rules which govern the Public Telecommunications Facilities Program (PTFP). The revision is necessary to clarify areas where applicants have had difficulties.

NTIA intends to issue Final Rules after it has received and evaluated public comments. Organizations desiring to file applications with NTIA should develop their applications according to the rules and priorities set out herein.

DATES: To give applicants for grants during 1985 sufficient time to prepare their applications, the Interim Rules will become effective October 1, 1984. Comments must be filed no later than November 1, 1984. Reply comments must be filed no later than December 1, 1984.

ADDRESS: Persons interested in commenting on the Interim Rules must send three copies of any comments to: Office of the Chief Counsel, NTIA/DOC, 14th and Constitution Avenue, NW., Room 4717, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Persons desiring further information regarding the Rules should contact the Office of the Chief Counsel, NTIA/DOC, 14th and Constitution Avenue, NW., Room 4717, Washington, D.C. 20230. Telephone: (202) 377-1816.

SUPPLEMENTARY INFORMATION:

Interim Rules

NTIA has completed two grant cycles since the last revision of its PTFP Rules. During these cycles, we have become cognizant of several areas which seem to cause confusion. Our intent is to clarify these areas to allow potential grantees more easily to understand the requirements and facilitate their applications. The proposed changes to the Rules will allow for more uniformity and clarity in administering the program. The major areas which have been clarified include:

1. Making applicant eligibility for planning grants and project eligibility language more consistent with the law and NITA practices.

2. What constitutes a complete application and distinguishes it from an application that is deficient.

3. What does filing a timely application mean and how it is to be delivered in a timely manner.

4. How to amend an application.

5. How to reactivate a deferred application.

6. How to request special consideration.

7. Expanded discussions on control and use of equipment, eligible equipment items, and non-eligible equipment items.

8. Expanded discussions on the close-out and monitoring procedures for a project.

Under Executive Order (E.O.) 12291, the Department must judge whether a regulation is "major" within the meaning of section 1 of E.O. 12291 and therefore subject to the requirement that a Regulatory Impact Analysis be performed. This regulation is not major because it is not "likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, * * *; or (3) significant adverse effects on competition, employment, investment, productivity or innovation * * *." Therefore, preparation of a Regulatory Impact Analysis is not required.

This regulation was submitted to the Office of Management and Budget (OMB) for review, as required by E.O. 12291.

The interim rules described above relate to a Federal grant-in-aid program; thus, under section 553(a)(2) of the Administrative Procedures Act (5 U.S.C. 553(a)(2)), they may be issued and made effective immediately without notice of proposed rulemaking, opportunity for comment, or 30-day deferral of effectiveness after publication. However, NTIA believes the public interest will be best served by making these interim rules effective October 1, 1984, by accepting comments and reply comments by the deadlines specified above under the heading **"DATES,"** and by issuing Final Rules based on evaluation of those comments.

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) does not apply to these interim rules because, as explained above, the rules were not required to be promulgated as proposed rules before issuance as final rules by section 553 of the Administrative Procedures Act (5 U.S.C. 553) or by any other law. Neither an initial nor final Regulatory Flexibility Analysis was prepared.

As a final matter, pursuant to the Paperwork Reduction Act of 1980, OMB reviewed the information collection and recordkeeping requirements contained in NTIA's rules as set out in the PTFP Report and Order, 44 FR 30898 (1979). The amendments of NTIA's regulations contained in the Interim Rules do not alter the Agency's already approved information collection or recordkeeping requirements. Therefore, the collection of the information required by rules, or revised by the interim revisions, are already approved by the Director of the Office of Management and Budget, OMB Control No. 0660-0001 and OMB Control No. 0660-0003.

The publication requirement in § 2301.9 while not a new requirement, was never approved by OMB. It has now been submitted to OMB for approval. Comments on this information collection may be directed to the Office of Information and Regulatory Affairs at OMB, Attention: Desk Officer for Department of Commerce.

List of Subjects in 15 CFR Part 2301

Administrative procedure, Grant programs—communications, Reporting and recordkeeping requirements, Telecommunications.

Dated: September 12, 1984.

David J. Markey,

Administrator.

Part 2301 is added to Title 15 of the CFR to read as follows:

PART 2301—PUBLIC TELECOMMUNICATIONS FACILITIES PROGRAM

Subpart A—General

Sec.

Subpart B—Eligibility and Application Procedures

Sec.

Authority: Public Telecommunications Financing Act of 1978, 47 U.S.C. 390, *et seq.*; as amended by the Public Broadcasting Amendments Act of 1981.

Subpart A—General

§ 2301.1 Purpose and scope.

These rules prescribe policies and procedures to insure the fair, equitable, and uniform treatment of applications for planning and construction grants for public telecommunications facilities. They implement the provisions of Part IV of Title III of the Communications Act of 1934, as amended.

§ 2301.2 Other pertinent rules and regulations.

Other rules and regulations pertinent to applications for the operation of noncommercial educational broadcast stations and public broadcast stations are contained in the rules and regulations of the Federal Communications Commission 47 CFR Part 1 (Practice and procedure); Part 2 (Frequency Allocations and Radio Treaty Matters; General Rules and Regulations); Part 17 (Construction, Marking and Lighting of Antenna Structures); Part 3, Subpart E (Television Broadcasting Stations); Part 73 (Radio Broadcast Services); and Part 74 (Experimental Auxiliary and Special Broadcast and Other Program Distribution and Services.)

§ 2301.3 Definitions.

"Act" means Part IV of Title III of the Communications Act of 1934, 47 U.S.C. 390–94 and 397–99, as amended.

"Administrator" means the Assistant Secretary for Communications and Information of the U.S. Department of Commerce.

"Advertisement" means any message or other programming material which is broadcast or otherwise transmitted in exchange for remuneration, and which is intended: to promote any service, facility, or product offered by any person who is engaged in such offering for profit; to express the views of any person with respect to any matter of public importance or interest except where prohibited by law.

"Agency" means the National Telecommunications and Information Administration of the U.S. Department of Commerce.

"Commission" means the Federal Communications Commission.

"Construction" (as applied to public telecommunications facilities) means acquisition (including acquisition by lease), installation, and improvement of public telecommunications facilities and preparatory steps incidental to any such acquisition, installation or improvement.

"de novo" means anew, afresh, or for a second time.

"Federal interest period" means the period of time during which the Federal Government retains a reversionary interest in all facilities constructed with Federal grant funds. This period begins with the purchase of the facilities and continues for ten (10) years after the completion date of the project.

"Nonbroadcast" means a system for the distribution of electronic signals by a means other than broadcasting. Examples of nonbroadcast are ITFS, SCA, teletext, and cable.

"Noncommercial educational broadcast station" or a "public broadcast station" means a television or radio broadcast station which is eligible to be licensed by the Commission as a noncommercial educational radio or television broadcast station and which is owned (controlled) and operated by a state, a political or special purpose subdivision of a state, public agency or nonprofit private foundation, corporation, institution, or association, or owned (controlled) and operated by a municipality and transmits only noncommercial programs.

"Noncommercial telecommunications entity" means any enterprise which is owned (controlled) and operated by a state, a political or special purpose subdivision of a state, a public agency, or a nonprofit private foundation, corporation, institution, or association; and which has been organized primarily for the purpose of disseminating audio or video noncommercial educational and cultural programs to the public by means other than a primary television or radio broadcast station, including, but not limited to, coaxial cable, optical fiber, broadcast translators, cassettes, discs, satellite, microwave or laser transmission.

"Nonprofit" (as applied to any foundation, corporation, institution or association) means a foundation, corporation, institution, or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"Operational cost" means those approved costs incurred in the operation of an entity or station such as overhead, labor, material, contracted services and including capital outlay and debt service.

"Preoperational expenses" means all nonconstruction costs incurred by new public telecommunications entities before the date on which they began providing service to the public, and all nonconstruction costs associated with the expansion of existing public telecommunications facilities before the date on which such expanded capacity is activated, except that such expenses shall not include any portion of the salaries of any personnel employed by an operating public telecommunications entity.

"PTFP" means the Public Telecommunications Facilities Program.

"PTFP Director" means the Agency employee who recommends final action on public telecommunications facilities applications and grants to the Administrator.

"Public telecommunications entity" means any enterprise which is a public broadcast station or noncommercial telecommunications entity and which disseminates public telecommunications services to the public.

"Public telecommunications facilities" means apparatus necessary for production, interconnection, captioning, broadcast, or other distribution of programming, including but not limited to, studio equipment, cameras, microphones, audio and video storage or reproduction equipment, signal processors and switchers, terminal equipment, towers, antennas, transmitters, remote control equipment, transmission line translators, microwave equipment, mobile equipment, satellite communications equipment, instructional television fixed service equipment, subsidiary communications authorization transmitting and receiving

equipment, cable television equipment, optical fiber communications equipment and other means of transmitting, emitting, storing, and receiving images and sounds or information, except that such term does not include the buildings to house such apparatus (other than small equipment shelters which are part of satellite earth stations, translators, microwave interconnection facilities, and similar facilities).

"Public telecommunications services" means noncommercial instructional, community service, public service, public affairs, educational and cultural radio and television programs, that may be transmitted by means of electronic communications by a public telecommunications entity.

"State" includes each of the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"System of public telecommunications entities" means any combination of public telecommunications entities acting cooperatively to produce, acquire or distribute programs, or to undertake related activities.

Subpart B—Eligibility and Application Procedures

§ 2301.4 Who can get a PTFP grant and what can they use it for?

(a) Eligibility of applicants—In order to apply for and receive a PTFP grant, an applicant must be:

(1) A public or noncommercial educational broadcast station;

(2) A noncommercial telecommunications entity;

(3) A system of public telecommunications entities;

(4) A nonprofit foundation, corporation, institution, or association organized primarily for educational or cultural purposes;

(5) A nonprofit foundation, corporation, institution, or association organized for any purpose except primarily religious to plan for the provision of public telecommunications services;

(6) A state or local government or agency or a political or special purpose subdivision of a state.

(b) Eligibility of projects—An applicant which is eligible under paragraph (a) of this section, may file an application with the Agency for a planning or construction grant to achieve the following:

(1) The provision of new public telecommunications facilities to extend service to areas currently not receiving public telecommunications services;

(2) The expansion of the service areas of existing public telecommunications entities;

(3) The establishment of new public telecommunications entities into areas currently receiving public telecommunications services;

(4) The development of public telecommunications facilities owned by, operated by, or available to minorities and women;

(5) The improvement of the capabilities of existing public broadcast stations to provide public telecommunications services.

(c) In addition any applicant, whose proposal requires an authorization from the Commission, must be eligible to receive such authorization.

(d)(1) If a prospective applicant is unsure whether it is eligible to receive a PTFP grant or whether its proposed project is eligible for PTFP funding, the prospective applicant may seek a determination from the Agency at any time, except during the period between the closing date for the filing of applications and the publication by the Agency of the list of applications which the Agency has accepted for filing.

(2)(i) To obtain an eligibility determination from the Agency, a prospective applicant must send a letter requesting an eligibility determination to the PTFP Director, NTIA/DOC, 14th and Constitution Avenue, NW., Room 4625, Washington, DC 20230.

(ii) In this letter the prospective applicant must:

(A) Describe the proposed project;

(B) Include a copy of the organization's articles of incorporation and by-laws, or other similar documentation, which specifies the nature and powers of the prospective applicant; and

(C) If the prospective applicant is a nonprofit foundation, corporation, institution, or association, provide a copy of a letter from the Internal Revenue Service granting the prospective applicant tax exempt status under section 501(c)(3) of the Internal Revenue Code, or similar documentation.

(3) A favorable eligibility determination does not guarantee that the Agency will accept an application for filing or award a grant.

(4) An applicant may appeal an unfavorable eligibility determination to the Administrator under § 2301.13.

§ 2301.5 How do I file an application?

(a) *New applications.* To apply for a PTFP grant an applicant must file a *timely* and *complete* application. A prospective applicant may obtain an approved Agency application form from the Public Telecommunications Facilities Program, NTIA/DOC, 14th and Constitution Avenue, NW., Room 4625, Washington, DC 20230.

(1) To file a *timely* application an applicant must file an application on or before the closing date set for the filing of applications by the Administrator under § 2301.10 of the rules. The application must:

(i) Be addressed to the Public Telecommunications Facilities Program, NTIA/DOC, 14th and Constitution Avenue, NW., Room 4625, Washington, DC 20230;

(ii) All applications, whether mailed or hand delivered must be received in the Department of Commerce directed to PTFP, Room 4625, no later than 5:00 p.m. on the closing date.

(2) To file a *complete* application, the applicant must submit an original and one copy of the Agency application form with the signature of an officer of the applicant, who is legally authorized to sign for the applicant with the assurances and other information described below:

(i) Assurances—

(A) The applicant is an eligible entity as described in § 2301.4(a) of the rules;

(B) The facilities to be acquired and installed under the project will be owned or leased (as consistent with § 2301.24) by the applicant;

(C) The applicant will control the operation of, and maintain, any public telecommunications facilities obtained with PTFP funds during the period of Federal interest;

(D) The applicant will have when needed the necessary funds to construct any public telecommunications facilities for which the Agency has granted matching funds;

(E) The applicant will have the funds necessary to operate and maintain those facilities once constructed;

(F) The applicant will use PTFP funded facilities and any monies generated through the use of PTFP funded facilities primarily for public telecommunications purposes;

(G) The applicant will not use or allow the use of any PTFP funded facilities for other than public telecommunications purposes when such uses would interfere with the use of the facilities for the provision of public telecommunications services;

(H) The applicant has participated (or, in the case of a planning grant, will participate) in comprehensive planning for such public telecommunications facilities, including community involvement, an evaluation of alternate technologies and coordination with state telecommunications agencies, if any;

(I) The applicant has taken into account all non-Federal financial sources available for the project and the non-Federal share stated by the applicant as being available for use in the project is the maximum amount available from such sources;

(J) The applicant will make the most economical and efficient use of the grant;

(K) The applicant will hold appropriate title or lease to the site on which apparatus proposed in the project will be operated, including the right to construct, maintain, operate, inspect, and remove such apparatus, sufficient to assure the continuity of operation for a period of ten (10) years following the completion of the project;

(L) During the period in which the applicant possesses or uses the Federally funded facilities (whether or not this period extends beyond the Federal interest period), the applicant may not use or allow the use of the Federally funded equipment for purposes the essential thrust of which are sectarian;

(M) The applicant will maintain insurance to protect the Federal investment from perils for the 10-year term of the Federal investment subject to § 2301.29(b)(7);

(N) The applicant will abide by the current reporting requirements of § 2301.27 as amended:

(ii) Other information—

(A) A brief narrative statement (of not more than four (4) pages) describing the proposed project with particular attention to the funding criteria;

(B) A copy of the applicant's articles of incorporation, by-laws, board of directors, and other similar documentation specifying the nature and powers of the applicant;

(C) If the applicant is a nonprofit foundation, corporation, institution, or association, a copy of a letter from the Internal Revenue Service granting the applicant tax exempt status under section 501(c)(3) of the Internal Revenue Code; or other legal documentation of nonprofit status;

(D) A copy of any environmental impact statement or other environmental assessment document prepared in connection with the proposed projects as may be required by any Federal, state, or local law or regulation;

(E) If the application is for a construction project, a five (5) year plan outlining the applicant's projected facilities requirements and the projected costs of those facilities;

(F) If the application is for a construction project, information relating to the applicant's evaluation of alternate technologies available in the service area and the extent to which there is no duplication of services;

(G) An inventory of all public telecommunications facilities (if any) with manufacturers model number, production year, and the date of acquisition of the equipment which is currently owned by the applicant;

(H) If special consideration is requested under section 392(f) of the Act, information detailing the basis for the request on the form provided by the Agency;

(I) A statement by the applicant certifying that the applicant has served copies of its application on each of the entities required under § 2301.8 of this part with a copy of the letters transmitting the application to the entities served;

(J) A statement by the applicant certifying that the applicant is causing to be published in a newspaper of general circulation in the community to be served the notice required in § 2301.9 of the rules and two copies of the notice as it is to appear in the newspaper with notations of the dates on which the notice is to be or has been published;

(K) An opinion letter from the applicant's attorney stating that the applicant will have fee simple title or a long-term lease (e.g., a ten-year lease) or an option to obtain same to any real or personal property necessary for the installation of major fixed equipment (such as a broadcast transmitter or tower);

(L) Meaningful documentation, including as necessary the proper FCC authorization cited in §§ 2301.8 and 2301.11, supporting the applicant's request for equipment to render the proposed service. If applicable in certain cases where equipment is requested, documentation indicating excessive downtime or high incident of repair;

(M) A full and detailed explanation of any discrimination complaints filed against it before any governmental agency.

(b) *Deferred applicant.* (1) An applicant may reactivate an application deferred by the Agency during the prior year under § 2301.19, if the applicant has not substantially changed the stated purpose of the application.

(2) To reactivate a deferred application, the applicant must file a written request with the Public Telecommunications Facilities Program, NTIA/DOC, 14th and Constitution Avenue, NW., Room 4625, Washington, D.C. 20230. The request must be *timely* and *complete*. In addition, all deferred applications will be subject to § 2301.4 eligibility determination de novo.

(i) To file a *timely* request, an applicant must file the request on or before the date established as the closing date for the filing of applications under § 2301.10 of the rules. The request must:

(A) Be addressed to the Public Telecommunications Facilities Program, NTIA/DOC, 14th and Constitution Avenue, NW., Room 4625, Washington, D.C. 20230;

(B) All reactivated applications, whether mailed or hand delivered, must be received no later than 5:00 p.m. of the closing date.

(ii) To file a *complete* request, the applicant must submit an original and one copy of the following:

(A) Sections I, II, III, and IV of Part I of the approved Agency application form with the original signature of an officer of the applicant, who is legally authorized to sign for the applicant, a notation of the file number of the earlier application and the current filing date of the amendment;

(B) A brief narrative statement (not more than four (4) pages) describing the proposed project, submitted on the current application form;

(C) An update of availability of operating funds and the necessary non-Federal share of the project;

(D) A revised listing of current eligible project costs, if necessary;

(E) A revised inventory of all public telecommunications facilities currently owned by the applicant (applicants having previously submitted an inventory need only submit updated information);

(F) If the application is for a construction project, a revised five (5) year plan outlining the applicant's projected facilities requirements, and the projected costs of such facilities (applicants having previously submitted a five (5) year plan may submit amendments, which update the plan and do so as not to include the current year);

(G) Current information relating to the applicant's evaluation of alternate technologies available in the service area and the extent to which there is duplication of services;

(H) If special consideration is requested under 47 U.S.C. 293(f) of the Act, current information detailing the basis for the request on the form provided by the Agency;

(I) A statement by the applicant certifying that the applicant has served copies of its reactivated application on each of the entities required under § 2301.8 of this part with a copy of the letters transmitting the application to the entities served;

(J) A statement by the applicant certifying that the applicant is causing to be published in a newspaper of general circulation in the community to be served the notice required in § 2301.9 of the rules and two copies of the notice as it is to appear in the newspaper with notations of the dates on which the notice is to be or has been published;

(K) A full and detailed explanation of any descrimination complaints filed against it before any governmental agency.

(c) *Additional information*—(1) The Agency may request from the applicant any additional information which the Agency deems necessary or pertinent.

(2) Applicants must promptly provide any additional information which the Agency requests as being necessary or pertinent.

(Approved by the Office of Management and Budget under OMB Control No. 0660–0003)

§ 2301.6 What happens if my application is incomplete or untimely?

(a) *Incomplete applications.* The Agency will return any application which it has found to be incomplete.

(b) *Untimely applications.* The Agency will return any application, substantial amendment to an application or request to reactivate a deferred application which is filed after the closing date.

(c) Applicants, whose applications the Agency returns as being incomplete, may appeal the action to the Administrator under § 2301.13. Applicants, whose applications the Agency returns as being untimely, may not appeal the Agency's action.

§ 2301.7 What if I want to change some of the information in my application?

(a) An applicant, which has filed a *timely* and *complete* application (or request seeking renewed consideration of a deferred application) which results in minor deficiencies may submit minor changes to its application or submit additional information at any time up to 45 calendar days after the closing date for the filing of applications.

(b) To make minor changes to its application, an applicant must submit an original and one copy of the following to the address specified in § 2301.5(a)(1) of this part:

(1) A letter describing in detail the information or documentation which the applicant is making to its application;

(2) Any new material or altered material;

(3) A certification that it has filed a copy of the notice on each of the entities requred under § 2301.8.

(c) Applicants may not submit substantial amendments to their applications (amendments which substantially change the nature or scope of the proposed project) after the closing date.

(d) Applicants which have deferred applications on file with the Agency and submit substantial amendments to their deferred applications will be considered as a new application and must comply with § 2301.5.

§ 2301.8 Service of applications.

On or before the closing date, an applicant which files an application, or an applicant seeking renewed consideration of a deferred application, or a substantial amendment to an application with the PTFP, must serve a copy of its application, request, or substantial amendment and any subsequent amendment(s) of the application on:

(a) The state or local agency (if any) having jurisdiction over the development of broadcast and/or nonbroadcast telecommunications in the state and the community to be served by the proposed projects;

(b) In the case of an application for a construction grant for which Commission authorization is necessary, the Secretary, Federal Communications Commission, Washington, DC 20554;

(c) The state telecommunications agency (if any) in the state in which the channel associated with the project is assigned by the Commission, if the channel in question is assigned jointly to communities in different states, the state agency (if any) in each of the states concerned;

(d) The state telecommunications agency (if any) in any state, any part of which is located within the service area of the proposed facility;

(e) The state office established to review applications under Executive Order 12372, if the state has established such an office and wishes to review these applications.

§ 2301.9 Publication of filing.

On or before the closing date, all applicants must cause to be published in a newspaper of general circulation in the community(ies) to be served, a notice that it has filed an application.

(a) The notice must contain:

(1) The name of the applicant;

(2) The address of the applicant's office where a copy of the application is available to the public;

(3) A brief description of the proposed project; and

(4) The address to which commenting parties should send their comments: Public Telecommunications Facilities Program, NTIA/DOC, 14th and Constitution, NW., Room 4625, Washington, DC 20230.

(b) The notice must be published once a week for two consecutive weeks.

(c) The applicant must submit two copies of the notice as it is to appear or has appeared in the newspaper to the Agency (at the address provided in paragraph (a)(4) of this section) with notations of the dates of publication.

§ 2301.10 Closing date.

The Administrator shall select and publish in the **Federal Register** a date by which applications for funding in a current fiscal year are to be filed.

§ 2301.11 Federal Communications Commission authorization.

(a) Each applicant whose project requires Commission authorization must file an application for that authorization on or before the closing date for filing of PTFP applications. We recommend submission of applications to the Commission 60 days prior to the PTFP closing date. Such applications should be clearly marked to identify them as a PTFP applicant.

(b) Any Commission authorization required for the project must be in the name of the applicant for the PTFP grant.

(c) If the project is to be associated with an existing station, Commission operating authority for that station must be current and valid.

(d) For any project requiring a new authorization or authorizations from the Commission, the applicant must file with the Agency a copy of each Commission application and any amendments thereto.

(e) If the applicant fails to file the required Commission application or applications by the closing date established pursuant to § 2301.10 of these rules, or if the Commission returns, dismisses, or denies an application required for the project or any part thereof, or for the operation of the station with which the project is associated, the Agency may return the application for Federal financial assistance to the applicant.

(f) No grant will be awarded until confirmation has been received from the Commission that any necessary authorization will be issued.

§ 2301.12 What happens after I file an application?

After the closing date, the Agency will examine each application for timeliness, completeness, eligibility, and Commission authorization.

(a) If the Agency finds that an application is untimely or incomplete, it will return the application to the

applicant and inform the applicant that its application was untimely or incomplete and will not be considered during the present cycle.

(b) If the Agency identifies minor deficiencies, it will notify the applicant and hold the application for 45 calendar days after the closing date to allow the applicant time to correct these deficiencies. If, after this time, the application is still deficient, the Agency will return the application to the applicant and inform the applicant that its application was deficient and will not be considered during the present cycle.

(c) When the Agency finds that either the applicant or the project is ineligible, it will return the application to the applicant and inform the applicant that it or its proposed project is ineligible.

(d) If the Agency finds that a proposed project requires authorization from the Commission and that the applicant did not tender its application for Commission authorization, the Agency will return the application. In returning an application under this paragraph, the Agency will inform the applicant that the Agency cannot consider that applicant's application for a grant during the present grant cycle, because the applicant did not file an application for authority with the Commission.

(e) The Agency will publish a notice in the **Federal Register** listing all applications accepted for filing. Acceptance of an application for filing does not preclude subsequent return or disapproval of an application, nor does it assure that any particular application will be funded. It merely qualifies that application to compete for funding with other applications accepted for filing.

§ 2301.13 Do I have a right to appeal?

(a) Within 15 calendar days after the date on which the Agency sends a written notice to an applicant denying the eligibility of the applicant or the applicant's project, or notifying an applicant that its application is incomplete, the applicant may file a written notice of appeal with the Administrator. The notice of appeal must contain a statement by the applicant showing its basis for appealing the Agency's action—i.e., showing that the denial of eligibility or determination of incompleteness is factually or legally incorrect. (If the applicant relies on any written documents or other materials to refute the Agency's action, the applicant should list each item and attach a copy of each item or indicate that the Agency has a copy of the item in its possession.)

(b) Upon receipt of the notice of appeal, the Administrator will review the appeal in consultation with the Chief Counsel and the PTFP Director and will render a decision within 30 calendar days.

(c) If the Administrator sustains the denial of eligibility or the determination of incompleteness, the Agency will return the application to the applicant.

(d) All decisions of the Administrator made under paragraph (b) of this section are final.

§ 2301.14 Can members of the public comment on applications?

(a) Any interested party may file comments with the Agency supporting or opposing an application setting forth the grounds for support or opposition, and a certification that a copy of the comments have been mailed (or otherwise provided) to the applicant. Persons commenting on applications must send their comments to: Public Telecommunications Facilities Program, NTIA/DOC, 14th and Constitution Avenue, NW., Room 4625, Washington, DC 20230.

(b) Persons filing comments on applications must do so:

(1) After the applicant files its application with the PTFP; and

(2) Within 15 calendar days after the Agency publishes a notice of acceptance of applications in the **Federal Register**.

(c) Within 30 calendar days after the Agency publishes a notice of acceptance of applications in the **Federal Register**, an applicant may file a reply to any comments opposing its application.

(d) The time periods referred to in paragraphs (a) and (b) of this section may be extended by the Director if good cause is shown.

§ 2301.15 What does the Agency do with these comments?

(a) The Agency will incorporate all comments from the public and any replies to those comments from an applicant in the official application file.

(b) An applicant or an objecting party may not appeal to the Administrator the determination of the Agency to grant or not grant a particular application.

§ 2301.16 Coordination with interested agencies and organizations.

In acting on applications and carrying out other responsibilities under the Act, the Agency shall consult with:

(a) The Commission, with respect to functions which are of interest to or affect functions of the Commission;

(b) The Corporation for Public Broadcasting, public broadcasting agencies, organizations, other agencies, and institutions administering programs which may be coordinated effectively with Federal assistance provided under the Act; the state office established to review applications under Executive Order 12372, if the state has established such an office and wishes to review these applications.

§ 2301.17 Funding criteria for construction applications.

In determining whether to approve a construction grant application, in whole or in part, and the amount of such grant, or whether to defer action on such an application, the Agency will evaluate all the information in the application file and consider the following factors (the order of listing implies no priority):

(a) How well the applicant has satisfied the assurances required in § 2301.5;

(b) The program purposes set forth in § 2301.20 as well as the specific program priorities set forth in the Appendix of these Rules;

(c) The adequacy and continuity of financial resources for long-term operational support, which assures the applicant's continual service to the communities within the service area; and the availability of necessary funds for capital expenditures;

(d) The extent to which non-Federal funds will be used to meet the total cost of the project;

(e) The extent to which the applicant has:

(1) Assessed specific educational, informational, and cultural needs of the community(ies) to be served by the proposed public telecommunications service;

(2) Evaluated alternate technologies, the bases upon which decisions were made as to the technology to be utilized and the extent to which the proposed service will not duplicate service already available;

(3) Provided meaningful documentation of applicant's equipment requirements;

(4) Provided meaningful documentation of community support for the service to be provided (such as letters from key elected/appointed policy-making officials, from agencies for whom the applicant producers or will produce programs or other materials);

(f) The extent to which the evidence supplied in the application reasonably assures an increase in public telecommunications services and facilities available to, operated by, and owned (or controlled) by minorities and women;

(g) The extent to which various items of eligible apparatus proposed are necessary to, and capable of, achieving the objectives of the project and will

permit the most efficient use of the grant funds;

(h) The extent to which the eligible equipment requested meets current broadcast industry performance standards;

(i) The extent to which the applicant will have available sufficient qualified staff to operate and maintain the facility and provide services of professional quality;

(j) The extent to which the applicant has planned and coordinated the proposed services with other telecommunications entities in the service area;

(k) The extent to which the project implements local, statewide or regional public telecommunications systems plans, if any;

(l) The extent to which the applicant's proposed five (5) year facilities plan required by section 392(a) of the Act is practical, financially affordable and consistent with the intent of the Act and Regulations;

(m) The readiness of the Commission to grant any necessary authorization.

(n) The urgency for funding based on justification of needs.

§ 2301.18 Funding criteria for planning applications.

In determining whether to approve a planning grant application, in whole or in part, and the amount of such grant, or whether to defer action on such an application, the Agency will evaluate all the information in the application file and consider the following factors (the order of listing implies no priority):

(a) How well the applicant has satisfied the assurances required in § 2301.5;

(b) The extent to which the applicant's interests and purposes are consistent with the purposes of the Act and the priorities of the Agency;

(c) The qualifications of the proposed planner to provide a public telecommunications facilities plan;

(d) The extent to which the planning project's proposed procedural design assures that the applicant would obtain adequate:

(1) Financial, human and support resources necessary to conduct the plan,

(2) Coordination with other telecommunications entities at the local, state, regional and national levels,

(3) Evaluation of alternate technologies and existing services, and

(4) Participation by the public to be served (and by minorities and women in particular) in the planning of the project;

(e) The extent to which the applicant has engaged in pre-planning studies to determine the technical feasibility of the proposed planning project (such as the availability of a frequency assignment, if necessary for the project);

(f) The extent to which the proposed procedure and timetable are feasible and can achieve the expected results.

§ 2301.19 Action on all applications.

(a) After consideration of an application which the Agency has accepted for filing, any comments and replies filed by interested parties and any other relevant information, the Agency will take one of the following actions:

(1) Select the application for funding, in whole or in part;

(2) Defer the application for subsequent consideration pursuant to § 2301.5; or

(3) Return the application to the applicant with a notice of the grounds and reasons.

(b) Upon the Agency's approval or deferral, in whole or in part, of an application, the Agency will inform:

(1) The applicant;

(2) Each state educational television radio or telecommunications agency, if any, in any state, any part of which lies within the service area of the applicant's facility;

(3) The Commission; and

(4) The Corporation for Public Broadcasting and, as appropriate, other public telecommunications entities.

(c) If the Agency awards a grant, the grant award document will include grant terms and conditions set forth in Subpart D of the rules and whatever other provisions are required by Federal law or regulations, or may be deemed necessary or desirable for the achievement of the purposes of the program.

Subpart C—Program Purposes and Special Consideration

§ 2301.20 Program purposes.

(a) The following criteria, listed in order of priority, shall govern the Agency's determination to fund an application and the amount of the grant awarded:

(1) Whether the application will provide new public telecommunications facilities to extend service to areas not currently receiving such services.

(2) Whether the application will result in the expansion of the service areas of existing public telecommunications entities.

(3) Whether the application will result in the improvement of the capabilities of existing public broadcasting stations or new public broadcasting stations to provide public telecommunications services.

(b) Notwithstanding the purposes among applications listed in paragraph (a) of this section, the Agency may utilize appropriated funds to award grants to applicants who are otherwise eligible for funding, but do not fall within any of the purposes listed in paragraph (a) of this section. Grants made pursuant to this paragraph must fulfill the overall objectives of the Act.

§ 2301.21 Special consideration.

In assessing applications, the Agency will give special consideration to applications which foster ownership/control of, operation of, and participation in public telecommunications entities by minorities and women. NTIA interprets the words "ownership" and "owned" as meaning "control" of an entity "through the possession or exercises of the normal incidents of ownership, participation of the governing board, holding of corporate offices, etc.," and to accord special consideration only where women and/or minorities are either in legal (i.e., more than fifty percent) or actual control of the entity. We will consider the applicant's reported composition of its governing body and the individuals who hold management-level and policymaking positions. The percentage of ownership/control, operation, and participation must be denoted on the Agency's special consideration exhibit form.

Subpart D—Federal Financial Participation

§ 2301.22 Amount of the Federal grant.

(a) *Planning grants.* A Federal grant for the planning of a public telecommunications facility shall be in an amount determined by the Agency and set forth in the grant award document and the attachments thereto. The Agency may provide up to 100 percent of the funds necessary for the planning of a public telecommunications construction project.

(b) *Construction grants.* (1) A Federal grant award for the construction of a public telecommunications facility shall be an amount determined by the Agency and set forth in the grant award document, except that such amount shall not exceed 75 percent of the amount determined by the Agency to be the reasonable and necessary cost of such project.

(2) No part of the grantee's matching share of the eligible project costs may be met with funds paid by the Federal government, except where the use of such funds to meet a Federal matching

requirement is specifically and expressly authorized by Federal statute.

(3) Funds supplied to an applicant by the Corporation for Public Broadcasting may not be used for the required non-Federal matching purposes, except upon a clear compelling showing of need.

(c) If the actual costs incurred in completing the planning or construction project are less than the estimated project costs, which were the basis for the Agency's determination of the initial grant award, the Agency shall reduce the amount of the final grant award so that the final grant award bears the same ratio to the actual cost of the project as the initial grant award bore to the estimated total project costs. In no case will the final grant award exceed the initial grant award.

(d) Project costs do not include the value of eligible apparatus owned or acquired by the applicant prior to the effective closing date.

(e) NTIA will specify the effective date of the acceptance for filing in the Federal Register notice required under § 2301.12 of the rules.

§ 2301.23 Payment of the Federal grant.

(a) The Agency will not make any payment under an award, unless and until the recipient complies with all relevant requirements imposed by this part. Additionally, with regard to a public telecommunications entity requiring Commission authorization, the Agency will not make any payment until it receives confirmation from the Commission that the Commission has granted any necessary authorization.

(b) After the conditions indicated in paragraph (a) of this section have been satisfied, the Agency will make payment to the grantee in such installments consistent with the percentage of project completion, as the Agency may determine. (As a general matter, the Agency expects grantees to expend local matching funds at a rate at least equal to the ratio of the local match to the Federal grant as stipulated in the grant award.)

(c) When an applicant completes a construction protect, the Agency will assign a completion data which the Agency will use to calculate the termination date of the Federal interest period. (The completion date will be the date on which the grantee certifies in writing that the project is complete and in accord with the terms and conditions of the grant, as required under § 2301.26. If the PTFP Director determines that the grantee improperly certified the project to be complete, the PTFP Director will amend the completion date accordingly.)

§ 2301.24 Items and costs ineligible for Federal funding.

The following items and costs are ineligible for funding under tha Act:

(a) *Equipment and supplies:* (1) Vehicles, including those in which mobile equipment is mounted or carried;

(2) Broadcast receiving equipment such as television receivers FM receivers, (except as required by good engineering practices for monitoring the origination or off-air transmission of signals, including vertical interval or subcarrier receivers and decoders for handicap and/or telemetry use, or satellite receivers);

(3) Modifying or strengthening the applicant's tower to accommodate antennas of commercial entities, however strengthening or modifying a commercial entity's tower to accommodate a public broadcasting entity is acceptable;

(4) Equipment for motion picture or still photography or processing, including sound synchronization;

(5) Manual film or tape editing equipment, film, recording tape, reels, cartridge tapes, tape or record cleaning equipment;

(6) Scenery and props, art and graphics supplies and equipment;

(7) Sound insulation devices, cycloramas, draperies, studio clocks and systems, blackboards, office intercoms, telephones and telephone systems, furniture, and the like, excepting consoles required to mount equipment such as audio consoles and video switchers;

(8) Production devices such as prompting systems, timers, on-air lights, background projection systems, sound effects, and the like;

(9) Office equipment, printing and duplication supplies; except for those leased for planning projects under section 392(c) of the Act;

(10) Maintenance equipment such as hand and power tools, storage cabinets and maintenance services and supplies;

(11) Air conditioning for control or equipment rooms, studios, transmitter buildings, mobile units and other operational rooms and offices (except that the cost to provide ventilation of eligible project apparatus as required by good engineering practice and documented in the application is an eligible installation cost);

(12) Equipment and costs involved to provide primary power to the facility up to the output of the main power panel, including transformers, regulators (except those required by good engineering practice to stabilize transmitter RF output), primary power generators and related equipment (except where primary power is not available or it can be documented as being unusable for broadcast);

(13) Expendable items, including spare recording heads, spare lenses, spare circuit components, alignment tapes and other kits normally considered spares except for transmitters spare parts kits and tubes;

(14) Redundant equipment such as spare transmitters or costs associated with same, back-up microwave equipment except for the main studio to transmitter link as required by good engineering practice, auto-logging equipment for remote control interfacing and terminals associated with same;

(15) Such other equipment and supplies as the Agency may determine prior to the award of a grant.

(b) *Other expenses:* (1) Buildings and modifications to buildings to house eligible equipment and fences surrounding them are not themselves eligible for funding under this program, except that small equipment shelters which are part of satellite earth stations, translators, microwave interconnection facilities, and similar facilities are eligible for funding;

(2) Land and land improvements;

(3) Salaries of personnel employed by an operating public telecommunications entity and other operational costs, except for planning projects under section 392(c) of the Act, and for construction-related activities as defined in section 397(l) of the Act and § 2301.3 of the rules;

(4) Moving costs required by relocation;

(5) Such other expenses as the Agency may determine prior to the award of a grant.

Subpart E—Accountability for Federal Funds

§ 2301.25 Retention of records.

(a) Each recipient of assistance under this program shall keep intact and accessible the following records:

(1) A complete and itemized inventory of all public telecommunications facilities under the control of the grantee, whether or not financed, in whole or in part, with Federal funds;

(2) Complete, current and accessible financial records which fully disclose the total amount of the project; the amount of the grant; the disposition of the grant proceeds; and the amount, nature and source of non-Federal funds associated with the project.

(3) All records specified in Office of Management and Budget Circulars A–102 (for State and local governments) and A–110 (educational institutions, hospitals and nonprofit organizations).

(b) The grantee shall mark project apparatus in a permanent manner in order to assure easy and accurate identification and reference to inventory records.

§ 2301.26 Copies of planning studies; Final certification of construction projects.

(a) Upon completion of a planning project, the grantee must promptly provide to the Administrator two copies of any study conducted in whole or in part with funds provided under this program by sending the copies to the Public Telecommunications Facilities Program, NTIA/DOC, 14th and Constitution Avenue, NW., Room 4625, Washington, DC 20230.

(b) Upon completion of a construction project, the grantee must:

(1) Certify that the grantee has completed the acquisition and installation of the project equipment in accordance with the project as approved by the Agency and has complied with all terms and conditions of the grant as specified in § 2301.5;

(2) Certify that the grantee has obtained any necessary Commission authorizations to operate the project apparatus following the acquisition and installation of the apparatus and document the same.

(3) Certify that the facilities have been acquired, are in operating order and that the grantee is using the facilities to provide public telecommunications services in accordance with the project as approved by the Agency and document same; and

(4) Certify that the grantee has obtained adequate insurance to protect the Federal interest in the project in the event of loss through casualty and provide the Agency with a copy of their insurance policy.

(Approved by the Office of Management and Budget under OMB Control No. 0660–0001)

§ 2301.27 Annual status report for construction projects.

For construction projects, the grantee must file with the Agency during the ten (10) year period commencing with the date of completion of a project, an annual status report on or before each April 1 following completion of the project. In the annual report, the grantee must:

(a) Specifically address the conditions attached to the grant as specified in § 2301.28;

(b) Report any changes from the date of completion of the project or date of previous annual report in the manner of compliance with § 2301.28;

(c) Certify that the grantee continues to meet the conditions attached to the grant as specified in § 2301.28.

(Approved by the Office of Management and Budget under OMB Control No. 0660–0001)

Subpart F—Control and Use of Facilities

§ 2301.28 What conditions are attached to the Federal grant?

When an applicant is awarded a Federal grant under the PTFP, the applicant (now the grantee) takes the grant subject to certain conditions concerning the use of the Federal monies and the equipment obtained with those monies. These conditions are:

(a) In order to assure that the Federal investment in public telecommunications facilities funded under the Act will continue to be used to provide public telecommunications services to the public during the period of Federal interest, all grantees shall:

(1) Execute and record a document establishing that the Federal government has a priority lien on any facilities purchased with funds under the Act during the period of continuing Federal interest. The document shall be recorded where liens are normally recorded in the community where the facility is located and in the community where the grantee's headquarters are located.

(2) A certified copy of the recorded lien shall be filed with the Administrator ninety days after the grant award is received.

(3) The continuing period of Federal interest shall be no less than 10 years from the date of completion of the project.

(b) During the construction of a project and the Federal interest period, the grantee must:

(1) Continue to be an eligible organization as described in § 2301.4 above;

(2) Obtain and continue to hold any necessary Commission authorization(s);

(3) Use the Federal grant funds for which the grant was made and for the items of apparatus and other expenditure items specified in the application for inclusion in the project, except that the grantee may substitute other items where necessary or desirable to carry out the purpose of the project as approved in advance by the Agency in writing;

(4) Use the facilities primarily for the provision of public telecommunications services and ensure that the use of the facilities for other than public telecommunications purposes does not interfere with the provision of the public telecommunications services for which the grant was made;

(5) Not make its facilities available to any person for the broadcast or other transmission intended to be received directly by the public of any advertisement, except as permitted by law or as authorized by the Commission;

(6) Hold appropriate title or lease satisfactory to protect the Federal interest to the site or sites on which apparatus proposed in the project will be operated, including the right to construct, maintain, operate, inspect and remove such apparatus, sufficient to assure continuity of operation of the facility;

(7) Maintain protection against common hazards through adequate insurance coverage or other equivalent undertakings, except that, to the extent the applicant follows a different policy of protection with respect to its other property, the applicant may extend such policy to apparatus acquired and installed under the project, if they receive express written approval for this different policy from the Director. In addition, each grantee must send a copy of their current insurance coverage with each Annual Report;

(8) Within 30 calendar days of the award date, the recipient shall submit, in triplicate to the Public Telecommunications Facilities Program, a construction schedule or a revised planning timetable which will include the information requested in the grant terms and conditions in the award package;

(9) Comply with the provision of the Office of Management and Budget Circulars A–102 (for state and local governments) and A–110 (for institutions of higher education, hospitals and other nonprofit organizations) for the procurement of equipment and services funded in whole or in part with Federal monies;

(10) Interest earned on advances of Federal funds shall be remitted to the Agency except for interest earned on advances of states or instrumentalities of a state as provided by the Intergovernmental Cooperation Act of 1968 (Pub. L. 90–577) and advances made to tribal organizations pursuant to section 102, 103, or 104 of the Indian Self Determination Act (Pub. L. 93–638);

(11) In advertising for bids for the purchase of apparatus, the grantee shall state the Federal Government has an interest in facilities purchased with Federal funds under this program which begins with the purchase of the facilities and continues for ten (10) years after the completion of the project;

(12) In complying with the financial and performance reporting requirements of Attachments H and I of Office of Management and Budget Circular A–110 and the grant terms and conditions, the

grantee shall submit performance reports and the required financial reports on a calendar year quarterly basis for the periods ending March 31, June 30, September 30, and December 31, or any portion thereof. Reports are due no later than 30 days following the end of each reporting period;

(13) Promptly complete the project and place the public telecommunications facility into operation;

(14) Permit inspections during normal working hours by the Agency and the Comptroller General of the United States or their duly authorized representatives, of the public telecommunications facilities acquired with Federal financial assistance or of any books, documents, papers, and records relating to those facilities;

(15) Ensure that no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of or otherwise be subjected to discrimination under any program or activity for which the applicant receives funding under this Act (Title VI of the Civil Rights Act of 1964 as implemented by Department regulations 15 CFR Subtitle A, Part 8);

(16) Ensure that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of or be subject to discrimination under any educational program or activity for which the applicant receives funding under the Act (Title IX of the Education Amendment of 1972, as amended);

(17) Ensure that no otherwise qualified individual shall, solely by reason of handicap, be excluded from the participation in, be denied the benefits of or be subjected to discrimination under any program or activity for which the applicant receives funding under this Act (section 504 of the Rehabilitation Act of 1973, as amended);

(18) The Agnecy will allow the acquisition of facilities by lease; however, there are several provisions which must be followed:

(i) The lease must be for a term of years not greater than the useful life of the equipment.

(ii) The cost of the lease must not be more than the total of the non-Federal share of the matching funds.

(iii) The actual amount of the lease must not be more than the outright purchase price would be.

(iv) The lease agreement must state that in the event of anticipated or actual termination of the lease, the Federal Government through the Agency has the right to transfer and assign the leasehold to a new grantee for the duration of the lease contract.

(19) During the period in which the grantee possesses or uses the Federally funded facilities (whether or not this period extends beyond the Federal interest period), the grantee may not use or allow the use of the Federally funded equipment for purposes the essential thrust of which are sectarian.

§ 2301.29 Nondiscrimination; Rules incorporated by reference.

(a) The Agency shall enforce Title VI of the Civil Rights Act of 1964, as implemented by Department regulations, 15 CFR Subtitle A, Part 8, which is hereby incorporated in this part by reference.

(b) The Agency shall enforce Title IX of the Education Amendments of 1972, as amended. Department implementing regulations have not yet been adopted, but will be incorporated by reference in this part upon their adoption.

(c) The Agency shall enforce section 504 of the Rehabilitation Act of 1973, as amended. Department implementing regulations have been proposed, 43 FR 53765, published November 17, 1978. Final regulations will be incorporated by reference in this part.

(d) The Agency shall enforce the Age Discrimination Act of 1975, as amended. Department implementing regulations have not yet been adopted, but will be incorporated by reference upon their adoption.

§ 2301.30 How can a grant be terminated?

(a) *Termination for cause.* If a grantee fails to meet any condition attached to the grant, as specified in § 2301.28 of this Part, the Agency may take any appropriate action including, but not limited to:

(1) Suspending a particular grant and withholding further payments under that grant, pending corrective action by the grantee;

(2) Prohibiting a grantee from incurring additional obligations of funds, pending corrective action by the grantee;

(3) Where the grantee cannot (or will not) comply with the condition (or conditions) attached to a particular grant, terminating the grant and requiring the grantee to repay the Federal Government an amount bearing the same ratio to the fair market value of the facilities at the time of termination as the Federal grant bore to the project;

(4) Where the condition (or conditions) is also attached to other grants which the grantee has received from the Agency, suspending payments under all these other grants;

(5) Where the condition (or conditions) is also attached to other grants which the grantee has received from the Agency, terminating all these other grants and requiring the grantee to repay the Federal Government an amount bearing the same ratio to the fair market value of the facilities at the time of termination as the Federal grants bore to the projects for which they were granted.

(b) *Termination for convenience.* When the Agency and the grantee agree that the continuation of the project would not produce beneficial results commensurate with the expenditure of further Federal funds, the parties may terminate the grant, in whole or in part, with all the conditions and on an effective date to which the parties have mutually agreed in writing.

(c) *Termination by transfer.* When the Agency and grantee agree in writing the grant may be terminated by transferring the Federal interest in PTFP funded equipment to other eligible equipment presently owned or to be purchased by a grantee with non-Federal monies.

(1) Equipment previously funded by PTFP which is within the Federal interest period, may not be used in a transfer request as the designated equipment to which the Federal interest is to be transferred.

(2) Equipment is not transferrable until after the third anniversary of the PTFP certified date of completion of the funded project.

(3) The same item can be used only once to substitute for the Federal interest; however, it may be used to cover equipment transferred from one or more grants if the request for each is submitted at the same time.

(4) A lien on equipment transferred to the Federal interest must be recorded in accordance with 15 CFR 2301.28 of the PTFP Regulations. A copy of the lien document must be filed with the PTFP within 60 days of the date of approval of the transfer of Federal interest.

(5) If the Federal interest is to be transferred to other equipment presently owned or to be purchased by a grantee, the Federal interest in that equipment must be at least equal to the Federal interest in the original equipment.

(d) *Termination by buy-out.* A grantee may terminate the PTFP grant by buying out the Federal interest with non-Federal monies. Buy-outs may be requested at any time.

(e) Procedures for transfer or buy-out—

(1) Grantees requesting a transfer or buy-out of PTFP funded equipment must submit such requests on a form provided by the Agency. (OMB Control No. 0660–0003)

(2) In either case, the amount of the Federal interest must be determined by

negotiation between PTFP and the grantee and agreed upon by the Director.

§ 2301.31 Equipment.

All equipment, which a grantee acquires under this program, shall be of professional broadcast quality. An applicant proposing to utilize nonbroadcast technology shall propose and purchase equipment which is compatible with broadcast equipment wherever the two types of apparatus interface.

§ 2301.32 Waiver.

For good cause shown, the Administrator may waive the regulations adopted pursuant to section 392(e) of the Act.

Appendix A to Part 2301

Priority I—*Provision of Public Telecommunications Facilities for First Radio and Television Signals to a Geographic Area.* Within this category, we establish two subcategories:

A. *Projects which include local origination capacity.* This category includes the planning or construction of new facilities which can provide a full range of radio and/or television programs including material that is locally produced. Eligible projects include new radio or television broadcast stations, new cable systems, or first public telecommunications service to existing cable systems, provided that such projects include local origination capacity.

B. *Projects which do not include local origination capacity.* This category includes projects such as increases in tower height and/or power of existing stations and construction of translators, cable networks and repeater transmitters which will result in providing public telecommunications services to previously unserved areas.

Priority I and its subcategories only apply to grant applicants proposing to plan or construct new facilities to bring public telecommunications services to geographic areas which are presently unserved—i.e., areas which do not receive any public telecommunications services whatsoever. (It should be noted that television and radio are considered separately for the purposes of determining coverage.)

Under priority IB, NTIA will consider an area served when it receives a public television signal from a distant source through a cable system which has a penetration rate of 50 percent. (An applicant proposing to plan or construct a facility to serve a geographical area which is presently unserved, should indicate the number of persons who would receive a first public telecommunications signal as a result of the proposed project.)

Priority II—*Replacement of Basic Equipment of Existing Essential Broadcast Facilities.* Projects eligible for consideration under this category include the replacement of obsolete or worn out equipment in existing broadcast facilities which provide either the only public telecommunications signal or the only locally originated public telecommunications signal to a geographical area.

In order to show that the replacement of equipment is necessary, applicants must provide documentation indicating excessive downtime, or a high incidence of repair (i.e., copies of maintenance logs. Letters documenting non-availability of parts should also be included.) Additionally, applicants must show that the facility is the only public telecommunications facility providing a signal to a geographical area or the only facility with local origination capacity in a geographical area.

The distinction between Priority II and Priority IV is that Priority II is for the replacement of basic equipment for essential facilities. Where an applicant seeks to "improve" basic equipment in its facility (i.e., where the equipment is not "worn out"), or where the applicant is not an essential facility, NTIA would consider the applicant's project under Priority IV.

Priority III—*Establishment of First Local Origination Capacity in a Geographical Area.* Projects in this category include the planning or construction of facilities to bring the first local origination on capacity to an area already receiving public telecommunications services from distant sources through translators, repeaters or cable systems.

Applicants seeking funds to bring the first local origination capacity to an area already receiving some public telecommunications services may do so, either by establishing a new (and additional) public telecommunications facility, or by adding local origination capacity to an existing facility. (A source of a public telecommunications signal is distant when the geographical area to which the source is brought is beyond the grade B contour of the originating facility.)

Priority IV—*Replacement and Improvement of Basic Equipment for Existing Broadcast Facilities.* Projects eligible for consideration under this category include the replacement of obsolete or worn out equipment and the upgrading of existing origination or delivery capacity to current industry performance standards (e.g., conversions to color, stereo, etc.; improvements to signal quality and significant improvements in equipment flexibility or reliability). As under Priority II, applicants seeking to replace or improve basic equipment under Priority IV should show that the replacement of the quipment is necessary by including in their applications data indicating excessive downtime, or a high incidence of repair (such as documented in maintenance logs.)

Priority V—*Augmentation of Existing Broadcast Station Facilities.* Projects under this priority would equip an existing station beyond a basic capacity to broadcast programming from distant sources and to originate local programming.

A. *Projects to equip auxiliary studios at remote locations, or either to provide mobile origination facilities.* An applicant must demonstrate that significant expansion in public participation in programming will result. This category includes mobile units, neighborhood production studios or facilities in other locations within a station's service area which would make participation in local programming accessible to additional segments of the population.

B. *Projects to augment production capacity beyond basic level in order to provide programming or related materials for other than local distribution.* This category would provide equipment for the production of programming for regional or national use. Need beyond existing capacity must be justified.

Other Cases. In any fiscal year, NTIA possesses the discretionary authority to award grants to eligible applicants whose proposals do not clearly fall within any of the listed priorities but whose application, by virtue of their unique or innovative nature, would further the overall objectives of the Act. Such projects include, among other things, the planning and construction of facilities to provide significantly different additional services for which a clear and substantial community need can be demonstrated (e.g., service to identifiable ethnic or linguistic minority audiences, services to the blind or deaf, instructional services or electronic text.)

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Tuesday
September 18, 1984

Part III

Department of Labor

Office of the Secretary

29 CFR Part 20

Debt Collection Act of 1982; Disclosure of Information to Credit Reporting Agencies; Administrative Offset; Interest, Penalties and Administrative Costs; Proposed Rules

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 20

Debt Collection Act of 1982; Proposed Rule; Disclosure of Information to Credit Reporting Agencies

AGENCY: Office of the Secretary, Labor.

ACTION: Proposed rule.

SUMMARY: The Debt Collection Act of 1982 (Pub. L. 97–365), and other applicable authority, authorizes the Federal government to disclose to credit reporting agencies information concerning claims owed the United States by debtors. This proposed rule establishes the procedures the Department of Labor will follow in making disclosures of information on debtors to credit reporting agencies.

DATE: Comments, in duplicate, must be received on or before November 2, 1984.

ADDRESS: Send comments to: Dennis McDaniel, Office of the Solicitor, Department of Labor, Room N2428, 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Dennis McDaniel, telephone (202–523–7721).

SUPPLEMENTARY INFORMATION: The Debt Collection Act of 1982 (Pub. L. 97–365) amends the Federal Claims Collection Act of 1966 to authorize the Federal government to employ various debt collection techniques commonly available to the private sector. Among these techniques are those for disclosing the names, debt information, and the addresses of individuals to consumer credit reporting agencies and use of collection agencies.

Section 3 of the Debt Collection Act, and other applicable authority, permits agencies to disclose information to credit reporting agencies. To insure against indiscriminate disclosures of consumer debt information, the Debt Collection Act places limitations on the disclosure process affecting both the timing and content of the disclosure.

This proposed rule establishes the procedures the Department of Labor will employ to disclose information on individual debtors to consumer credit reporting agencies, and commercial debtors to commercial credit reporting agencies.

Executive Order 12291

The proposed rule is not a "major rule" under Executive Order 12291 because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

The Department believes that the proposed rule will have no "significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act. Pub. L. 96–354, 94 Stat. 1164 (5 U.S.C. 605(b)). The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. This conclusion is reached because the proposed rule does not, in itself, impose any additional requirements upon small entities. Accordingly, no regulatory flexibility analysis is required.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the reporting or recordkeeping provisions that are included in this regulation have been or will be submitted for approval to the Office of Management and Budget (OMB).

List of Subjects in 29 CFR Part 20

Government employees, Loan programs, Claims, Credit, Administrative practice and procedure.

Accordingly, Subtitle A of Title 29 of the Code of Federal Regulations is proposed to be amended as set forth below.

Part 20 consisting of Subpart A, at this time, is added to Title 29 Subtitle A to read as follows. Subparts B and C are added to Part 20 elsewhere in Part III of this issue.

PART 20—DEBT COLLECTION ACT OF 1982

Subpart A—Disclosure of Information to Credit Reporting Agencies

Sec.

Authority: Pub. L. 97–365, Oct. 25, 1982; 96 Stat. 1749; 31 U.S.C. 3711 *et seq.*

Subpart A—Disclosure of Information to Credit Reporting Agencies

§ 20.1 Purpose and scope.

The regulations in this subpart establish procedures to implement section 3 of the Debt Collection Act of 1982 (Pub. L. 97–365), 31 U.S.C. 3711(f). This statute, and other applicable authority, authorizes Department heads to disclose to credit reporting agencies information concerning claims owed the United States under programs administered by the Department head. This disclosure is limited to certain information and must be in accordance with procedures set forth in the Debt Collection Act and other applicable laws. This subpart specifies the agency procedures and debtor rights that will be followed in making a disclosure to a credit reporting agency.

§ 20.2 Definitions.

For purposes of this subpart—

(a) The term "commercial debt" means any non-tax business debt in excess of $100, arising from loans, loan guarantees, overpayments, fines, penalties or other causes.

(b) The term "consumer debt" means any non-tax debt of an individual in excess of $100, arising from loans, loan guarantees, overpayments, fines, penalties, or other causes.

(c) A debt is considered delinquent if it has not been paid by the date specified in the agency's initial demand letter (§ 20.4), unless satisfactory payment arrangements have been made by that date, or if, at any time thereafter, the debtor fails to satisfy his obligations under payment agreement with the Department of Labor, or any agency thereof.

(d) The terms "claim" and "debt" are deemed synonymous and interchangeable. They refer to an amount of money or property which has been determined by an appropriate agency official to be owed to the United States from any person, organization, or entity, except another federal agency.

§ 20.3 Agency responsibilities.

(a) As authorized by law, each Department of Labor agency may report all delinquent consumer debts to consumer credit reporting agencies and may also report all commercial debts to appropriate commercial credit reporting agencies.

(b) Information provided to a consumer credit reporting agency on delinquent consumer debts from a system of records subject to the Privacy Act of 1974, 5 U.S.C. 552a, must be maintained by the Department of Labor in accordance with that Act, except as otherwise modified by law. Furthermore, no disclosure may be made until the appropriate notice of system of records has been amended in accordance with 5 U.S.C. 552a(e)(11).

(c) The Assistant Secretary for Administration and Management, or his or her designee, shall have the responsibility for obtaining satisfactory assurances from each credit reporting agency to which information will be provided, concerning compliance by the credit reporting agency with the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*) and any other Federal law governing the provision of credit information.

(d) The information disclosed to the credit reporting agency is limited to: (1) The name, address, taxpayer identification number, and other information necessary to establish the identity of the individual, (2) the amount, status, and history of the claim, and (3) the Department of Labor agency or program under which the claim arose.

(e) The agency official providing information to a credit reporting agency: (1) Shall promptly disclose to each credit reporting agency to which the original disclosure was made, any substantial change in the status or amount of the claim; and (2) shall within 30 days whenever feasible, or otherwise promptly verify or correct, as appropriate, information concerning the claim upon the request of any such credit reporting agency for verification of any or all information so disclosed.

(f) Each Department of Labor agency is responsible for ensuring the continued accuracy of calculations and records relating to its claims, and for the prompt notification to the credit reporting agency of any substantial change in the status or amount of the claim. The agencies shall promptly follow-up on any allegation made by a debtor that the records of the agency concerning a claim are in error. Agencies should respond promptly to communications from the debtor, within 30 days whenever feasible.

(g) The agency official responsible for providing information to a consumer credit reporting agency shall take reasonable action to locate the individual owing the debt prior to disclosing any information to a consumer credit reporting agency.

§ 20.4 Determination of delinquency; notice.

(a) The agency head (or designee) responsible for carrying out the provisions of this subpart with respect to the debt shall send to the debtor appropriate written demands for payment in terms which inform the debtor or the consequences of failure to cooperate. In accordance with guidelines established by the Assistant Secretary for Administration and Management, a total of three progressively stronger written demands at not more than 30-day intervals will normally be made unless a response to the first or second demand indicates that a further demand would be futile and the debtor's response does not require rebuttal. In determining the timing of the demand letters, agencies should give due regard to the need to act promptly so that, as a general rule, if necessary to refer the debt to the Department of Justice for litigation, such referral can be made within one year of the final determination of the fact and the amount of the debt. When the agency head (or designee) deems it appropriate to protect the government's interests (for example, to prevent the statute of limitations, 28 U.S.C. 2415, from expiring), written demand may be preceded by other appropriate actions, including immediate referral for litigation.

(b) Prior to disclosing information to a credit reporting agency in accordance with this subpart, the agency head (or designee) responsible for administering the program under which the debt arose shall review the claim and determine that the claim is valid and overdue. In cases where the debt arises under programs of two or more Department of Labor agencies, or in such other instances as the Assistant Secretary for Administration and Management or his or her designee may deem appropriate, the Assistant Secretary, or his or her designee, may determine which agency or official, shall have responsibility for carrying out the provisions of this subpart.

(c) In accordance with guidelines established by the Assistant Secretary for Administration and Management, the agency official responsible for disclosure of the debt to a consumer credit reporting agency shall send written notice to the individual debtor informing such debtor:

(1) Of the basis for the indebtedness;

(2) That the payment of the claim is overdue;

(3) That the agency intends to disclose to a consumer credit reporting agency, within not less than sixty days after sending such notice, that the individual is responsible for such claim;

(4) Of the specific information intended to be disclosed to the credit reporting agency;

(5) Of the rights of such debtor to a full explanation of the claim, to dispute any information in the records of the agency concerning the claim, and of the name of an agency employee who can provide a full explanation of the claim;

(6) Of the debtor's right to administrative appeal or review with respect to the claim and how such review shall be obtained; and,

(7) Of the date on which or after which the information will be reported to the credit reporting agency.

(d) Where the disclosure concerns a commercial debt, the responsible agency head (or designee) shall send written notice to the commercial debtor informing such debtor of the information discussed in paragraphs (c) (1), (4), (5) and (6) of this section.

(e) Agencies shall also include in their demand letters the notice provisions to debtors required by other regulations of the Labor Department, pertaining to waiver, assessment of interest, penalties and administrative costs, administrative offset, and salary offset to the extent that such inclusion is appropriate and practicable.

(f) The responsible agency head (or designee) shall exercise due care to insure that demand letters are mailed or hand-delivered on the same day that they are actually dated. If evidence suggests that the debtor is no longer located at the address of record, reasonable action shall be taken to obtain a current address.

(g) To the extent that the requirements under this section have been provided to the debtor in relation to the same debt under some other statutory or regulatory authority, the agency is not required to duplicate such efforts.

§ 20.5 Examination of records relating to the claim; opportunity for full explanation of the claim.

Following receipt of the notice specified in § 20.4, the debtor may request to examine and copy the information to be disclosed to the consumer credit reporting agency, in accordance with 5 U.S.C. 552a.

§ 20.6 Opportunity for repayment.

The Department of Labor agency responsible for collecting the claim shall afford the debtor the opportunity to repay the debt or enter into a repayment plan which is agreeable to the head of the agency and is in a written form signed by such debtor. The head of the

agency (or designee) may deem a repayment plan to be abrogated if the debtor should, after the repayment plan is signed, fail to comply with the terms of the plan.

§ 20.7 Review of the obligation.

(a) The debtor shall have the opportunity to obtain review by the responsible agency of the initial decision concerning the existence or amount of the debt.

(b) The debtor seeking review shall make the request in writing to the reviewing official or employee, not more than 15 days from the date the initial demand letter was received by the debtor. The request for review shall state the basis for challenging the initial determination. If the debtor alleges that specific information to be disclosed to a credit reporting agency is not accurate, timely, relevant or complete, such debtor shall provide information or documentation to support this allegation.

(c) The review shall ordinarily be based on written submissions and documentation by the debtor. However a reasonable opportunity for an oral hearing shall be provided an individual debtor when the responsible agency determines that (1) an applicable statute authorizes or requires the agency to consider waiver of the indebtedness involved, the debtor requests waiver of the indebtedness, and the waiver determination turns on an issue of credibility or veracity; or (2) and individual debtor requests reconsideration of the debt and the agency determines that the question of the indebtedness cannot be resolved by review of the documentary evidence, for example, when the validity of the debt turns on an issue of credibility or veracity; or (3) in other situations in which the agency deems an oral hearing appropriate. Unless otherwise required by law an oral hearing under this section is not required to be a formal evidentiary-type hearing, although the reviewing official should carefully document all significant matters discussed at the hearing.

(d) Upon receipt of a timely request for review, the agency shall suspend its schedule for disclosure of a delinquent consumer debt to a consumer credit reporting agency until such time as a final decision is made on the request.

(e) Upon completion of the review, the reviewing official shall transmit to the debtor a written notification of the decision. If appropriate, this notification shall inform the debtor of the scheduled date on or after which information concerning the debt will be provided to credit reporting agencies. The notification shall, also if appropriate, indicate any changes in the information to be disclosed to the extent such information differs from that provided in the initial notification.

(f) Nothing in this subpart shall preclude an agency, upon request of the debtor alleged by the agency to be responsible for a debt, or on its own initiative, from reviewing the obligation of such debtor, including an opportunity for reconsideration of the initial decision concerning the debt, and including the accuracy, timeliness, relevance, and completeness of the information to be disclosed to a credit reporting agency.

(g) To the extent that the requirements under this section have been provided to the debtor in relation to the same debt under some other statutory or regulatory authority, the agency is not required to duplicate such efforts.

§ 20.8 Disclosure to credit reporting agencies.

(a) In accordance with guidelines established by the Assistant Secretary for Administration and Managment, the responsible Department of Labor agency shall make the disclosure of information on the debtor to the credit reporting agency. Such disclosure to consumer credit reporting agencies shall be made on or after the date specified in the § 20.4 notification to the individual owing the claim, and shall be comprised of the information set forth in the initial determination, or any modification thereof.

(b) This secion shall not apply to individual debtors when—

(1) Such debtor has repaid or agreed to repay his or her obligation, and such agreement is still valid, as provided in § 20.6; or

(2) Such debtor has filed for review of the claim under § 20.7(b), and the reviewing official or employee has not issued a decision on the review.

(c) In addition, the agency may determine not to make a disclosure of information to a credit reporting agency when the agency, on its own initiative, is reviewing and has not concluded such review of its initial determination of the claim under § 20.7(f).

§ 20.9 Waiver of credit reporting.

The agency head (or designee) may waive reporting a commercial debt or delinquent consumer debt to a credit reporting agency, if otherwise appropriate and if reporting the debt would not be in the best interests of the United States.

§ 20.10 Responsibilities of the Assistant Secretary for Administration and Management.

The Assistant Secretary for Administration and Management, or his or her designee, shall provide appropriate and binding, written or other guidance to Department of Labor agencies and officials in carrying out this subpart, including the issuance of guidelines and instructions, which he or she may deem appropriate. The Assistant Secretary shall also take such administrative steps as may be appropriate to carry out the purposes and ensure the effective implementation of this regulation, including the designation of credit reporting agencies authorized to receive and disseminate information under this subpart.

Signed at Washington, D.C., this 13th day of September.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 84-24683 Filed 9-17-84; 8:45 am]

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29 CFR Part 20

Debt Collection Act of 1982; Proposed Rule; Administrative Offset

AGENCY: Office of the Secretary, Labor.

ACTION: Proposed rule.

SUMMARY: The Debt Collection Act of 1982 (Pub. L. 97-365) authorizes the Federal government to collect debts owed it by means of administrative offset. This proposed rule establishes the procedures the Department of Labor will follow in making an administrative offset.

DATES: Comments, in duplicate, must be received on or before November 2, 1984.

ADDRESS: Send comments to: Dennis McDaniel, Office of the Solicitor, Department of Labor, Room N-2428, 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Dennis McDaniel, telephone (202-523-7721).

SUPPLEMENTARY INFORMATION: The Debt Collection Act of 1982 (Pub. L. 97-365) amends the Federal Claims Collection Act of 1966 to authorize the Federal government to employ various debt collection techniques commonly available to the private sector. Among these techniques are those for the administrative offset against payments to be made to a debtor by the United States on such matters as on a federal loan, contract or grant, or on an income maintenance payment, using procedures

established by section 10 of the Debt Collection Act.

This proposed rule establishes the procedures the Department of Labor will employ in making an administrative offset.

Executive Order 12291

The proposed rule is not a "major rule" under Executive Order 12291 because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

The Department believes that the proposed rule will have no "significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act. Public Law 96-354, 94 Stat. 1164 (5 U.S.C. 605(b)). The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. This conclusion is reached because the proposed rule does not, in itself, impose any additional requirements upon small entities. Accordingly, no regulatory flexibility analysis is required.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the reporting or recordkeeping provisions that are included in this regulation have been or will be submitted for approval to the Office of Management and Budget (OMB).

List of Subjects in 29 CFR Part 20

Government employees, Loan programs, Claims, Credit, Administrative practice and procedure.

Accordingly, Part 20 of Title 29 of the Code of Federal Regulations is proposed to be amended as set forth below.

Subpart B is added to read as follows:

PART 20—DEBT COLLECTION ACT OF 1982

* * * * *

Subpart B—Administrative Offset

Sec.

Authority: Pub. L. 97-365, Oct. 25, 1982; 96 Stat. 1749; 31 U.S.C. 3711 *et seq.*

* * * * *

Subpart B—Administrative Offset

§ 20.19 Purpose and scope.

The regulations in this subpart establish procedures to implement section 10 of the Debt Collection Act of 1982 (Pub. L. 97-365), 31 U.S.C. 3716(d). Among other things, this statute authorizes the head of each agency to collect a claim arising under an agency program by means of administrative offset, except that no claim may be collected by such means if outstanding for more than 10 years after the agency's right to collect the debt first accrued, unless facts material to the Government's right to collect the debt were not known and could not reasonably have been known by the official or officials of the government who were charged with the responsibility to discover and collect such debts. This subpart specifies the agency procedures that will be followed by the Department of Labor for an administrative offset.

§ 20.20 Definitions.

For purposes of this subpart—

(a) The term "administrative offset" means the withholding of money payable by the United States to or held by the United States on behalf of a person to satisfy a debt owed the United States by that person; and

(b) The term "person" does not include any agency of the United States, or any state or local government.

(c) The terms "claim" and "debt" are deemed synonymous and interchangeable. They refer to an amount of money or property which has been determined by an appropriate agency official to be owed to the United States from any person, organization, or entity, except another federal agency.

§ 20.21 Agency responsibilities.

(a) Each Department of Labor agency which has delinquent debts owed under its program is responsible for collecting its claims by means of administrative offset, in accordance with guidelines established by the Assistant Secretary for Administration and Management.

(b) Before collecting a claim by means of administrative offset, the responsible agency must ensure that administrative offset is feasible, allowable and appropriate, and must notify the debtor of the Department's policies for collecting a claim by means of administrative offset.

(c) Whether collection by administrative offset is feasible is a determination to be made by the creditor agency on a case-by-case basis, in the exercise of sound discretion. Agencies shall consider not only whether administrative offset can be accomplished, both practically and legally, but also whether offset is best suited to further and protect all of the Government's interests. In appropriate circumstances, agencies may give due consideration to the debtor's financial condition, and are not required to use offset in every instance in which there is an available source of funds. Agencies may also consider whether offset would substantially interfere with or defeat the purposes of the program authorizing the payments against which offset is contemplated.

(d) Before advising the debtor that the delinquent debt will be subject to administrative offset, the agency head (or designee) responsible for administering the program under which the debt arose shall review the claim and determine that the debt is valid and overdue. In the case where a debt arises under the programs of two or more Department of Labor agencies, or in such other instances as the Assistant Secretary for Administration and Management, or his or her designee, may deem appropriate, the Assistant Secretary, or his or her designee, may determine which agency (or agencies), or official (or officials), shall have responsibility for carrying out the provisions of this subpart.

(e) Administrative offset shall be considered by agencies only after attempting to collect a claim under section 3(a) of the Federal Claims Collection Act, except that no claim under this Act that has been outstanding

for more than 10-years after the Government's right to collect the debt first accrued may be collected by means of administrative offset, unless facts material to the right to collect the debt were not known and could not reasonably have been known by the official of the Agency who was charged with the responsibility to discover and collect such debts. When the debt first accrued should be determined according to existing laws regarding the accrual of debts, such as under 28 U.S.C. 2415.

§ 20.22 Notifications.

(a) The agency head (or designee) responsible for carrying out the provisions of this subpart with respect to the debt shall send appropriate written demands to the debtor in terms which inform the debtor of the consequences of failure to cooperate. In accordance with guidelines established by the Assistant Secretary for Administration and Management, a total of three progressively stronger written demands at not more than 30-day intervals will normally be made unless a response to the first or second demand indicates that a further demand would be futile and the debtor's response does not require rebuttal. In determining the timing of the demand letters, agencies should give due regard to the need to act promptly so that, as a general rule, if necessary to refer the debt to the Department of Justice for litigation, such referral can be made within one year of the final determination of the fact and the amount of the debt. When the agency head (or designee) deems it appropriate to protect the government's interests (for example, to prevent the statute of limitations, 28 U.S.C. 2415, from expiring), written demand may be preceded by other appropriate actions, including immediate referral for litigation.

(b) In accordance with guidelines established by the Assistant Secretary for Administration and Management, the agency official responsible for collection of the debt shall send written notice to the debtor, informing such debtor as appropriate:

(1) Of the nature and amount of the indebtedness;

(2) That the agency intends to collect, as appropriate, interest, penalties and administrative costs; and, in accordance with guidelines of the Assistant Secretary for Administration and Management, of the applicable standards for collecting such payments;

(3) Of the date by which payment is to be made (which normally should be not more than 30 days from the date that the initial notification was mailed or hand-delivered);

(4) Of the agency's intention to collect by administrative offset and of the debtor's rights in conjunction with such an offset;

(5) Of the debtor's entitlement to waiver, where applicable, and of the debtor's rights in conjunction with waiver;

(6) Of the debtor's opportunity to enter into a written agreement with the agency to repay the debt;

(7) Of the rights of such debtor to a full explanation of the claim, of the opportunity to inspect and copy the agency records with respect to the claim and to dispute any information in the records of the agency concerning the claim;

(8) Of the debtor's rights to administrative appeal or review with respect to the claim and how such review shall be obtained; and

(9) Of the date on which or after which an administrative offset will begin.

(c) Agencies shall also include in their demand letters the notice provisions to debtors required by other regulations of the Labor Department, pertaining to disclosures to credit reporting agencies, salary offset, and assessment of interest, penalties and administrative costs, to the extent inclusion of such is appropriate and practicable.

(d) The responsible agency head (or designee) shall exercise due care to insure that demand letters are mailed or hand-delivered on the same day that they are actually dated. If evidence suggests that the debtor is no longer located at the address of record, reasonable action shall be taken to obtain a current address.

(e) The agency responsible for collecting the claim shall, in the initial demand letter to the debtor, provide the name of an agency employee who can provide a full explanation of the claim.

§ 20.23 Examination of records relating to the claim; opportunity for full explanation of the claim.

Following receipt of the initial demand letter specified in § 20.22, the debtor may request to examine and copy agency records pertaining to the debt.

§ 20.24 Opportunity for repayment.

(a) The Department of Labor agency responsible for collecting the claim shall afford the debtor the opportunity to repay the debt or enter into a repayment plan which is agreeable to the agency head (or designee) and is in a written form signed by such debtor. The head of the agency (or designee) may deem a repayment plan to be abrogated if the debtor should, after the repayment plan is signed, fail to comply with the terms of the plan.

(b) Agencies have discretion and should exercise sound judgment in determining whether to accept a repayment agreement in lieu of offset. The determination should balance the Government's interest in collecting the debt against fairness to the debtor. If the debt is delinquent and the debtor has not disputed its existence or amount, an agency should effect an offset unless the debtor is able to establish that offset would result in undue financial hardship or would be against equity and good conscience.

§ 20.25 Review of the obligation.

(a) The debtor shall have the opportunity to obtain review by the responsible agency of the determination concerning the existence or amount of the debt.

(b) The debtor seeking review shall make the request in writing to the reviewing official or employee, not more than 15 days from the date the initial demand letter was received by the debtor. The request for review shall state the basis for challenging the determination. If the debtor alleges that the agency's information relating to the debt is not accurate, timely, relevant or complete, such debtor shall provide information or documentation to support this allegation.

(c) The review shall ordinarily be based on written submissions and documentation by the debtor. However a reasonable opportunity for an oral hearing shall be provided an individual debtor when the reponsible agency determines that (1) an applicable statue authorizes or requires the agency to consider waiver of the indebtedness involved, the debtor requests waiver of the indebtedness, and the waiver determination turns on an issue of credibility or veracity; or (2) an individual debtor requests reconsideration of the debt and the agency determines that the question of the indebtedness cannot be resolved by review of the documentary evidence, for example, when the validity of the debt turns on an issue of credibility or veracity; or (3) in other situations in which the agency deems an oral hearing appropriate. Unless otherwise required by law, an oral hearing under this section is not required to be a formal evidentiary-type hearing, although the reviewing official should carefully document all significant matters discussed at the hearing.

(d) Agencies may effect an administrative offset against a payment to be made to a debtor prior to the

completion of the due process procedures required by this subpart, if failure to take the offset would substantially prejudice the agency's ability to collect the debt; for example, if the time before the payment is to be made would not reasonably permit the completion of due process procedures. Offset prior to completion of due process procedures must be promptly followed by the completion of those procedures. Amounts recovered by offset but later found not owed to the agency should be promptly refunded.

(e) Upon completion of the review, the reviewing official shall transmit to the debtor a written notification of the decision. If appropriate, this notification shall inform the debtor of the scheduled date on or after which administrative offset will begin. The notification shall also, if appropriate, indicate any changes in the information to the extent such information differs from that provided in the initial notification under § 20.22.

(f) Nothing in this subpart shall preclude an agency, upon request of the debtor alleged by the agency to be responsible for a debt, or on its own initiative, from reviewing the obligation of such debtor, including an opportunity for reconsideration of the determination concerning the debt, and including the accuracy, timeliness, relevance, and completeness of the information on which the debt is based.

§ 20.26 Request for waiver or administrative review.

(a) If the statute under which waiver or administrative review is sought is "mandatory," that is, if it prohibits the agency from collecting the debt prior to the agency's consideration of the request for waiver or review (see *Califano* v. *Yamasaki*, 442 U.S. 682 (1979)), then collection action must be suspended until either (1) the agency has considered the request for waiver/review, or (2) the applicable time limit for making the waiver/review request, as prescribed in the agency's regulations, has expired and the debtor, upon proper notice, has not made such a request.

(b) If the applicable waiver/review statute is "permissive," that is, if it does not require all requests for waiver/review to be considered, and if it does not prohibit collection action pending consideration of a waiver/review request (for example, 5 U.S.C. 5584), collection action may be suspended pending agency action on a waiver/review request based upon appropriate consideration, on a case-by-case basis, as to whether:

(1) There is a reasonable possibility that waiver will be granted, or that the debt (in whole or in part) will be found not owing from the debtor;

(2) The Government's interests would be protected, if suspension were granted, by reasonable assurance that the debt could be recovered if the debtor does not prevail; and

(3) Collection of the debt will cause undue hardship.

(c) If the applicable statutes and regulations would not authorize refund by the agency to the debtor of amounts collected prior to agency consideration of the debtor's waiver/review request in the event the agency acts favorably on it, collection action should ordinarily be suspended, without regard to the factors specified in paragraph (b) of this section, unless it appears clear, based on the request and the surrounding circumstances, that the request is frivolous and was made primarily to delay collection.

§ 20.27 Cooperation with other DOL agencies and federal agencies.

(a) Appropriate use should be made of the cooperative efforts of other DOL agencies and Federal agencies in effecting collection by administrative offset. Generally, agencies should comply with requests from other agencies to initiate administrative offset to collect debts owed to the United States, unless the requesting agency has not complied with the applicable regulations or the request would otherwise be contrary to law or the best interests of the United States.

(b) Unless otherwise prohibited by law, a DOL agency may request that monies due and payable to a debtor by another DOL agency or a Federal agency outside the Department be administratively offset in order to collect debts owed the creditor DOL agency by the debtor. In requesting an administrative offset, the creditor DOL agency must provide the DOL agency or other Federal agency holding funds of the debtor with written certification stating (1) that the debtor owes the creditor agency a debt (including the amount of debt); and (2) that the creditor agency has complied with the applicable Federal Claims Collection Standards, including any hearing or review.

§ 20.28 DOL Agency as organization holding funds of the debtor.

(a) Whenever a DOL agency is holding funds of a debtor from which administrative offset is sought by another DOL agency or other Federal agency, the DOL agency holding funds should not initiate the requested offset until it has been provided by the creditor organization with an appropriate written certification that the debtor owes a debt (including the amount) and that applicable provisions of the Federal Claims Collection Standards have been fully complied with.

(b) Moreover, the DOL agency holding funds of the debtor should determine whether collection by offset would be in the best interests of the United States; for example, is the debtor is a contractor for the DOL agency holding funds, whether administrative offset would impair the contractor's ability to perform under the terms of the contract. The creditor organization should be notified promptly of the determination.

§ 20.29 Notice of offset.

Priro to effecting an administrative offset, the agency holding funds of a debtor should advise the debtor of the impending offset. This notice should state that the debtor has been provided his/her rights under the Federal Claims Collection Standards, that a determination has been made that collection by administrative offset would be in the best interests of the United States, the amount of the offset, and the source of funds from which the offset will be made.

§ 20.30 Multiple debts.

When collecting multiple debts by administrative offset, agencies should apply the recovered amounts to those debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitations.

§ 20.31 Administrative offset against amounts payable from Civil Service Retirement and Disability Fund.

(a) Unless otherwise prohibited by law, agencies may request that moneys which are due and payable to a debtor from the Civil Service Retirement and Disability Fund be administratively offset in reasonable amounts in order to collect debts owed to the United States by the debtor. Such requests shall be made to the appropriate officials of the Office of Personnel Management in accordance with such regulations as may be prescribed by the Director of that Office.

(b) When making a request for administrative offset under paragraph (a) of this section, an agency shall include a written certification that:

(1) The debtor owes the United States a debt, including the amount of the debt;

(2) The requesting agency has complied with all applicable statutes,

regulations, and procedures of the Office of Personnel Management; and

(3) The requesting agency has complied with the requirements of the applicable provisions of the Federal Claims Collection Standards, including any required hearing or review.

(c) Once an agency decides to request administrative offset under paragraph (a) of this section, it should make the request as soon as practical after completion of the applicable due process procedures in order that the Office of Personnel Management may identify and "flag" the debtor's account in anticipation of the time when the debtor becomes eligible and requests to receive payments from the Fund. This will satisfy any requirement that offset be initiated prior to expiration of the applicable statute of limitations. At such time as the debtor makes a claim for payments from the Fund, if at least a year has elapsed since the offset request was originally made, the debtor should be permitted to offer a satisfactory repayment plan in lieu of offset upon establishing that changed financial circumstances would render the offset unjust.

(d) In accordance with procedures established by the Office of Personnel Management, agencies may request an offset from the Civil Service Retirement and Disability Fund prior to completion of due process procedures.

(e) If the requesting agency collects part or all of the debt by other means before deductions are made or completed pursuant to paragraph (a) of this section, the agency shall act promptly to modify or terminate its request for offset under paragraph (a) of this section.

§ 20.32 Liquidation of collateral.

An agency holding security or collateral which may be liquidated and the proceeds applied on debts due it through the exercise of a power of sale in the security instrument or a nonjudicial foreclosure should do so by such procedures if the debtor fails to pay the debt within a reasonable time after demand, unless the cost of disposing of the collateral will be disproportionate to its value or special circumstances require judicial foreclosure. The agency should provide the debtor with reasonable notice of the sale, an accounting of any surplus proceeds, and any other procedures required by contract or law. Collection from other sources, including liquidation of security or collateral, is not a prerequisite to requiring payment by a surety or insurance concern unless such action is expressly required by statute or contract.

§ 20.33 Collection in installments.

(a) Whenever feasible, and except as otherwise provided by law, debts owed to the United States, together with interest, penalties, and administrative costs should be collected in full in one lump sum. This is true whether the debt is being collected by administrative offset or by another method, including voluntary payment. However, if the debtor is financially unable to pay the indebtedness in one lump sum, payment may be accepted in regular installments. Agencies should obtain and may require financial statements from debtors who represent that they are unable to pay the debt in one lump sum. Agencies which agree to accept payment in regular installments should obtain a legally enforceable written agreement from the debtor which specifies all of the terms of the arrangement and which contains a provision accelerating the debt in the event the debtor defaults. The size and frequency of installment payments should bear a reasonable relation to the size of the debt and the debtor's ability to pay. If possible, the installment payments should be sufficient in size and frequency to liquidate the Government's claim in not more than 3 years. Installment payments of less than $50 per month should be accepted only if justifiable on the grounds of financial hardship or for some other reasonable cause. An agency holding an unsecured claim for administrative collection should attempt to obtain an executed confess-judgment note, comparable to the Department of Justice Form USA–70a, from a debtor when the total amount of the deferred installments will exceed $750. Such notes may be sought when an unsecured obligation of a lesser amount is involved. When attempting to obtain confess-judgment notes, agencies should provide their debtors with written explanation of the consequences of signing the note, and should maintain documentation sufficient to demonstrate that the debtor has signed the note knowingly and voluntarily. Security for deferred payments other than a confess-judgment note may be accepted in appropriate cases. An agency may accept installment payments notwithstanding the refusal of a debtor to execute a confess-judgment note or to give other security, at the agency's option.

(b) If the debtor owes more than one debt and designates how a voluntary installment payment is to be applied as among those debts, that designation must be followed. If the debtor does not designate the application of the payment, agencies should apply payments to the various debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitations.

§ 20.34 Exclusions.

(a) Agencies are not authorized by section 10 of the Debt Collection Act of 1982 (31 U.S.C. 3716) to use administrative offset with respect to (1) debts owed by any State or local Government; (2) debts arising under or payments made under the Social Security Act, the Internal Revenue Code of 1954, or the tariff laws of the United States; or (3) any case in which collection of the type of debt involved by administrative offset is explicitly provided for or prohibited by another statute. However, unless otherwise provided by contract or law, debts or payments which are not subject to administrative offset under 31 U.S.C. 3716 may be collected by administrative offset under the common law or other applicable statutory authority, pursuant to this paragraph or agency regulation established pursuant to such other statutory authority.

(b) This section should not be construed as prohibiting use of these authorities or requirements when collecting debts owed by persons employed by agencies administering the laws cited in the preceding paragraph unless the debt "arose under" those laws.

(c) Collection by offset against a judgment obtained by a debtor against the United States shall be accomplished in accordance with 31 U.S.C. 3728.

§ 20.35 Additional administrative collection action.

Nothing contained in this subpart is intended to preclude the utilization of any other administrative remedy which may be available.

§ 20.36 Prior provision of rights with respect to debt.

To the extent that the rights of the debtor in relation to the same debt have been previously provided under some other statutory or regulatory authority, the agency is not required to duplicate those efforts before taking administrative offset.

§ 20.37 Responsibilities of the Assistant Secretary for Administration and Management.

The Assistant Secretary for Administration and Management, or his or her designee, shall provide appropriate and binding written or other guidance to Department of Labor agencies and officials in carrying out

this subpart, including the issuance of guidelines and instructions, which he or she may deem appropriate. The Assistant Secretary shall also take such administrative steps as may be appropriate to carry out the purposes and ensure the effective implementation of this regulation.

Signed at Washington, D.C., this 13th day of September 1984.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 84-24682 Filed 9-17-84; 8:45 am]

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29 CFR Part 20

Debt Collection Act of 1982; Proposed Rule; Interest, Penalties and Administrative Costs

AGENCY: Office of the Secretary, Labor.

ACTION: Proposed rule.

SUMMARY: The Debt Collection Act of 1982 (Pub. L. 97-365) authorizes the Federal government to assess interest, penalties and administrative costs against debtors with respect to debts owed the United States. This proposed rule establishes the standards and procedures the Department of Labor will utilize in assessing such charges under the Debt Collection Act.

DATES: Comments, in duplicate, must be received on or before November 2, 1984.

ADDRESS: Send comments to: Dennis McDaniel, Office of the Solicitor, Department of Labor, Room N-2428, 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Dennis McDaniel (202—523-7721).

SUPPLEMENTARY INFORMATION: The Debt Collection Act of 1982 (Pub. L. 97-365) amends the Federal Claims Collection Act of 1966 to authorize the Federal government to assess interest, penalties and administrative costs on delinquent debts owed to the United States. Such charges are to be assessed at the rates established by and in accordance with the terms of the Debt Collection Act, unless otherwise provided by law. It should be noted that where another rate, other than the Debt Collection Act rate, is specifically established by law with respect to a certain delinquent debt, that rate will be assessed by the Labor Department on the debt; however, these regulations will otherwise apply to such an assessment, unless otherwise provided by law.

This proposed rule establishes the policies and procedures the Department of Labor will employ in assessing interest, penalties and administrative costs with respect to delinquent debts arising under programs of the Department of Labor.

Executive Order 12291

The proposed rule is not a "major rule" under Executive Order 12291 because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs of prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

The Department believes that the proposed rule will have no "significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act. Pub. L. 96-354, 94 Stat. 1164 (5 U.S.C. 605(b)). The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. This conclusion is reached because the proposed rule does not, in itself, impose any regulatory requirements that will have a significant economic impact upon small entities. Accordingly, no regulatory flexibility analysis is required.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the reporting or recordkeeping provisions that we included in this regulation have been or will be submitted for approval to the Office of Management and Budget (OMB).

List of Subjects in 29 CFR Part 20

Government employees, Loan programs, Claims, Credit, Administrative practice and procedure.

Accordingly, Part 20 of Title 29 of the Code of Federal Regulations is proposed to be amended as set forth below.

Subpart C is added to read as follows:

PART 20—DEBT COLLECTION ACT OF 1982

* * * * *

Subpart C—Interest, Penalties and Administrative Costs

Sec.

Authority: Pub. L. 97-365, Oct. 25, 1982; 96 Stat. 1749; 31 U.S.C. 3711, *et seq.*

* * * * *

Subpart C—Interest, Penalties and Administrative Costs

§ 20.50 Purpose and scope.

The regulations in this subpart establish the policies and procedures to implement section 11 of the Debt Collection Act of 1982 (Pub. L. 97-365), 31 U.S.C. 3717. Among other things, this statute authorizes the head of each agency to assess interest, penalties and administrative costs against debtors with respect to delinquent debts arising under the agency's program. This subpart establishes the standards and procedures that will be followed by the Department of Labor in assessing such charges.

§ 20.51 Agency responsibilities.

(a) The Department of Labor agency responsible for administering the program under which a delinquent debt arose shall assess interest and related charges on the debt, in accordance with guidelines established by the Assistant Secretary for Administration and Management. In the case where a debt arises under the program of two or more Department of Labor agencies, or in such other instances as the Assistant Secretary for Administration and Management, or his or her designee, may deem appropriate, the Assistant Secretary, or his or her designee, may determine which agency, or official, shall have responsibility for carrying out the provisions of this subpart.

(b) Before assessing any charges on a delinquent debt, the responsible agency must notify the debtor of the Department's policies for assessing interest, penalties and administrative costs and must ensure that the debt is overdue for the respective periods specified in these regulations.

(c) Each Department of Labor agency is responsible for ensuring the continued accuracy of calculations and records relating to its assessment of changes, and for the prompt notification of the debtor of any substantial change in the status or amount of the claim. As

appropriate, the Agencies should promptly follow-up on any allegation made by a debtor that principal or charges is in error. Agencies should respond promptly to communication from the debtor, within 30 days whenever feasible.

§ 20.52 Notification of charges.

The agency head (or designee) responsible for carrying out the provisions of this subpart shall mail or hand-deliver an initial demand for payment to the debtor. In the initial demand, the debtor shall be notified that interest on the debt will start to accrue from the date on which the notice is mailed or hand-delivered, but that payment of interest will be waived if the debt is paid by the due date, or within 30 days of the date of notice, if no due date is specified. The initial demand shall also state that administrative costs of recovering the delinquent debt will be assessed if payment is not received by the due date.

§ 20.53 Second and subsequent notifications.

(a) In accordance with guidelines established by the Assistant Secretary for Administration and Management, the responsible agency head (or designee) shall send progressively stronger second and subsequent demands for payment, if payment or other appropriate response is not received within the time specified by the initial demand. Unless a response to the first or second demand indicates that a further demand would be futile or the debtor's response does not require rebuttal, the second and subsequent demands shall generally be made at 30 day intervals from the first, and shall state that a 6 percent per annum penalty will be assessed after the debt has been delinquent 90 days, accruing from the date it became delinquent. The second and subsequent demands shall also identify the amount of the interest then accrued on the debt, as well as administrative costs thus far assessed. In determining the timing of the demand letters, agencies should give due regard to the need to act promptly so that, as a general rule, if necessary to refer the debt to the Department of Justice for litigation, such referral can be made within one year of the final determination of the fact and the amount of the debt. When the agency head (or designee) deems it appropriate to protect the government's interests (for example, to prevent the statute of limitations 28 U.S.C. 2415, from expiring), written demand may be preceded by other appropriate actions, including immediate referral for litigation.

(b) Agencies shall also include in their demand letters the notice provisions to debtors required by other regulations of the Labor Deprtment, pertaining to waiver of the indebtedness, administrative offset, salary offset and disclosure of information to credit reporting agencies, to the extent that such inclusion is appropriate and practicable.

§ 20.54 Delivery of notices.

The responsible agency head (or designee) shall exercise due care to ensure that demand letters are dated and mailed or hand-delivered on the same day that they are actually dated.

If evidence suggests that the debtor is no longer located at the address of record, reasonable action shall be taken to obtain a current address.

§ 20.55 Accrual of interest.

Interest shall accrue from the date on which notice of the debt and the interest requirements is first mailed or hand-delivered to the debtor, using the most current address that is available to the agency.

§ 20.56 Rate of interest.

(a) The rate of interest assessed shall be the rate of the current value of funds to the United States Treasury as published in the **Federal Register** (as of the date the notice is sent), unless another rate is specified by statute, regulations or preexisting contract condition. The Office of the Assistant Secretary for Administration and Management will notify agencies promptly of the current Treasury rate. The responsible agency may assess a higher rate of interest if it reasonably determines that a higher rate is necessary to protect the interests of the United States, and such rate is agreed to by the Assistant Secretary for Administration and Management (or his designee). The rate of interest prescribed in section 6621 of the Internal Revenue Code shall be sought for backwages recovered in litigation by the Department.

(b) The rate of interst as initially assessed shall remain fixed for the duration of the indebtedness, except that where a debtor has defaulted on a repayment agreement and seeks to enter into a new agreement, the agency may set a new interest rate which reflects the current value of funds to the Treasury at the time the new agreement is executed.

(c) Interest shall not be assessed on interest, penalties or administrative costs required by this subpart. However, if the debtor defaults on a previous repayment agrement, charges which accrued but were not collected under the defaulted agrement shall be added to the principal to be paid under a new repayment agreement.

§ 20.57 Assessment of administrative costs.

(a) The Department of Labor agency responsible for collecting the claim shall assess against debtors charges to cover administrative costs incurred as a result of the delinquent debt; that is, the additional costs incurred in processing and handling the debt because it became delinquent. Calculation of administrative costs shall be based on cost analyses establishing an average of actual additional costs incurred by the agency in processing and handling claims against other debtors in similar stages of delinquency.

(b) In addition to assessing the costs listed in the administrative-cost fee schedule, the responsible agency may include the costs incurred in obtaining a credit report in using a private debt collector, to the extent they are attributable to delinquency.

(c) The Assistant Secretary for Administration and Management shall issue each year a schedule providing the costs associated with various common activities required to collect delinquent debts.

§ 20.58 Application of partial payments to amounts owed.

When a debt is paid in partial or installment payments, amounts received by the responsible agency should be applied first to outstanding penalty and administrative cost charges, second to accrued interest, and third to outstanding principal.

§ 20.59 Waiver.

(a) The Department of Labor agency responsible for collecting the claim shall waive the collection of interest on the debt or any portion of the debt which is paid within 30 days after the date on which interest began to accrue. This 30-day period may be extended for another 30 days on a case-by-case basis, if the agency reasonably determines that such action is appropriate, and is in accordance with these regulations. Also, the responsible agency may waive charges assessed under this subpart, based on criteria specified in the Federal Claims Collection Standards relating to the compromise of claims (without regard to the amount of the debt), or if the agency determines that collection of these charges would be against equity and good conscience or not be in the best interest of the United States. Waiver under the first sentence

of this paragraph is mandatory. Under the second and third sentences waiver is permissive and may be exercised only in accordance with the standards set by these regulations.

(b) Agencies may waive interest and other charges under appropriate circumstances, including, for example, (1) pending consideration of a request for reconsideration, administrative review, or waiver under a permissive statute, (2) if the agency has accepted an installment plan, there is no fault or lack of good faith on the part of the debtor, and the amount of interest is large enough in relation to the size of the debt and the amount of the installments that the debtor can reasonably afford to pay so that the debt can never be repaid, or (3) if repayment of the full amount of the debt is made after the date upon which interest and other charges became payable and the estimated costs of recovering the residual interest balance exceed the amount owed the Agency.

(c) Where a mandatory waiver or review statute applies, interest and related charges may not be assessed for those periods during which collection action must be suspended.

§ 20.60 Exemptions.

(a) The provisions of 32 U.S.C. 3717 do not apply: (1) To debts owed by any State or local government; (2) to debts arising under contracts which were executed prior to, and were in effect on (i.e., were not completed as of), October 25, 1982; (3) to debts where an applicable statute, regulation required by statute, loan agreement, or contract either prohibits such charges or explicitly fixes the charges that apply to the debts involved; or (4) to debts arising under the Social Security Act, the Internal Revenue Code of 1954, or the tariff laws of the United States.

(b) Agencies are authorized to assess interest and related charges on debts which are not subject to 31 U.S.C. 3717 to the extent authorized under the common law or other applicable statutory authority.

§ 20.61 Responsibilities of the Assistant Secretary for Administration and Management.

The Assistant Secretary for Administration and Management, or his or her designee, shall provide appropriate and binding written or other guidance to Department of Labor agencies and officials in carrying out this subpart, including the issuance of guidelines and instructions, which he or she may deem appropriate. The Assistant Secretary shall also take such administrative steps as may be appropriate to carry out the purposes and ensure the effective implementation of this regulation.

Signed at Washington, D.C., this 13th day of September.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 84-24684 Filed 9-17-84; 8:45 am]

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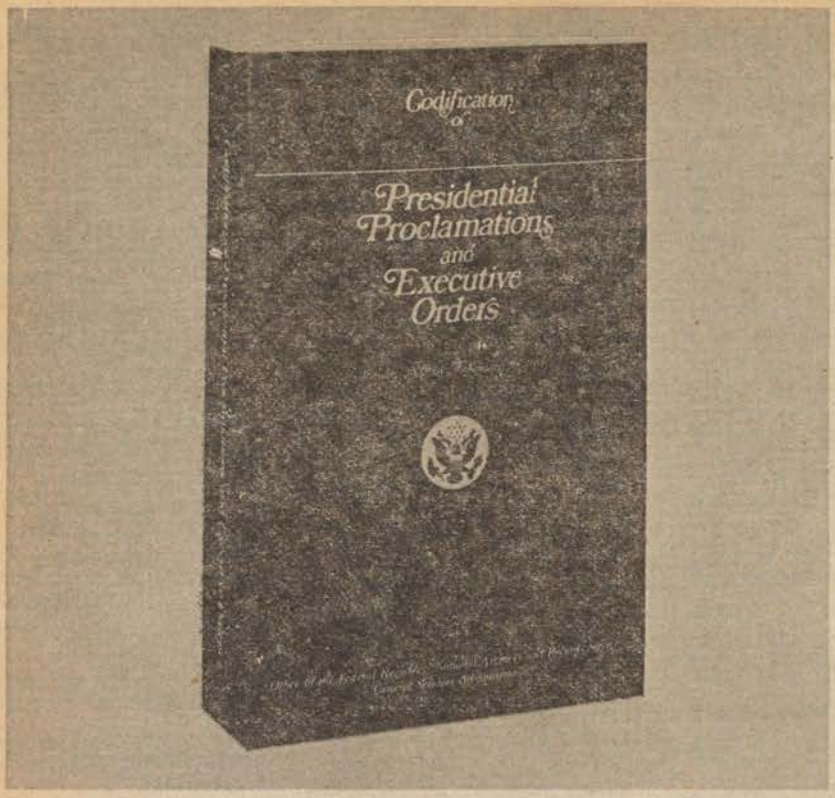

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