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Wednesday
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Selected Subjects

Administrative Practice and Procedure
Surface Mining Reclamation and Enforcement Office

Air Pollution Control
Environmental Protection Agency

Aliens
Immigration and Naturalization Service

Animal Drugs
Food and Drug Administration

Banks, Banking
Federal Home Loan Bank Board

Bridges
Coast Guard

Fisheries
National Oceanic and Atmospheric Administration

Freedom of Information
Agriculture Department

Health Care
Veterans Administration

Loan Programs—Housing and Community Development
Education Department

Radio
Federal Communications Commission

Radio and Television Broadcasting
Federal Communications Commission

CONTINUED INSIDE

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Selected Subjects

Reporting and Recordkeeping Requirements
Civil Aeronautics Board

Contents

Federal Register
Vol. 49, No. 249
Wednesday, December 26, 1984

Agriculture Department
RULES
50017 Freedom of Information Act; implementation; official records, fee schedule

Antitrust Division
NOTICES
50121 National Cooperative Research Act; implementation; notification and Federal Register publication provisions

Arts and Humanities, National Foundation
NOTICES
50125 Agency information collection activities under OMB review

Civil Aeronautics Board
RULES
Foreign air carriers:
50027 Reporting and recordkeeping requirements

Coast Guard
PROPOSED RULES
Drawbridge operations:
50055 Louisiana

Commerce Department
See also Minority Business Development Agency; National Oceanic and Atmospheric Administration; National Technical Information Service.

Defense Department
See Engineers Corps; Navy Department.

Education Department
RULES
Postsecondary education:
50028 College housing program
NOTICES
Grants; availability, etc.:
50070 Business and international education program
Postsecondary education:
50071 National defense and direct student loan programs; directory of designated low-income schools for teacher cancellation benefits; availability

Energy Department
See also Energy Information Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
NOTICES
50072 Motor vehicle fuel economy; 1985 gas mileage guide; availability

Energy Information Administration
NOTICES
Forms; availability, etc.:
50072 Industrial energy conservation program reporting form; inquiry
50073 Petroleum facility operator identification survey; inquiry

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
50069 Moss Landing, CA; harbor expansion

Environmental Protection Agency
PROPOSED RULES
Air pollutants, hazardous; national emission standards:
50146 Mercury from mercury-cell chlor-alkali plants, sludge drying and incinerator plants, and mercury ore processing facilities
NOTICES
Air quality; prevention of significant deterioration:
50106 Permit extensions
Meetings:
50106 Interagency Toxic Substances Data Committee
Pesticide programs:
50106 Confidential information and data access by GAO
Pesticides; temporary tolerances:
50105 Amitraz

Federal Aviation Administration
PROPOSED RULES
50054 Restricted areas; correction (2 documents)

Federal Communications Commission
RULES
Common carrier services:
50030 INTELSAT global communications satellite system; ownership and operation of U.S. earth stations; policy statement
Radio and television broadcasting:
50045 Oversight; update clarifications, editorial corrections, etc.
PROPOSED RULES
Frequency allocations and radio treaty matters:
50056 Radiodetermination satellite service; application request denial, etc.
Radio services, special:
50059 Private land mobile services; public safety channel allocation, Los Angeles, Calif.; extension of time
NOTICES
Hearings, etc.:
50109 Astro Broadcasting System et al.
50109 Cleburne Broadcasting Co. et al.
50107 C&P Broadcasting et al.
50107 Lawson Broadcasting, Inc., Debtor-In-Possession, et al.
50107 Richford Broadcasting Co. et al.
50108 Scenic Sounds, Inc., et al.
50108 Stearns County Broadcasting Co., Inc., et al.
50108 Tamarack Investment Corp. et al.

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
50079, 50082 ANR Pipeline Co. (2 documents)
50081 Carolina Power & Light Co.

50082 Columbia Gas Transmission Corp.
50083 D. R. Lauck Oil Co., Inc. (2 documents)
50081 Davie County, N.C.
50083 East Tennessee Natural Gas Co.
50081, 50083 Gulf States Utilities Co. (2 documents)
50084 Idaho Natural Energy, Inc.
50085 Lee, William S.
50084 Mount Hood Hydro
50081 Ozark Gas Transmission System
50084 Portland General Electric Co.
50082 Public Service Co. of New Hampshire
50084 Roberts, James W.
50082 Texas Eastern Transmission Corp.
50084 Texas Gas Pipe Line Corp.
50085 Trunkline Gas Co.
50085 Tucson Electric Power Co.
50085 Yankee Atomic Electric Co.

Federal Home Loan Bank Board
RULES
Federal Savings and Loan Insurance Corporation:
50019 Earnings based accounts; limitations

Federal Reserve System
NOTICES
Bank holding company applications, etc.:
50110 AT Financial Corp. et al.
50110 Southwest Virginia Bankshares, Inc., et al.

Federal Trade Commission
NOTICES
50111 Premerger notification waiting periods; early terminations

Fish and Wildlife Service
RULES
Hunting:
50049 Refuge specific hunting regulations; correction

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
50028 Coopers Animal Health, Inc.; sponsor name change
NOTICES
Human drugs:
50112 Amrinone lactate; review period for patent extension

Health and Human Services Department
See Community Services Office; Health Resources and Services Administration; Public Health Service.

Health Resources and Services Administration
NOTICES
50113 Advisory committee reports, annual; availability (2 documents)
Meetings; advisory committees:
50112 January (1985)

Hearings and Appeals Office, Energy Department
NOTICES
50086, 50094 Special refund procedures; implementation and inquiry (2 documents)

Immigration and Naturalization Service
RULES
50018 Aliens arriving by civil aircraft; designation of ports of entry; liability for inspectional overtime; exemption

Indian Affairs Bureau
NOTICES
Reservation establishment, additions, etc.:
50116 Squaxin Island Indian Reservation, WA

Interior Department
See also Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; Minerals Management Service; Surface Mining Reclamation and Enforcement Office.
NOTICES
50115 Privacy Act; systems of records

Justice Department
See also Antitrust Division; Immigration and Naturalization Service.
NOTICES
Pollution control; consent judgments:
50121 Puerto Rico Aqueduct and Sewage Authority
50121 Welch, WV

Labor Department
See also Mine Safety and Health Administration.
NOTICES
Meetings:
50122 Trade Negotiations and Trade Policy Labor Advisory Committee

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
50117 Mt. Hope Molybdenum Project, NV
50117 Utah combined hydrocarbon leasing
Oil and gas leases:
50117 Wyoming (2 documents)
Sale of public lands:
50117 Utah

Management and Budget Office
NOTICES
50134 Audit requirements for State and local governments receiving Federal aid; provisions of Attachment P of Circular A-102 superseded; proposed circular

Mine Safety and Health Administration
NOTICES
Petitions for mandatory safety standard modifications:
50122 Blair Coal Co., Inc.
50123 Booker Fork Coal Corp.
50123 C.R. & C. Coal Co.
50123 International Salt Co.
50124 Maynard Branch Mining Co., Inc.
50124 Rio Algom Mining Corp.
50124, 50125 Scotts Branch Mining Co. (2 documents)
50125 Signal Mountain Cement Co.
50125 White River Shale Oil Corp.

Mineral Management Service
NOTICES
Outer Continental Shelf; development operations coordination:
50118 Conoco Co.
50118 ODECO Oil & Gas Co.

Minority Business Development Agency
NOTICES
Financial assistance application announcements:
50066, 50067 California (3 documents)
50065 District of Columbia
50064 Maryland
50064, 50065 Pennsylvania (2 documents)
50066 Washington

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
50049 Spiny lobster
PROPOSED RULES
Fishery conservation and management:
50060 Atlantic surf clam and ocean quahog

National Park Service
NOTICES
Historic Places National Register; pending nominations:
50119 Arizona et al.
Meetings:
50120 Gateway Advisory Commission
50120 Upper Delaware Citizens Advisory Council

National Technical Information Service
NOTICES
Patent licenses, exclusive:
50068 Oncogene Science, Inc.

National Transportation Safety Board
NOTICES
50126 Accident reports, safety recommendations, and responses, etc.; availability

Navy Department
NOTICES
Meetings:
50069, 50070 Naval Research Advisory Committee (2 documents)

Nuclear Regulatory Commission
PROPOSED RULES
Production and utilization facilities, domestic licensing:
50054 Property insurance requirements; extension of time
NOTICES
50126 Agency information collection activities under OMB review
Applications, etc.:
50130 Boston Edison Co.
50131 Florida Power & Light Co. et al.
50127, 50132, 50133 General Public Utilities Nuclear Corp. (3 documents)
50128 Indiana & Michigan Electric Co.
50128 Pennsylvania Power & Light Co. et al.
Environmental statements; availability, etc.:
50131 Connecticut Power & Light Co. et al.
50129 Public Service Electric & Gas Co.

Pension Benefit Guaranty Corporation
NOTICES
Multiemployer pension plans; bond/escrow exemption requests:
50139 Great Atlantic & Pacific Tea Co., Inc., et al.
Multiemployer pension plans; substantial damage determination requests:
50138 Arrow Transportation Co. et al.; withdrawn

Public Health Service
NOTICES
Organization, functions, and authority delegations:
50113 Centers for Disease Control
50114 Food and Drug Administration

Small Business Administration
RULES
50027 Small business size standards; correction

State Department
NOTICES
Meetings:
50141 International Radio Consultative Committee (2 documents)
50140 Shipping Coordinating Committee (2 documents)
50140 International Telegraph and Telephone Consultative Committee

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Abandoned mine land reclamation program:
50054 Abandoned mine land fund, apportionment policy; comment period closed
NOTICES
50120 Abandoned mine lands and State regulatory programs administration; annual evaluation reports; availability

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, and man-made textiles:
50068 Romania
Textile consultation; review of trade:
50068 Hong Kong

Transportation Department
See also Coast Guard; Federal Aviation Administration.

Treasury Department
NOTICES
50143 Agency information collection activities under OMB review
Notes, Treasury:
50141 Q-1988 series

Veterans Administration
RULES
Medical benefits:
50029 Medical services definition

Separate Parts in This Issue

Part II
50146 Environmental Protection Agency

Reader Aids
Additional information including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
1 50017

8 CFR
239 50018

10 CFR
Proposed Rules:
50 50054

12 CFR
563 50019
564 50019

13 CFR
121 50027

14 CFR
211 50027
Proposed Rules:
71 50054
73 (2 documents) 50054

21 CFR
510 50028

30 CFR
Proposed Rules:
872 50054

33 CFR
Proposed Rules:
117 50055

34 CFR
614 50028

38 CFR
17 50029

40 CFR
Proposed Rules:
61 50146

47 CFR
Ch. I 50030
73 50045
78 50045
Proposed Rules:
2 (2 documents) 50056, 50059
73 50059
90 50059

50 CFR
32 50049
645 50049
Proposed Rules:
652 50060

Rules and Regulations

Federal Register
Vol. 49, No. 249
Wednesday, December 26, 1984

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1

Official Records; Fee Schedule

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture adopts as a Final Rule, with no changes, the Proposed Rule published in the **Federal Register** on August 6, 1984 (49 FR 31292). This rule amends the Fee Schedule (Appendix A, Subpart A, 7 CFR Part 1), by increasing fees to be charged for certifying and authenticating records and for providing aerial photographic reproductions.

EFFECTIVE DATE: January 25, 1985.

FOR FURTHER INFORMATION CONTACT: Don Widener, Fiscal Policy and Management Division, Office of Finance and Management, USDA, Washington, D.C. 20250; (202) 382–1221.

SUPPLEMENTARY INFORMATION: The Department of Agriculture makes available copies of records, including photographic reproductions, to the public. Due to the increased costs of certifying, authenticating, and reproducing records, including photographic reproductions, it is necessary for the Department to increase the fees charged for certifying, authenticating, and reproducing copies of such records. Accordingly, this Final Rule amends the regulations to set forth the fee changes.

A Proposed Rule was published in the **Federal Register** on August 6, 1984 (49 FR 31292) proposing to increase fees charged for certifying and authenticating records and for providing aerial photographic reproductions. The public was given 30 days to submit comments on this Proposed Rule. No comments were received.

This Final Rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1 and been determined not to be a "major rule." In addition, it will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because the fees provided for in this proposed rule are not new but merely reflect a minimal increase in the costs currently borne by those persons requesting Government photographic reproductions and certification and authentication of records. John E. Carson, Director, Office of Finance and Management, made these determinations.

List of Subjects in 7 CFR Part 1

Freedom of Information.

PART 1—ADMINISTRATIVE REGULATIONS

Accordingly, Appendix A of Subpart A, Part 1, title 7, Code of Federal Regulations, is amended as follows:

1. The authority citation for Appendix A, Subpart A, Part 1 is amended to read as follows:

Authority: 5 U.S.C. 301, 552; 7 U.S.C. 2244; 31 U.S.C. 9701; and 7 CFR 2.75 (a)(6)(xiii).

Appendix A—Fee Schedule

2. Section 8, paragraph g, is revised to read as follows:

Sec. 8. *Fees for records and related services.*

* * * * *

g. Certifications $2.00 each; Authentications under Department Seal (including aerial photographs) $5.00 each.

* * * * *

3. Section 10, paragraphs a and b, are revised to read as follows:

Sec. 10. *Agencies which furnish photographic reproductions.*

a. *Aerial photographic reproductions.* The following agencies of the Department furnish aerial photographic reproductions:

Agricultural Stabilization and Conservation Service (ASCS), APFO, USDA–ASCS, 2222 West 2300 South, P.O. Box 30010, Salt Lake City, Utah 84130.

Soil Conservation Service (SCS), USDA, Cartographic Division, Ft. Worth Federal Center, P.O. Box 6567, Ft. Worth, Texas 76115.

b. *Other photographic reproductions.* Other types of photographic reproductions may be obtained from the following agencies of the Department:

Agricultural Stabilization and Conservation Service (ASCS), Information Division, P.O. Box 2415, Washington, D.C. 20013.

Forest Service (FS), USDA, P.O. Box 2417, Washington, D.C. 20013, or nearest Forest Service Regional Office.

Office of Governmental and Public Affairs (OGPA), USDA, Photographic Division, Room 530A, Washington, D.C. 20250.

Soil Conservation Service (SCS), USDA, Information Division, Audio Visual Branch, Washington, D.C. 20250.

National Agricultural Library (NAL), USDA, Room 200, NAL Building, Beltsville, MD 20705.

4. Section 16, paragraph c, is revised to read as follows:

Sec. 16. *Photographic reproduction prices.*

* * * * *

c. *Aerial photographic reproductions.* There is no minimum charge on aerial photography orders. The prices for various types of aerial photographic reproductions are set forth below. Size measurements refer to the approximate size in inches of the paper required to produce the print.

1. *Black-and-white contact prints.*

Size	Price each
10×10 Paper	$3.00
10×10 Diapositive (film)	6.00
10×10 Copy Negative	4.00

2. *Aerial Photo Index Sheets.*

Size	Price each
20×24 RC (Resin coated base) paper	$5.00
24×36 Ozlid	4.00
Microfilm (Photo Indexes):	
Aperture Cards	1.00
Microfiche	2.00

3. *Black-and-white enlargements (projection prints).*

Size	Price each	
	RC paper	Film positive transparency
12×12	$6.00	$12.00
17×17	8.00	14.00
24×24	12.00	20.00
36×36	25.00	35.00

4. *Reproductions from color negatives.*

Size	Price each	
	RC color paper	Color film positive transparency
10×10 contact	$5.00	$15.00
12×12 enlargement	20.00	
20×20 enlargement	25.00	
24×24 enlargement	30.00	
38×38 enlargement	45.00	

5. *Reproductions from color positive transparencies (natural color or color infrared).*

Size	Price each	
	White opaque base color print film	Color film positive transparency
10×10 contact	$8.00	$12.00
12×12 enlargement	25.00	
20×20 enlargement	30.00	
24×24 enlargement	35.00	
38×38 enlargement	50.00	

6. *Special need.* For special needs not covered above, persons desiring aerial photographic reproductions should contact the Departmental Aerial Photography Coordinator, Aerial Photography Field Office, USDA–ASCS, 2222 West 2300 South, P.O. Box 30010, Salt Lake City, Utah 84130.

Signed at Washington, D.C. on December 4, 1984.

John E. Carson,

Director, Office of Finance and Management.

[FR Doc. 84–33456 Filed 12–24–84; 8:45 am]

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 239

Special Provisions Relating to Aircraft: Designation of Ports of Entry for Alien Arriving by Civil Aircraft

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule eliminates the current exemption of carrier liability for inspectional overtime of aircraft arriving on schedule where permission is granted to land at other than a designated international airport of entry between 5:00 p.m. and 8:00 a.m. This change is made in order to bring the regulation more closely in conformity with 8 U.S.C. 1353(b) which provides that an air carrier is exempted from paying overtime charges if (1) the inspection is performed at a designated port of entry, and (2) the aircraft is operating on a regular schedule.

EFFECTIVE DATE: January 25, 1985.

FOR FURTHER INFORMATION CONTACT:

For General Information:

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

For Specific Information:

Ellis B. Linder, Immigration Inspector, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536, Telephone: (202) 633–2745

SUPPLEMENTARY INFORMATION: This rule eliminates the current exemption of carrier liability for inspectional overtime of aircraft arriving on schedule where permission is granted to land at other than a designated international airport of entry between 5:00 p.m. and 8:00 a.m. This change is made in order to bring the regulation more closely in conformity with 8 U.S.C. 1353(b) which provides that an air carrier is exempted from paying overtime charges if: (1) The inspection is performed at a designated port of entry, and (2) the aircraft is operating on a regular schedule. Definitions of "international" and "landing rights" airports are clarified. In addition, this final rule eliminates any arguable conflict between the Secretary of the Treasury's powers pursuant to 49 U.S.C. 1509(b) and the Attorney General's authority under 8 U.S.C. 1229, and more appropriately places any financial liability for inspectional services on the benefiting user, not on the Government of the United States.

Notice of proposed rule making was published in the **Federal Register** on July 18, 1984 at 49 FR 29104, with an initial comment period of 30 days. The comment period was later extended an additional 30 days, ending September 17, 1984. During the 60 day public comment period, five comments were received. Three commenters supported and two opposed the proposed rule.

One commenter in opposition stated only that the transfer of liability from the U.S. Government to U.S. carriers and eventually to U.S. citizens is unwarranted.

The other comments received in opposition to the change were put forth by one writer. A summary of these comments and the Service reply follow:

(1) The proper forum for altering policy on overtime payments is the Congress.

The "overtime policy" being amended is now a regulation. Therefore, proper method for amending the situation, the exemption of carrier liability for inspectional overtime, is by regulatory action. The reference to comprehensive legislation concerning overtime payment is misplaced. The regulation was designed to amend current overtime provisions. Further, the policy is in line with Administration policy of requiring fees for services rendered.

(2) Inadequacy of number of international airports contained in 8 CFR 100.4(c)(3).

The reference to the lack of sufficient international airports contained in 8 CFR 100.4(c)(3) attacks the proposal for what it does not do and the argument is irrelevant to the issue at hand.

(3) The proposal would violate international agreements.

We disagree. The agreements referred to evidently are concerned with routes and airport landing fees. They are not relevant to the question of inspectional overtime.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule will not have a significant economic impact on a substantial number of small entities. This is not a major rule within the meaning of section 1(b) of E.O. 12291. It is estimated that the Service will save approximately $4,500,000 annually in government liability for inspectional overtime.

List of Subjects in 8 CFR Part 239

Air carriers, Aircraft, Airports, Aliens, Inspections, Landing requirements, Port of entry.

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

PART 239—SPECIAL PROVISIONS RELATING TO AIRCRAFT: DESIGNATION OF PORTS OF ENTRY FOR ALIENS ARRIVING BY CIVIL AIRCRAFT

1. Section 239.1 is revised as follows:

§ 239.1 Definitions.

(a) *Scheduled Airline.* This term means any individual, partnership, corporation, or association engaged in air transportation upon regular schedules to, over, or away from the United States, or from one place to another in the United States, and holding a Foreign Air Carrier permit or a Certificate of Public Convenience and Necessity issued pursuant to the Federal Aviation Act of 1958 (72 Stat. 731).

(b) *International Airport.* An international airport is one designated by the Commissioner for the entry of

aliens with the prior approval of the Secretary of Commerce, Secretary of the Treasury and the Secretary of Health and Human Services.

(c) *Landing Rights Airport.* An airport, although not designated as international, at which permission to land has been granted to aircraft operated by scheduled airlines by the Commissioner of Customs.

2. Section 239.2 is amended by revising paragraph (a); existing paragraphs (b), (c), and (d) are redesignated (c), (d), and (e), respectively; and a new paragraph (b) is added as follows:

§ 239.2 Landing requirements.

(a) *Place of landing.* Aircraft carrying passengers or crew required to be inspected under the Act shall land at the international air ports of entry enumerated in Part 100 of this chapter unless permission to land elsewhere shall first be obtained from the Commissioner of Customs in the case of aircraft operated by scheduled airlines, and in all other cases from the district director of Customs or other Customs officer having jurisdiction over the Customs port of entry nearest the intended place of landing. Notwithstanding the foregoing, aircraft carrying passengers or crew required to be inspected under the Act on flights originating in Cuba shall land only at Fort Lauderdale-Hollywood Airport, Fort Lauderdale, Florida, unless advance permission to land elsewhere has been obtained from the District Director of the Immigration and Naturalization Service at Miami, Florida.

(b) *Inspection at other than international airports.* Whenever permission is granted to land at other than an international airport designated in § 100.4(c)(3) of this chapter, the owner, operator, or person in charge of the aircraft shall pay any additional overtime expenses incurred in inspecting passengers or crew on board such aircraft.

* * * * *

(Secs. 103 and 239 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1229))

Dated: November 17, 1984.

Alan C. Nelson,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 84-33427 Filed 12-24-84; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 563 and 564

[No. 84-717]

Earnings-Based Accounts

Dated: December 10, 1984.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), is placing limitations on the issuance by insured institutions of accounts that provide for the payment of interest to be determined by reference to an index based on the profitability or income derived from assets of the institutions. The purpose of the limitations is to address concerns regarding the safety and soundness of institutions issuing such instruments, the insurability of such instruments, and the advertising, sales, and distribution practices with respect to such instruments.

EFFECTIVE DATE: October 17, 1984.

FOR FURTHER INFORMATION CONTACT: Christopher Bolle, (202), 377-7057, Attorney, Office of General Counsel, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On October 15, 1984, the Board proposed a rule limiting the issuance of and clarifying the FSLIC insurance on earnings-based accounts ("EBAs"). The Board had recently become aware that a number of institutions whose accounts are insured by the FSLIC ("insured institutions") had issued or were considering the issuance of EBAs, which are certificates of deposit the interest on which is determined to some degree by the profitability of assets of the issuing institution. In some cases the assets are to be acquired with the account proceeds and in other cases the assets are already owned or controlled by the institution. The Board stated its belief in the preamble to the proposal that EBAs, if used properly, can be a valuable technique for matching portions of insured institutions' asset and liability portfolios. The Board was concerned, however, by some features of these account programs which its staff had reviewed, and therefore proposed certain limitations to protect the safety and soundness of institutions engaged in this activity and to protect persons investing in these instruments. The proposed rule was intended to limit the risk-related aspects of EBAs while providing institutions with reasonable flexibility to utilize these new instruments.

Comments

The Board received a total of 20 comments on the proposal. Of those comments, 9 were from insured institutions, 3 were from investment banking firms, 3 were from law firms, 3 were from thrift industry trade associations, one was from a state regulatory agency, and one was from a savings and loan holding company. All of the commenters agreed with the Board that EBAs are a potentially valuable tool for the thrift industry, but that some regulation of this new type of instrument was necessary in the interests of safety and soundness and consumer protection.

A majority of those commenting (15) expressed the view that the proposed definition of EBAs was too restrictive, and argued that the proposed limit on the amount of contingent interest impaired the matching function of EBAs, made them less attractive investments for depositors, and in general would not further the purposes of the proposal. These commenters were primarily concerned that the structure of the proposed provision would tend to force up the guaranteed ("floor") rate payable on EBAs. Consequently, it was argued, EBAs would be less effective in insulating institutions from interest—rate and credit risk. A number of alternatives were suggested, including raising the limitation; adjusting the limit on contingent interest to account for inflation; limiting only the floor rate; limiting contingent interest to a percentage of the institution's return on the assets used to compute such contingent interest; and a combination of these methods. Several commenters expressed their belief that the proposed limitation on contingent interest was preempted by regulations of the Depository Institutions Deregulation Committee.

One commenter requested that final action on the proposal be postponed to allow for more study and development of the uses of EBAs. The Board declines to postpone action because it believes that the final rule will add certainty, clarity, and flexibility over that provided in the proposal, and these benefits should not be denied to institutions pending further study. The Board also notes that if further study indicates the need for changes in the final rule, such changes could readily be made by means of rulemaking to amend this rule.

Commenters also made a number of suggestions for technical or clarifying changes. These suggestions are

discussed below in the explanation of the provisions of the final rule.

Definition of Earnings-Based Accounts

The final rule includes in its definition of the term "earnings-based account" any purported account that provides for the payment of interest to be determined, to any extent, directly or indirectly, by reference to an index based upon the profitability of, or income or earnings derived from, certain assets ("indexed assets"). This includes account instruments that guarantee a "floor" rate of return as well as making provision for contingent additional interest based on the return on indexed assets. Such assets include those that are, directly, or indirectly owned, controlled by, or within the control of, the issuing institution, to cover a variety of arrangements possible in this type of account offering, including the attachment of instruments with earnings-based returns to certificates of deposit which would not otherwise be EBAs. The definition includes assets acquired by investment of the account proceeds as well as assets already in portfolio or controlled indirectly by the issuing institution, such as assets of a subsidiary or affiliate.

The proposal included in its definitional section a provision regarding the features which, if included in an EBA, would disqualify such instrument as an "insured account" and therefore make such instrument ineligible for FSLIC insurance. Such disqualifying provisions included those: (1) Granting holders or owners of the instruments any form of ownership interest or rights in the indexed assets, (2) providing for the possibility of loss of principal, directly or indirectly, or through a provision for negative interest, and (3) requiring or permitting the payment of contingent or variable interest, however derived, in excess of 70 percent of the actual dollar amount of the fixed or guaranteed interest payable on the accounts.

The majority of commenters asserted that the third factor was not appropriate for inclusion in the final rule because it was not within the Board's authority or would tend to frustrate the purposes of the proposal by making EBAs less well-matched for institutions and less attractive for investors. The proposed provision was included because the Board was concerned that institutions must retain some interest in the indexed assets in order for an EBA properly to be characterized as an account. In addition, the proposed provision was intended to ensure that the primary characteristics of EBAs would be those of debt and not those of an equity investment in the indexed assets. To that end, the proposed limitation on EBA contingent interest was designed so that the return derived from the debt obligation of the issuer, and not the return derived from indexed assets, would predominate in the total return on EBAs. It was the Board's view at the time of proposal that this provision would adequately preserve the primary "account/debt characteristics" of EBAs while not substantially reducing their attractiveness to institutions or to investors.

In light of the comments received on the proposed contingent interest limit, the Board has reexamined this issue. Many commenters asserted that, while they may not have had a theoretical objection to "accountness" provisions, the proposed limitation would significantly impair the valuable matching function of EBAs by limiting contingent interest to a portion of the fixed interest. These commenters observed that the structure of an EBA enables institutions to share some of their credit and interest-rate risk with depositors. It was noted that this necessitates offering to depositors a potential return in excess of the market rate for fixed-yield CDs. Commenters argued that the proposal, by limiting contingent interest to 70 percent of fixed interest, would tend to encourage institutions to offer a higher fixed ("floor") interest rate in order to attract these deposits. Commenters asserted, and the Board agrees, that such a result would nullify the primary benefit of EBAs for institutions, by reducing their ability, through offering a low "floor" rate, to share some risks with depositors. The Board further concurs that an EBA which does not perform this risk-sharing function would be of little or no benefit.

A number of commenters asserted that the proposed limitations on contingent interest, and any forms of regulation of EBAs, was preempted by the actions of the Depository Institutions Deregulations Committee ("DIDC"). Commenters stated that the proposed rule was a limitation on the issuance of accounts based on their method of calculation of interest payable. It was argued that an interpretive rule of the DIDC permitted institutions to pay interest on accounts not subject to interest-rate limitations based on any index, including one within the control of the institution. *See* 12 CFR 1204.201 (9184).

The Board agrees that the Depository Institutions Deregulation and Monetary Control Act of 1980 ("DIDMCA") grants authority to regulate interest rates solely to the DIDC. However, it notes that the issues with respect to EBAs is not the aggregate amount of interest payable, but whether the method of calculation indicates that the investment is functionally more comparable to debt or equity. Specifically, the issue at hand is whether an unregulated EBA should be treated as an insured account. The Board has concluded that where an institution issues an instrument whose interest rate is substanially determined by the issuer's return on assets, such an instrument is, in reality, merely a pass-through of the issuer's economic interest in those assets, and that such an instrument represents an investment in those assets rather than a debt obligation of the issuer. In its proposed and final rules, the Board has used its authority to define the term "insured account" and to approve the forms of account issued by insured institutions to establish limits within which EBAs could be issued and within which they could be deemed to be insured accounts. *See* 12 U.S.C. 1724, 1728. The Board observes that the DIDMCA did not transfer the Board's authority in either area to the DIDC. Further, the Board notes that, in its consideration of 12 CFR 1204.201, the DIDC did not at any time consider whether an instrument which payed interest based on the issuer's assets would be an account, and that all DIDC rules presume the existence of a deposit or account.

The Board Considered several options suggested by commenters for alleviating concerns regarding limitations on contingent interest, including: Raising the limitation to a higher proportion of the floor rate, not limiting the structure of EBAs in any way, and limiting the floor rate. The Board continues to believe that the method of determining the return on EBAs raises substantial questions as to their insurability, and therefore declines to remove all restrictions on the method of calculation of interest.

The Board has, however, to the greatest extent consistent with addressing the "accountness" issue, attempted to leave the total return on EBAs to managerial discretion. Thus, the final rule requires only that EBAs pay guaranteed interest in a form consistent with an insured account, but does not regulate the ultimate return on such accounts.

The Board has concluded that, in light of the fluidity of interest rates generally, and because of the need by institutions for flexibility to tailor EBAs to their individual needs and those of the market place, the most appropriate method of determining the "accountness" of EBAs is to consider

the fixed floor rate of such instruments in relation to similar obligations of similar maturities. Generally speaking, this approach was also reflected in the proposal, based on the Board's preliminary determination that the means of establishing the return on an instrument should be one of the factors in defining an insured account. To that end, the proposal was designed to ensure that EBAs would be treated as insured accounts if their return were calculated primarily on an index not derived from the return on assets within the control of the issuer. Upon further evaluation, the Board has concluded that the proposed limit on contingent interest is not the only means to assess the returns-structure of an EBA. The Board believes that a related approach, which would consider the floor rate in relation to the market rate for similar instruments, would adequately address the Board's concerns while allowing more flexibility to institutions in structuring EBAs.

The final rule addresses this issue by including a provision which would deem an EBA to be an insured account if the fixed-interest component of the return on such instrument is equal to or greater than two-thirds of the return on AAA-rated corporate bonds as of the date of issuance of the EBA. This approach follows the reasoning established by the Financial Accounting Standards Board ("FASB") in its directives concerning the accounting treatment for convertible debt securities. The FASB test, set forth in FASB APB opinion No. 14 (March, 1969) and Statement of Financial Accounting Standards No. 55, amending APB No. 15 (February, 1982), characterizes a convertible security as an obligation or as an investment depending on how the cash yield of the instrument compares with that of a non-convertible debt instrument of similar terms. Under the FASB releases, an instrument would be treated as an equity investment if its cash yield were less than two-thirds of the AAA-corporate bond rate on the grounds that a greater disparity of return would indicate that the instrument was not predominantly a debt obligation.

The Board believes that such a test is appropriate with respect to EBAs because establishing the predominance of the "debt" or "equity" components of an instrument is inherent in any determination of EBA "accountness." The Board has concluded that a test analogous to that applied by the FASB is appropriate because it provides for analysis of an instrument based on the value, in economic terms, placed on the debt aspects of the instrument. If the instrument is structured so that the guaranteed portion of the interest rate is so low as to indicate that the instrument's only real value is as a "pass-through," then it will be treated as such, and not as an insured account. If, on the other hand, the guaranteed rate is equal to or greater than two-thirds of the AAA-rated corporate-bond rate, the instrument would be deemed to be an insured account because debt features predominate. In the Board's view, this test will ensure that EBAs retain primarily debt characteristics, and will thus be insurable as accounts. In addition, the Board believes that this provision will give institutions more flexibility in structuring EBAs by not limiting contingent interest in any way.

The index for such yields used in the final rule, that published by the Federal Reserve Board ("FRB") in release H15 (519) of Moody's AAA Bond Index, was chosen because: (1) Board data indicates that, because of FSLIC insurance, insured accounts are regarded as presenting a risk similar to that of top-quality corporate bonds, and therefore would provide a similar yield; (2) the FRB publication is readily available; and (3) the Board's analysis and available data demonstrate a significant correlation between the AAA-rated bond yield and yields on long-term certificates of deposit. Although the bond-yield index does not break down yields by maturities, the Board believes that such a breakdown is not necessary because of the similar variability of maturities of EBAs (*see* discussion of monitoring, below).

The proposal also expressed the Board's concern that institutions should retain an economic interest in the indexed assets. Upon further consideration, the Board has concluded that, provided the guaranteed interest payable on an EBA is sufficient to justify characterization as an account, the institution's retention of an economic interest is primarily an issue of safety and soundness. Therefore, the final rule addresses this concern in the provisions concerning safety and soundness, as discussed below.

Limitations

As noted above, the Board believes that earnings-based accounts offer advantages over fixed-rate instruments in terms of matching liabilities with assets. Well-structured accounts of this type could prove to be very useful as part of the overall business plan of an institution. The proposal noted a number of areas, however, that the Board believed could give rise to substantial risks to issuers or purchasers of EBAs. The issues will be discussed below in the order in which they appeared in the proposal.

1. Net-Worth Compliance

As proposed, the final rule prohibits institutions which do not meet the regulatory net-worth requirement of 12 CFR 563.13(b) from issuing these accounts. Institutions meeting the regulatory net-worth requirement could issue earnings-based accounts in amounts up to five percent of assets or in a greater amount with the prior permission of the Supervisory Agent. The Board considered the suggestion by some commenters that institutions not in compliance with their net-worth requirement should be allowed to issue EBAs with approval of the Supervisory Agent. The Board, however, remains concerned that institutions with low net worth may not have the resources to survive possible losses in the event that their earnings-based-account program performs poorly. The Board believes that the risks attending such programs outweigh the possible benefits for very weak institutions.

2. Size of Issuance

The proposal contained provisions limiting the amount of EBAs which could be issued by institutions in relation to their asset size and in consideration of a number of factors related to the ability of the institution to control or absorb the risks inherent in EBA offerings. Several commenters asserted, and the Board has noted, that EBAs are, in some respects, a "safer" form of account than a fixed-rate CD because of their risk-sharing features. A number of commenters also asserted that the proposed limitation on the amount of EBAs which institutions could issue was too restrictive, and denied institutions, particularly small ones, the ability to use EBAs to their full potential. Suggested changes involved removing all limits or raising the limits.

The Board, however, continues to be concerned that a number of factors attendant on EBA issuance, especially EBA programs which are disproportionately large in relation to the asset size of institutions, may exacerbate the basic problems of credit risk and undue concentration of risk, while creating risks not otherwise present in other funding processes. Thus, although EBAs are an attractive funding method for institutions if wisely used, they are not without risk.

While the Board realizes that any limitation on the amount of EBAs which could be issued will limit their benefits to institutions to some extent, it continues to believe that the risks

inherent in over-concentration on EBAs outweigh the potential benefits to institutions. The Board believes that alternatives suggested by commenters, such as prescribing diversification standards for indexed pools, would be difficult to implement, and would result in practice in greater limitations on institutions' flexibility than would the proposed volume limitations. It has therefore determined to include this limitation substantially as proposed.

The Board intends to monitor the use of EBAs carefully. As experience with this new source of funding increases, the Board may consider revising the volume limitations if it finds that the risks associated with EBA programs are less severe than anticipated. The Board again wishes to note that its loans-to-one-borrower and conflicts-of-interest rules apply to investments made in connection with these accounts and that institutions, underwriters, and the public should be aware of the effect that those rules could have on EBA programs. The Board does not believe, however, that such rules address all of its concerns about these programs, particularly where a small institution undertakes a very large program.

To address these concerns, the final rule limits the total amount of earnings-based accounts issued by an institution to an amount equal to five percent of the assets of the institution, or up to 20 percent of the assets of the institution with prior permission from the Supervisory Agent. The final rule clarifies that, in cases where Supervisory Agent permission is not obtained, the five-percent-of-assets limitation applies to all EBAs outstanding as of the date of issuance, and that institutions would not be in violation of the final rule if a subsequent reduction in the institution's assets cause previously issued EBAs to be in excess of the five-percent limit.

The Board has, however, clarified the proposal in several respects in response to comments regarding permission to exceed the five-percent-of-assets limitation on an EBA issuance. Several commenters asserted that the criteria for Supervisory Agent approval were too narrowly drawn, and that they were phrased in such a way as to make them preconditions for approval. Commenters suggested that these factors should not be conditions, but should merely be considered in determining whether such permission should be granted. The proposal was not intended to make such factors prerequisites. The language of the final rule therefore clarifies that the Supervisory Agent's permission must be based upon consideration of these factors, but is not contingent upon them. The factors to be considered under the final rule are in most respects identical to those proposed, and include: whether the institution meets or exceeds a "snapshot" net-worth requirement of three percent (calculated without the use of five-year averaging and twenty-year phase-in as currently permitted under § 563.13 (b)(2) (i)–(ii)), the institution's deposit-growth pattern, its asset-underwriting capabilities, its compliance with the asset-composition test contained in Internal Revenue Code section 7701(a)(19), and supervisory concerns.

As noted above, the Board believes that it may be an unsafe and unsound practice for an institution to fail to retain a substantial economic interest in the indexed assets. Therefore, the final rule requires that the Supervisory Agent consider whether the institution retains a substantial economic interest in the indexed assets. The Board believes that consideration of these factors by the Supervisory Agent will allow for more flexibility for institutions, while continuing to address the concern that institutions have sufficient strength and expertise to safely issue large amounts of EBAs.

Because of potential confusion by prospective depositors over the import of the term "approval" as used in proposed § 563.3–10(b)(1), the final rule substitutes the term "permission" for "approval" to avoid implications that the Board or the Supervisory Agents have endorsed any EBA. Institutions and their agents also should note that the Board believes that any reference to permission to issue EBAs in advertising or disclosure materials relating to EBAs would be regarded as misleading if not accompanied by an equally prominent statement that such permission did not constitute an endorsement by the Board, the FSLIC, any Federal Home Loan Bank, or the Supervisory Ageny.

The list of factors in the final rule otherwise differs from the proposed list in that, at the suggestion of commenters, the term "excessive growth" is eliminated. The fnal rule provides for consideration of whether the institution has increased total liabilities at an annual rate greater than 25 percent within any three-month period during the twelve months preceding the date of the application.

The Board's concerns in this area are identical to those detailed in its reproposed rule revising minimum net-worth requirements set forth in 12 CFR 563.13(b) for insured institutions (Bd. Res. No. 84–681; November 30, 1984) (the "net-worth reproposal"). In general, the Board believes that the 25-percent figure is appropriate based on staff studies of the recent FSLIC caseload showing that institutions that have grown more than 25 percent have been responsible for a disproportionate share of expected FSLIC losses.

Institutions should also note that, if adopted substantially as proposed, the net-worth reproposal could have varying consequences with respect to the limitations in this rule on amounts of EBAs which could be issued. In some cases, the regulatory net worth required under the net-worth reproposal could actually exceed the amount required under the "snapshot" net-worth test incorporated in the list of factors to be considered by the Supervisory Agent in granting permission to exceed the five-percent-of-assets limits of this rule. An institution could pass the test for additional issuance or EBAs in § 563.3–10(b)(1) while failing to have the net worth required under § 563.13(b) and thus be prohibited from issuing any EBAs under § 563.3–10(b)(2). In considering action on a final rule on net-worth requirements, the Board intends to consider whether amendments to § 563.3–10(b)(1) or (2) would be appropriate, and what form such amendments should take. The Board therefore solicits comments on what modifications might be appropriate should the net-worth reproposal be adopted substantially as proposed.

The final rule adopts as proposed the provision regarding information to be submitted to the Supervisory Agent before an application for issuance of EBAs in excess of five percent of assets will be deemed complete. Thus, an application for such permission will be deemed complete when the Supervisory Agent has been supplied with the following: (1) A description of the anticipated and the maximum amounts of earnings-based accounts to be offered by the applicant; (2) information describing in detail the loans to be used in calculating the contingent interest on the certificates; (3) a description and analysis of the institution's underwriting and credit experience in the making of such loans; (4) the exact method of calculating contingent interest on the certificates; (5) information showing the financial condition of the applicant, including, but not limited to, the applicant's net worth; (6) a detailed analysis showing the extent to which the proposed offering would affect the applicant's exposure to interest-rate and credit risk; (7) information describing the deposit growth pattern of the applicant over the preceding three calendar years; and (8) a copy of a

resolution adopted by the applicant's board of directors establishing a business plan designed, in conjunction with the offering, to reduce interest-rate and credit risk to the institution. An application will be deemed to be approved if a written notice by the Supervisory Agent of objection to the application stating the grounds for such objection is not received by such applicant within 30 days of the date the application is deemed complete.

3. Asset Pools Used in Programs

The proposal reflected the Board's concern that institutions would attempt to finance acquisitions of equity interests by means of earnings-based-account programs. The Board believes that the risk and profit-sharing aspects of these programs would make such a device inappropriate. In order to address this concern, the proposal would have limited the assets which could be used to establish the interest index to loans secured by real property. The Board proposed this provision to ensure that the programs were used for matching purposes, and to limit the possibility that such instruments would be deemed to be equity investments by depositors and thus not insurable by the FSLIC. However, a number of commenters pointed out that while such a limitation could be appropriate for assets used to establish the index over the long term, it would often not be possible to invest the proceeds of a large offering immediately in secured real property loans in accordance with prudent underwriting standards. The Board, however, does not believe that any amendment in this area is necessary. The Board notes that there is nothing in the final rule which limits institutions' ability to invest the proceeds of an EBA offering. The proposal and the final rule only limit the types of assets which may be used as indexed assets. In addition, institutions are in no way prohibited from providing for an interim fixed or independently variable rate of return on EBAs prior to the inclusion of assets in the indexed pool.

The proposal also would have prohibited the issuance of earning-based accounts which would provide for the payment of contingent or variable interest to account holders in excess of the actual income derived by the institution from the specified assets. This provision reflected the Board's concern that the matching function of EBAs could be significantly impaired if an institution issued earnings-based accounts providing for the payment of interest to account holders based on the contract return on the underlying assets rather than on the institution's actual return.

A number of commenters believed that this proposed provision would unnecessarily limit institutions' ability to structure programs where the loans used as indexed assets would mature after the EBAs. They also suggested revising this provision to allow an institution to pay interest up to the coupon rate of the loan regardless of the actual return on the loan. The Board has considered this issue, and has concluded that the risks for abuse, and for institutions committing themselves to a negative cash-flow position, outweigh the potential benefits of loosening the proposed limitation. The Board also believes that the matching function of EBAs would be significantly diluted were indexed assets to be of a longer term than the EBAs. Therefore, the final rule adopts the proposed provision prohibiting the payment of contingent interest in excess of the gross receipts, other than amounts attributable to repayment of principal, derived from the indexed assets.

4. Control Over Assets

Most of the earnings-based accounts of which the Board currently is aware are being offered through securities firms. Because the return on the instruments is dependent upon the management efforts of the issuer, some underwriters are concerned that they may be liable if the issuer does not act in accordance with its disclosed policy. In some cases, the underwriter has retained the right to veto any investment decision of the institution under the program. While the Board recognizes that the concerns of underwriters prompting such provisions may be valid, it is concerned that such provisions may effectively abrogate the institution's asset-management responsibility and, further, may result in the institution becoming overly dependent upon the undewriter and encourage "brokerage deals" in which third parties take control of significant portions of an institution's asset and liability business.

To address these concerns, the proposal provided that no person other than the institution may exercise control over assets upon which the interest index is based or assets otherwise acquired in connection with the issuance of earnings-based accounts. This provision was not intended to infringe on traditional contract provisions ensuring compliance with established prudent loan-underwriting or asset-acquisition standards.

A number of commenters expressed concern that the proposed provision would eliminate the possibility of using loan participations as indexed assets, and suggested changes to permit this. The Board does not believe that it is necessary to modify this provision in the final rule because, as proposed, the provision only affects the institution's control over the assets used in calculating the index on earnings-based accounts. In the case of loan participations, the asset in question is not the whole loan, but the institution's participation in that loan. Thus, this provision only requires that the institution maintain control over the acquisition and disposition of the participation, not of the underlying loan.

5. Disclosure and Related Issues

The proposal contained a provision prohibiting, in connection with the issuance, purchase, sale, or redemption of any earnings-based account, deceptive practices by institutions and their agents. The Board observed a number of potentially serious problems that could arise with respect to earnings-based accounts but that would not be present for accounts with fixed interest rates or interest rates tied to indices outside the control of the insured institution. These concerns arise primarily in three areas. First, the depositor's return is dependent to a large extent upon the institution's ability to acquire high-quality assets and manage them so as to provide depositors with a high rate of return. Thus the return on earnings-based accounts depends in part upon the management expertise of the issuer, although the prinicipal must be guaranteed by the issuer and is insured by the FSLIC. The Board therefore wished to ensure that potential investors have sufficient information as to the issuer's expertise and other material factors upon which to base their investment decision. Second, the Board was concerned that some institutions may attempt to abuse their control over the assets used to establish the return on earnings-based accounts by using low-quality assets to create their indices while retaining full use of their higher-quality assets. Third, the Board was concerned that the institution's ability to control the method of accounting for income from the assets could be abused to the detriment of the account holders.

The Board continues to believe that the proposed provision will encourage full and accurate disclosure of all material facts relating to earnings-based accounts to prospective depositors, and the final rule adopts this provision substantially as proposed. Facts which the Board would deem to be material include, but are in no way limited to:

Identification of the index to be used in determining the rate of interest payable; the method used to calculate the actual interest to be paid, including the effect of early withdrawal and attendant penalties; the minimum and/or guaranteed interest payable on the accounts; the limitations on FSLIC insurance coverage on contingent unaccrued interest; a description and analysis of the issuer's loan underwriting and management capabilities and experience; disclosure of any conflict of interest involved in or potentially affecting the program; and a statement that earnings-based accounts do not and cannot convey any ownership or security interest in the assets used to calculate the interest payable on the accounts.

The only change made in the final rule relates to the scope of protection afforded. The proposed provision would have prohibited any deceptive practices with respect to any account holder. It was noted, however, that the proposal as drafted would not have covered deceptive practices with respect to persons having an interest in accounts held by others for their benefit. This omission was inadvertent. The final rule therefore clarifies that this provision applies to deceptive practices with respect to any person. In addition, the final rule would include, at the suggestion of one commenter, a provision affording all defenses currently available under section 10b of the Securities Exchange Act of 1934 (15 U.S.C. 78j(b)). The Board agrees that such a provision is necessary to allow a "safe harbor" under this provision.

6. Securities-Tied Accounts

The Board proposed to prohibit the issuance or sale by an institution of EBAs where such sale is linked in any manner to the purchase of any security. This prohibition was designed to address a growing interest on the part of insured institutions in the possibility of issuing insured accounts which could be converted into stock of the issuing institution or which would be attached to warrants or options for the purchase of such stock. The Board was concerned that this practice could constitute a potential misuse of FSLIC insurance coverage on the account facet of the transaction, and would result in equity features becoming predominant in the instruments, thus rendering them ineligible for FSLIC insurance coverage. The Board also believed that there was a great potential for confusion and abuse in the sales of such "packages" because of the difficulty in determining the insurance coverage and other rights created by an investment which attempts to be both an insured account and an equity investment.

The Board continues to believe that there is a substantial possibility for abuse in this area, and therefore believes it would be inappropriate to delete this provision from the final regulation, as some commenters suggested. The final rule therefore prohibits the attachment of any security, e.g., an equity security, interest in a limited partnership, or interest in a real estate investment trust, or right to purchase or obtain a security, to an earnings-based account. The final rule would not prohibit the attachment of an insured account to an EBA because, on further examination of this issue, the Board has concluded that the possibilities for abuse by this means are very limited with respect to EBAs. The Board does wish to note, however, that this provision in its final form should not be construed to prohibit the sale of a security to the holder of an EBA except where such sale is tied to the sale of the EBA. This provision also should not be construed as prohibiting the attachment of an instrument providing an earnings-based return to a non-EBA account, although the resulting package would be deemed to be an EBA. The final rule only prohibits the issuance or distribution of an EBA accompanied by a security or right to obtain or purchase a security. The Board further notes that institutions should be cognizant of the requirements applicable to "brokers" of securities pursuant to section 15 of the Securities Exchange Act of 1934 and the circumstances under which persons associated with an issuer of securities who participate in sales of the issuer's securities will not be considered to be acting as "brokers" as that term is defined in the Securities Exchange Act of 1934.

7. Accounts Issued to Owners of Pool Assets

The proposal required insured institutions issuing earnings-based accounts to take reasonable steps to ensure that persons having any interest in the underlying assets, including ownership of property securing loans in the pool, do not acquire these accounts. This bar reflected the Board's desire to prevent persons from using these programs as a means of obtaining FSLIC insurance for their own investment in assets by using the insured institution as a straw party. Commenters questioned whether the proposed provision would put an undue burden on institutions.

The Board, in adopting this provision as proposed, notes that it requires only reasonable steps to be taken by institutions to avoid the issuance of EBAs to persons with an interest in indexed assets. The Board believes that the inclusion of a legend on EBA instruments and disclosure documents and a cross-check of EBA holders or owners with prospective mortgagors or vice-versa would not be unduly burdensome, and would in most cases provide the institution with sufficient information to avoid cross-ownership of indexed assets and EBAs.

Insurance Coverage of Contingent Interest Amounts

A number of earnings-based CD programs provide for the use of the institution's interest in "equity kicker" loans or shared appreciation loans in calculating the contingent interest payable to the account holders. In some cases, where the interest on the accounts is calculated on the basis of the performance of a pool of such loans, this component of the interest is calculated on the basis of the funds derived from the total equity participations of the pool. However, such interest cannot be calculated until the institution actually receives the funds at the maturity of the loans or the sale of the mortgaged properties. The proposal provided that contingent interest would be insured only to the extent that it had unconditionally accrued to EBA holders prior to the date of default of the insured institution.

The Board continues to believe that it is inappropriate for the FSLIC to insure the mere expectations, as opposed to actual rights, or depositors under these or other programs not providing for specific interest rates. This is in accordance with the provisions of Title IV of the National Housing Act, which provides that accounts are insured up to the withdrawable value of the account. *See* 12 U.S.C. 1724(a). Under the current regulations, the insured amount of an account is the net withdrawable value of the account as of the date of default. *See* 12 CFR 564.1(b). Contingent amounts of interest would not be withdrawable under the terms of the account because they would not have unconditionally accured to the account holders.

While the Board believes that the existing regulations provide some guidance as to the treatment of contingent interest in insurance settlement (e.g. a contingent interest would not be deemed to be withdrawable, as it would not have accrued), it believes that the use of the term "withdrawable" in the statute needs clarification. In practice, the use of "net withdrawable value" as used in Part 564 is often confused with early-withdrawal penalty considerations.

which are not relevant in determining insurance coverage. In fact, the question of the value of an account does not depend upon the amount which the depositor would have been able to withdraw himself on the date of default, but upon the amount for which the insured institution is unconditionally liable to the insured member as of that date. Therefore, the proposal would have amended Part 564 to provide that the insured amount of an account does not include any interest or principal the payment or accrual of which is subject to any contingency under the terms of the account agreement.

Commenters questioned whether the proposed provision would have required that contingent interest be both accrued and announced as of the date of default to be included in the amount of an insured account. The proposal was not intended to produce this result. The requirement of announcement in the current and final rules refers to accounts issued by share associations, whose cooperative form requires that they pay interest only to the extent they have earnings. Thus, share accounts do not, technically speaking, bear a stated interest, and interest must be announced before it is ascertainable or payable. The final rule addresses this distinction by clarifying that the requirement that interest be announced as of the date of default applies only to share accounts. The final rule thus would not require the announcement of contingent interest prior to the date of default, but only that such interest not be subject to any contingency, such as loses or non-performance of other assets in the indexed pool, to be included in the amount of the insured account.

The Board also proposed to prohibit the issuance of EBAs which contained provisions for maturity in the event of insolvency of the institution, enforcement or other regulatory or supervisory action by regulatory authorities or the appointment of a conservator or receiver. Commenters requested that the final rule not prohibit the accleration of maturity of EBAs where the issuer's status as an insured institution is terminated. These commenters asserted that a prohibition on such acceleration could leave depositors with no protection in such an event and therefore as a general matter would greatly chill the market for EBAs, particularly because EBAs tend to be long-term instruments and account holders would be unable to assess the issuing institution's future health.

While the Board is cognizant of this concern, it continues to believe this prohibition is necessary to prevent institutions from attempting to evade the general insurance provision by using the insolvency of the institution to trigger the accrual of contingent interest, where the institution would have no liability for such "interest" if it were healthy. In addition, the Board notes both the historical rarity of involuntary terminations of insurance and the statutory protections afforded to depositors in such cases. The Board believes for these reasons that commenters' fears on this issue are exaggerated.

Monitoring of Earnings-Based-Accounts Programs

In the preamble to the proposal, the Board noted that it would be monitoring the use of EBAs prior to the date of the final rule in order to obtain more information on how EBAs will be used in the industry.

Information received by the Board's Office of Examinations and Supervision indicates that, as of November 21, 1984, institutions in three Federal Home Loan Bank districts (the 9th, 11th, and 12th) had issued or received approval to issue EBAs. Of the institutions currently issuing or which have received approval to issue EBAs, four were utilizing underwriters to distribute the EBAs, and one was engaged in a direct offering through its own offices and facilities. Three institutions had received approval prior to the adoption of the proposal, and two had obtained approval under the terms of the proposal. Offering sizes ranged from $30 to $340 million dollars. The certificates' maturities ranged from one year to twelve years, with the majority of offerings being in the eight-to-twelve year range. All of the issuers intended to use primarily loans secured by income-producing properties with income and/or profit participations as indexed assets. The issuers were institutions with substantial experience in making the types of loans used as indexed assets.

Effective Date

Because the Board was concerned about the imminent possibility of abuse of EBA programs pending adoption of this final rule, and because the Board wished to eliminate questions concerning the insurability of EBAs so that institutions that wished to go forward under the rule as proposed could do so, the proposal provided that, if it were adopted as a final rule substantially as proposed, the effective date would be October 17, 1984. As the final rule is being adopted substantially as proposed, it will therefore apply to all EBA instruments issued on or after October 17, 1984, except with respect to those EBA programs of institutions that received written notice of non-objection from the Supervisory Agent prior to such date. The Board acknowledges, however, that the provision in the final rule on contingent versus fixed interest differs from the proposal in that it is less restrictive. Therefore, the Board is hereby authorizing Supervisory Agents to permit modifications to EBA programs for which institutions had received the Supervisory Agent's written notice of non-objection prior to the date of publication of the final rule with respect to the maximum amount of contingent interest payable, provided that the amended program is in compliance with the provisions of the final rule. By this means, the Board hopes to eliminate the need for institutions that wish to avail themselves of the final rule's new provision to repeat the full application process. Further, the Board believes that an EBA insured under the terms of the proposal would be structured so that the issuer retained a substantial interest in the indexed assets. Therefore, any institution whose issuance of EBAs was permitted under the proposal need not obtain permission to continue such offering.

Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164 (September 19, 1980), the Board is providing the following initial regulatory flexibility analysis:

1. *Reasons, objectives, and legal bases underlying the rules.* These elements have been discussed elsewhere in the supplementary information regarding the rule.

2. *Small entities to which the rules apply.* The rules apply to all insured institutions.

3. *Impact of the rules on small institutions.* To the extent that the rules affect small institutions, this has been discussed elsewhere in the proposal.

4. *Overlapping or conflicting federal rules.* There are no federal rules which duplicate, overlap, or conflict with the rules.

5. *Alternatives to the rules.* The final rule permits issuance of earnings-based accounts to the maximum extent consistent with safety-and-soundness principles. Other alternatives, such as prohibiting such accounts entirely, would eliminate the benefits which they may offer to institutions and account customers or would not address safety-and-soundness concerns potentially arising from the use of earnings-based accounts.

List of Subjects in 12 CFR Parts 563 and 564

Banks, Banking, Bank deposit insurance, Savings and loan associations.

Accordingly, the Board hereby amends Parts 563 and 564, Subchapter D, Chapter V, Title 12 of the *Code of Federal Regulations*, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

1. Add new § 563.3–10 as follows:

§ 563.3–10 Earnings-based accounts.

(a) *Definition.* An earnings-based account is any account that provides for the payment of interest which is determined, to any extent, directly or indirectly, with reference to an index based upon the profitability, earnings, cash-flow, appreciation, or other form of return on assets which are, directly or indirectly, owned by or under or within the control of the insured institution ("contingent interest"): *Provided,* That earnings-based instruments are not insured accounts if:

(1) The fixed or guaranteed portion of the interest or return on such instruments is less than 66.667 percent of the average yield for AAA-rated corporate bonds ("Moody's seasoned") published in the issue of the Federal Reserve Board publication H15 (519) "Selected Interest Rates" most recently preceding the date of issuance of such instruments;

(2) The instruments grant the investor an ownership interest of any kind, other than a security interest arising from operation of law, in such assets; or

(3) The instruments put the investor's funds at risk by providing for negative interest or by limiting the obligation to repay principal on the basis of asset performance.

(b) *Limitations.* If authorized by applicable law, an insured institution may issue earnings-based accounts only in accordance with the following conditions:

(1) The total outstanding amount of all such accounts issued by the insured institution may not, as of the date of the issuance of any earnings-based account, exceed an amount equal to five percent of the insured institution's assets, except that such amount may be increased to 20 percent of the insured institution's assets with prior permission of the Supervisory Agent pursuant to paragraph (c) of this section;

(2) The insured institution is in compliance with its regulatory net-worth requirements under § 563.13(b) of this part;

(3) Assets the income or return on which is the basis for the index used in the accounts may only be loans secured by real property;

(4) Only the insured institution, and no other person, may exercise control over the selection or disposition of assets upon which the index is based or assets otherwise acquired in connection with the issuance of such accounts;

(5) No insured institution or its agents shall, directly or indirectly:

(i) Employ and device, scheme, or artifice to defraud,

(ii) Make any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances in which they were made, not misleading, or

(iii) Engage in any act, practice, or course of business which operates or would operate as a fraud or deceit on any person, in connection with the sale or issuance of any earnings-based account;

(iv) *Provided,* That the defenses available to an action under section 10b of the Securities Exchange Act of 1934 (15 U.S.C. 78j(b) shall be available to any person subject to an action under this paragraph (b)(5);

(6) An insured institution may not pay or commit to pay contingent interest in an amount greater than the amount of gross receipts, other than amounts attributable to repayment of principal, derived from the assets the return on which the interest index is based;

(7) The maturity, acceleration of maturity, mandatory redemption, or similar right or option with respect to an earnings-based account may not be conditioned upon the financial condition of the insured earnings-based or upon any supervisory or other regulatory action, including, but not limited to, the appointment of a conservator or receiver, with respect to such insured institution;

(8) No insured institution shall issue, sell, or otherwise participate in the distribution of any earnings-based account the sale of which is accompanied by a security or right to purchase a security; and

(9) The issuing insured institution shall use all reasonable means to ensure that persons who hold or have a beneficial interest in such accounts do not have an interest of any kind in the assets used to calculate the contingent interest. Such means include, but are not limited to, the inclusion of an appropriate legend on the face of the account certificates.

(c) *Supervisory Agent permission for increased issuance.* (1) The Supervisory Agency may grant permission to an insured institution to issue earnings-based accounts in an amount of up to 20 percent of the institution's assets, upon consideration by the Supervisory Agent of the following factors:

(i) Whether the institution meets or exceeds the net-worth requirement specified in paragraph (d) of this section or any amount of net worth required to be maintained in an applicable supervisory directive or operating agreement;

(ii) Whether the institution has increased its total liabilities at an annual rate of greater than 25 percent during any three-month period in the 12 months preceding the date of application;

(iii) Whether the institution's underwriting experience indicates an ability to adequately underwrite the loans anticipated to be used in calculating the index under the program;

(iv) Whether the institution meets the asset-composition test imposed on an institution seeking to qualify as a "domestic building and loan association" pursuant to section 7701(a)(19) of the Internal Revenue Code of 1954 (as amended);

(v) Whether there are no other bases for supervisory concern with respect to such institution; and

(vi) Whether, under the terms of the issuance in question, and in fact, the institution would retain a substantial economic interest in the indexed assets in proportion to the risks attending such issuance.

(2) Permission shall be deemed granted by the Supervisory Agent 30 days after notification to the applicant that such application is complete, unless the applicant receives written notice from the Supervisory Agent within such period that objection has been taken.

(3) An application shall be deemed to be complete for purposes of this section when the Supervisory Agent has received the following items:

(i) A description of the anticipated and the maximum amounts of earnings-based accounts to be offered by the applicant;

(ii) Information describing in detail the loans to be used in calculating the contingent interest on the certificates;

(iii) A description and analysis of the insured institution's underwriting and credit experience in the making of such loans;

(iv) The exact method of calculating contingent interest on the certificates;

(v) Information showing the financial condition of the applicant including, but

not limited to, the applicant's net worth (under § 563.13(b) and paragraph (c)(1)(i) of this section;

(vi) A detailed analysis showing the extent to which the proposed offering would affect the applicant's exposure to interest-rate and credit risk;

(vii) Information describing the applicant's deposit growth over the preceding three calendar years; and

(viii) A copy of a resolution adopted by the applicant's board of directors establishing a plan of operations designed, in conjunction with the offering, to reduce interest-rate and credit risk to the insured institution.

(d) For purposes of paragraph (c)(1)(i) of this section, the term "net-worth requirement" means:

(1) An amount at least equal to three percent of all liabilities (i.e., total assets, net of the following: loans in process, specific reserves, and deferred credits other than deferred taxes; minus net worth as defined by § 561.13 of this subchapter); or

(2) for institutions subject to the requirements of § 563.13(b)(2)(iii) of this part, the applicable percentage of such liabilities required by § 563.13(b)(2)(iii).

(e) *Effective date.* This section shall be effective with respect to any instruments issued or sold on or after October 17, 1984, except that it shall not apply to accounts issued after such date under an earnings-based-accounts program for which an institution had, prior to such date, received written notice of intent not to object to such issuance from the Supervisory Agent.

PART 564—SETTLEMENT OF INSURANCE

2. Revise § 564.1(b) as follows:

§ 564.1 Settlement of insurance upon default.

* * * * *

(b) *Amount of insured account.* The amount of an insured account is the amount which the insured member would have been entitled to withdraw as of the date of default, plus interest on any savings account accrued to such date or dividends prorated to such date at the announced or anticipated rate without regard to whether such account is subject to any pledge: *Provided,* that the amount of an insured account shall not include any amount the accural or payment of which is any way contingent or, in the case of a share account, which has not been announced as of the date of default under the terms of the account. In the case of a savings account with a fixed or minimum term or a qualifying or notice period that has not expired as of such date, dividends or interest thereon shall be computed as if the account could have been withdrawn on such date without any penalty or reduction in the rate of earnings.

* * * * *

(Secs. 401–405, 407, 48 Stat. 1255–1260, Sec. 308, Pub. L. 96–221, as amended; (12 U.S.C. 1724–1728, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 84–33351 Filed 12–24–84; 8:45 am]

BILLING CODE 6720–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Correction

AGENCY: Small Business Administration.

ACTION: Final rule; Correction.

SUMMARY: This document corrects a final rule on small business size standards which was published in the **Federal Register** on February 9, 1984 [49 FR 5024]. The action is necessary to correct a typographical error in a cross reference.

FOR FURTHER INFORMATION CONTACT: Andrew Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, (202) 653–6373.

The following correction is made in FR Doc. 84–3183 appearing on 5024 in the issue of February 9, 1984:

On page 5044, column three, § 121.11(a)(2) is corrected by revising it to read as follows:

§ 121.11 Procedure for size appeals.

(a) * * *

(2) Classifications by contracting officers of the Standard Industrial Classification (SIC) Code and/or the Small Business Administration (SBA) size standard applicable to a product or service for the purpose of Government procurements and sales made pursuant to §§ 121.5 and 121.6 of this part (product or service classification).

* * * * *

Dated: December 19, 1984.

James C. Sanders,

Administrator.

[FR Doc. 84–33498 Filed 12–24–84; 8:45 am]

BILLING CODE 8025–01–M

CIVIL AERONAUTICS BOARD

14 CFR Part 211

[Reg. ER–1397; Economic Reg. Amdt. No. 17]

Reporting and Recordkeeping Requirements; OMB Control Number

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that on September 19, 1984 the Office of Management and Budget (OMB) has approved the revised rules concerning the information required in applications for foreign air carrier permits and the procedures for submitting such applications under 14 CFR Part 211 and Part 302, Subpart Q.

DATE: December 18, 1984.

EFFECTIVE DATE: September 19, 1984.

FOR FURTHER INFORMATION CONTACT: Nancy Pitzer Trowbridge, Office of Secretary, Department of Transportation, Room 6420D, P–40, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 755–3805.

SUPPLEMENTARY INFORMATION:

List of Subjects in 14 CFR Part 211

Air carriers and air transportation, Foreign, Reporting and recordkeeping requirements.

PART 211—[AMENDED]

§§ 211.1, 211.2, 211.10–211.16 and 211.20 [Amended]

Effective August 22, 1984, the CAB amended Part 211 of its Economic Regulations through the issuance of amendment No. 16 (ER–1386) to this part. Sections 211.1 and 211.2 were amended and new §§ 211.10 through 211.16 and 211.20 were added. This regulation informs the public that this amendment was approved by OMB on September 19, 1984. Accordingly, the following note is added at the end of §§ 211.1, 211.2, 211.10, 211.11, 211.12, 211.13, 211.14, 211.15, 211.16, and 211.20.

* * * * *

Note.—The information collection requirements contained in this part have been approved by the Office of Management and Budget under number 3024–0068.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b) (sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-33379 Filed 12-24-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor Name

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a sponsor name change for several new animal drug applications (NADA's) from Wellcome Animal Health, Inc., to Coopers Animal Health, Inc.

EFFECTIVE DATE: December 26, 1984.

FOR FURTHER INFORMATION CONTACT: John W. Borders, Center for Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: The Center for Veterinary Medicine has been advised of a corporate name change from Wellcome Animal Health, Inc., to Coopers Animal Health, Inc. This is an administrative change which does not in any other way affect approval of the firm's NADA's. The regulations in 21 CFR 510.600(c) are amended accordingly.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Part 510 is amended in § 510.600 in paragraph (c)(1) by removing the entry for "Wellcome Animal Health, Inc." and by alphabetically adding a new sponsor entry for "Coopers Animal Health, Inc." and in paragraph (c)(2) by revising the entry for "017220," to read as follows:

PART 510—NEW ANIMAL DRUGS

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Coopers Animal Health, Inc., Kansas City, MO 64108	017220
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
017220	Coopers Animal Health, Inc., Kansas City, MO 64108.
* * * * *	

Effective date. December 26, 1984.

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

Dated: December 18, 1984.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 84-33401 Filed 12-24-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF EDUCATION

34 CFR Part 614

College Housing Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education amends the regulations governing the College Housing Program. The amendment is needed to implement the legislative amendment to the Housing Act of 1950 made by section 308 of the Department of Education Appropriation Act of 1985. This amendment extends the period for accepting discounted prepayments of college housing loans until October 1, 1985.

EFFECTIVE DATE: The amendment to the regulations takes effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of this amendment, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: For further information contact John K. Uchima, Chief, Loan Management Branch, U.S. Department of Education, L'Enfant Plaza, P.O. Box 23471, Washington, D.C. 20224. Telephone: (202) 755-1843.

SUPPLEMENTARY INFORMATION: In the Department of Education Appropriation Act, 1985, the Congress amended section 402(c) of the Housing Act to extend the authority for discounted prepayments of College Housing loans until October 1, 1985.

The Secretary is therefore amending the final regulations published in the **Federal Register** on July 17, 1984, 49 FR 29018-29022, to extend for one year the period of time during which an institution may prepay a loan at a discount.

Executive Order 12291

The regulations have been reviewed by the Deprtment in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. This amendment merely extends the date for accepting discounted prepayments of College Housing loans.

Waiver of Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, since the change made in the regulations merely incorporates a statutory change into existing regulations and does not itself establish new substantive policy, public comment could have no effect on the content of this amendment. Therefore, the Secretary has determined under 5 U.S.C. 553(b)(B) that proposed rulemaking on this regulation is unnecessary and contrary to the public interest.

Intergovernmental Review

This program is listed in other regulations promulgated by the Secretary (34 CFR Part 79) as subject to the intergovernmental review requirements, and section 204 of the Demonstration Cities and Metropolitan Development Act of 1966. The objective of these requirements and Executive Order 12372, which implements these requirements, is to foster an intergovernmental partnership and a strengthened federalism by relying on

State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program. However, the limited discount program offered by the Secretary is not subject to section 204 because no financial assistance for capital construction is awarded.

List of Subjects in 34 CFR Part 614

Colleges and universities, Education, Housing, Loan programs—housing and community development.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance Number 84.142—College Housing Program)

Dated: December 19, 1984.

T.H. Bell,

Secretary of Education.

The Secretary amends Part 614 of Title 34 of the Code of Federal Regulations as follows:

PART 614—COLLEGE HOUSING PROGRAM

§ 614.63 [Amended]

In § 614.63(b)(1), "October 1, 1984" is amended to read "October 1, 1985".

[FR Doc. 84-33471 Filed 12-24-84; 8:45 am]

BILLING CODE 4000-01-M

VETERANS ADMINISTRATION

38 CFR Part 17

Definition of Medical Services

AGENCY: Veterans Administration.

ACTION: Final regulation amendments.

SUMMARY: The Veterans Administration is amending its medical regulations (38 CFR Part 17) to conform with provisions of Pub. L. 98-160, Veterans' Health Care Amendments of 1983. The amendment redefines medical services to include preventive health care and provides continuing treatment eligibility for certain persons disabled as a result of VA treatment.

EFFECTIVE DATE: November 21, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph F. Fleckenstein, Medical Administration Service (136F), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389-2337.

SUPPLEMENTARY INFORMATION: Pub. L. 98-160 amended 38 U.S.C. 601(6)(A)(i) to include preventive health care services as part of the definition of medical services. The law also amended 38 U.S.C. 610(a)(3) relating to eligibility for VA hospital and nursing home care. That section authorizes care for a person receiving VA compensation. The statutory amendment authorizes continuing eligibility for care for certain persons who had received compensation for an injury or disability as a result of receiving VA care or as a result of participation in a rehabilitation program under 38 U.S.C. chapter 31. Continuing hospital and nursing home care eligibility is provided when the individual's compensation payments are discontinued due to receiving payments from a judgment or tort settlement in connection with the injury or disability, so long as such eligibility is provided for in the court judgment or settlement.

On pages 34533 and 34534 of the **Federal Register** of August 31, 1984, a notice of proposed rulemaking was published for 38 CFR 17.30(m)(1) and 17.48(b)(1). Interested persons were given 30 days to submit comments, suggestions or objections. No comments were received. The regulations are adopted as final without change.

The Administrator has determined that this amendment to VA regulations is considered nonmajor under the criteria of Executive Order 12291, Federal Regulation. It will not have an annual effect on the economy of $100 million or more; will not result in major increases in costs for consumers, individual industries, Federal, State or local government agencies, or geographic regions, nor will it have 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.

The Administrator certifies that this amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these regulations are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that this change will regulate only the eligibility of individuals to these benefits.

The Catalog of Federal Domestic Assistance Numbers are: 64.002, 64.009, 64.010, and 64.011.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Government programs—Health, Health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Veterans.

Approved: November 29, 1984.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

PART 17—[AMENDED]

38 CFR Part 17, MEDICAL, is amended as follows:

1. In § 17.30, paragraphs (l) and (m)(1) are revised to read as follows:

§ 17.30 Definitions.

* * * * *

(l) *Hospital care.* The term "hospital care" includes:

(1) Medical services rendered in the course of hospitalization of any veteran and transportation and incidental expenses pursuant to the provisions of § 17.100;

(2) Such mental health services, consultation, professional counseling, and training for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of a veteran or dependent or survivor of a veteran receiving care under the provisions of § 17.54(c) (38 U.S.C. 601(5)), as amended by Pub. L. 93-82, sec. 101(b); Pub. L. 94-581, sec. 102(1); and

(3)(i) Medical services rendered in the course of the hospitalization of a dependent or survivor of a veteran receiving care under the provisions of § 17.54(c), and (ii) transportation and incidental expenses for such dependent or survivor of a veteran who is in need of treatment for any injury, disease, or disability and is unable to defray the expense of transportation. (38 U.S.C. 601(5), as amended by Pub. L. 93-82, sec. 101(b); Pub. L. 98-160)

(m) *Medical services.* The term "medical services" includes, in addition to medical examination, treatment, and rehabilitative services:

(1) Surgical services, dental services and appliances as authorized in §§ 17.60(f), 17.120, 17.123 and 17.123a, optometric and podiatric services, (in the case of a person otherwise receiving care or services under this chapter) the preventive health care services set forth in 38 U.S.C. 662, and except for veterans

authorized outpatient care under § 17.60(e), wheelchairs, artificial limbs, trusses and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as are medically determined to be reasonable and necessary. (38 U.S.C. 601(6)(A)(i); sec. 106, Pub. L. 98–160)

* * * * *

2. In § 17.48, paragraph (b) is revised to read as follows:

§ 17.48 Considerations applicable in determining eligibility for hospital, nursing home or domiciliary care.

* * * * *

(b)(1) Under paragraph (c)(1) of § 17.47, veterans who are receiving disability compensation awarded under § 3.800 of this title, where a disease, injury or the aggravation of an existing disease or injury occurs as a result of VA examination, medical or surgical treatment, or of hospitalization in a VA health care facility or of participation in a rehabilitation program under 38 U.S.C. chapter 31, under any law administered by the VA and not the result of his/her own willful misconduct. Treatment may be provided for the disability for which the compensation is being paid or for any other disability. Treatment under the authority of § 17.47(c)(1) may not be authorized during any period when disability compensation under § 3.800 of this title is not being paid because of the provisions of § 3.800(a)(2), except to the extent continuing eligibility for such treatment is provided for in the judgment for settlement described in § 3.800(a)(2) of this title. (38 U.S.C. 610(a); sec. 701, Pub. L. 98–160)

(2) Under paragraph (c)(3) of § 17.47, "No adequate means of support"—when an applicant is receiving an income of $415 or more per month from any source for personal use, this fact will be considered prima facie evidence of adequate means of support. This is subject to rebuttal by a showing that such income is not adequate to provide the care required by reason of the veteran's disability or that the income is not available for the veteran's use because of other obligations such as contributions in whole or in part to the support of a spouse, child, mother or father. In all such cases of alleged inadequate means of support, the circumstances will be submitted to the Director for decision. (38 U.S.C. 610(a); sec. 701, Pub. L. 98–160).

* * * * *

[FR Doc. 84–33374 Filed 12–24–84; 8:45 am]
BILLING CODE 8320–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 82–540; FCC 84–605]

Modification of Policy on Ownership and Operation of U.S. Earth Stations That Operate With the INTELSAT Global Communications Satellite System

AGENCY: Federal Communications Commission.

ACTION: Report and order; policy statement.

SUMMARY: The FCC adopts a more liberal earth station ownership policy which modifies the current policy on the ownership and operation of U.S. international earth stations that operate with the INTELSAT Global Communications Satellite System. The joint ownership arrangement that the FCC established in 1966 addressed the needs of a nascent satellite telecommunications industry. The FCC has, however, always recognized the dynamic nature of the satellite and earth station technologies. The FCC thus finds that reformulation of its current policy is timely in light of significant advancements in both satellite and earth station technologies and the transformation of INTELSAT from an organization with few members managed by Comsat to a financially stable entity with its own management staff and over one hundred members. The FCC is granted broad discretion in fashioning an earth station ownership policy under section 201(c)(7) of the Communications Satellite Act of 1962.

DATES: By January 18, 1985: (1) All operating licenses held by Comsat on behalf of all ESOC members, or by all ESOC members jointly, for each of the international earth stations shall be amended to reflect new ownership interests as set forth in order; (2) Comsat subsidiary shall file section 214 application for certification as common carrier to provide earth station services via INTELSAT; and (3) Comsat WSD shall file an application: (a) To modify its 214 authorizations in order to transfer earth station activities to the separate subsidiary; and (b) to transfer to this subsidiary all Title III radio licenses issued to WSD on its own behalf or on behalf of ESOC for the operation of satellite earth stations via INTELSAT. By February 1, 1985: Comsat shall file tariffs for INTELSAT space segment through WSD and file earth station tariffs through separate common carrier subsidiary, to become effective on 45 days notice.

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

FOR FURTHER INFORMATION CONTACT: Laura R. Stein, Common Carrier Bureau, International Facilities Division (202) 632–7265.

SUPPLEMENTARY INFORMATION:

Report and Order

In the matter of modification of policy on ownership and operation of U.S. earth stations that operate with the INTELSAT Global Communications Satellite System; CC Docket No. 82–540.

Adopted: December 4, 1984.
Released: December 18, 1984.

By the Commission.

1. On August 17, 1982, we initiated through the release of a Notice of Inquiry (NOI) the above-captioned proceeding to solicit comments on whether our current policy, established in 1966, on the ownership and operation of U.S. earth stations which operate with the International Telecommunications Satellite Organization (INTELSAT) global communications satellite system still best serves the public interest.[1] On April 20, 1984, we issued a Notice of Proposed Rulemaking (NPRM) addressing the concerns of both the Commission and interested parties on the status of our current earth station ownership policy.[2] In response to the NPRM, comments were filed by the American Telephone and Telegraph Company (AT&T), TRT Telecommunications Corporation (TRT), American Satellite Company (ASC), Home Box Office, Inc. (HBO), RCA Global Communications, Inc. (RCA), MCI International (MCII), ITT World Communications Inc. (ITT), Federal Express Corporation (Federal Express), U.S. Satellite Corporation, Inc. (USSC), the Hawaiian Telephone Company (Hawaiian), the National Telecommunications and Information Administration (NTIA), Equatorial Communication Services (Equatorial), the Communications Satellite Corporation (Comsat), International Relay, Inc. (IRI), Satellite Gateway Communications, Inc. (SGC), Gannett Satellite Information Network, Inc. (Gannett), Public Broadcasting Service (PBS), and the American Broadcasting Companies, Inc. (ABC), CBS Inc. (CBS), and the National Broadcasting Company, Inc. (NBC), (the "Networks"),

[1] Notice of Inquiry, Modification of Policy on Ownership and Operation of U.S. Earth Stations that Operate with the INTELSAT Global Communications Satellite System, 90 FCC 2d 1458 (1982).

[2] 97 FCC 2d 444 (1984).

filing jointly. Reply comments were submitted by AT&T, Comsat, IRI, ITT, RCA, Hawaiian, TRT, the Networks, and Walter Hinchman Associates, Inc. (Hinchman).

2. Below we shall summarize: (a) The existing earth station ownership policy; (b) the Notice of Inquiry and the filings elicited therefrom, including Comsat's wholesale/retail proposal; (c) subsequent developments; (d) the Notice of Proposed Rulemaking; and (e) the comments and reply comments to the Notice of Proposed Rulemaking. We then analyze the filings and conclude that a more open and flexible earth station ownership policy will best serve the public interest by increasing efficiencies and reducing costs to users.

I. Background

A. Existing Commission Policy

3. Our current earth station policy was enunciated in 1966 [3] and was implemented in 1967 by Comsat and the U.S. international service carriers through a carrier-created Agreement establishing the Earth Station Ownership Committee (ESOC).[4] Under our existing policy, international earth stations in the United States are owned by a consortium of carriers, including Comsat as well as certain U.S. international service carriers. These international service carriers are AT&T, RCA, ITT, WUI and Hawaiian. Comsat, through its World Systems Division (WSD), has a fifty-percent ownership share and the international service carriers share the remaining fifty-percent interest in approximate proportion to their usage of the facilities.[5] Comsat serves as manager of these earth stations, subject to the overall control and guidance on basic policy and investment matters by a committee composed of all co-owners.[6] Voting shares within this committee are in accordance with ownership percentages.

4. In accordance with the ESOC Agreement, as amended,[7] the carriers set up separate earth station ownership consortiums for the contiguous United States, Hawaii, and Guam. The Agreement also prescribes, in accordance with the 1966 policy decision, the ownership share percentages for Comsat, AT&T, Hawaiian, ITT, RCA, and WUI in each consortium.[8] Pursuant to the Agreement, ESOC earth stations are made available to Comsat for the purpose of furnishing earth station and space segment communications services under applicable tariffs to authorized carriers and users. Comsat, in turn, compensates the carriers for their investment by paying the ESOC owners a monthly rental rate for each half-circuit established through the stations.

B. Notice of Inquiry

5. For the purpose of eliciting discussion on possible changes in our earth station ownership policy and the carriers' ownership arrangements, the NOI distinguished between two classes of earth stations: General purpose and special purpose.[9] The NOI also distinguished between existing stations and new stations.[10] With regard to general purpose earth stations, we solicited comments on the merits of individual carrier ownership versus continued consortium ownership of existing and new earth stations. We also requested parties to propose regulatory criteria that we should apply in deciding whether to authorize new general purpose earth stations. As to special purpose earth stations, we requested comment only on whether new special purpose earth stations should be owned and operated in a competitive fashion or in an ESOC-like manner. Existing special purpose earth stations are independently owned outside of ESOC and we did not envision moving these facilities into an ESOC-like consortium. We further sought comment on regulatory criteria for considering individual applications for special purpose earth stations.

6. We also asked for comments on the relationship of Comsat's corporate structure to the issues in the proceeding. Several of the issues we identified were: (a) Whether Comsat's current ownership share of general purpose earth stations should be in the parent company's World Systems Division (WSD), as it is now, or transferred from WSD to a Comsat subsidiary; (b) whether Comsat's ownership of new earth station should be in the WSD or in a separate subsidiary; and (c) whether Comsat's existing tariff, which bundles the earth station and space segment elements into one rate, should be unbundled if entities other than Comsat or ESOC were to be authorized to construct and operate international earth stations. Finally, we requested comment on the proper role of Comsat, as the U.S. Signatory to INTELSAT, in any ownership arrangement with particular emphasis on: (a) The method of coordinating U.S. earth station investment and operation with INTELSAT space segment; and (b) the extent of carrier and public participation in Comsat/INTELSAT forums.

7. The comments received in response to the NOI indicated that all parties,[11]

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[3] Amendment of Part 25 of the Commission's Rules and Regulations With Respect to Ownership and Operation of Initial Earth Stations in the United States for Use in Connection with the Proposed Global Commercial Communication Satellite System ("*Second Report and Order*"), 5 FCC 2d 812 (1966).

[4] The joint licensees entered into the Agreement consistent with the Commission's *Second Report and Order*. The carriers have operated the international earth stations sinced the 1960's pursuant to the Commission's policy decisions, construction/transfer orders, and the ESOC Agreement.

[5] While the earth stations are jointly owned, Comsat is also the sole U.S. investor/provider of INTELSAT space segment and is also the sole U.S. representative to INTELSAT.

[6] RCA serves as manager of the ESOC earth station in Guam, the smallest consortium.

[7] The Agreement was amended to add Guam as a separate consortium. *See RCA Global Communications, Inc.*, 18 FCC 2d 1037 (1969). Puerto Rico/Virgin Islands is also a consortium but it has no international earth stations at this time.

[8] Because the ESOC members were unable to agree among themselves upon an allocation of ownership shares, we set the initial ownership percentages in proportion to the carriers' projected use of the stations. Since the initial allocation of shares, we have approved requests by ESOC members for modifications in ownership shares, including: (a) Purchase by AT&T of ITT's interest in the four contiguous U.S. stations, American Telephone and Telegraph Company and ITT World Communications Inc., File No. I–P–C–81–010 (released June 10, 1981), and; (b) purchase by RCA of ITT's interest in the Guam earth station, RCA and ITT, File No. I–S–P–82–004 (released February 10, 1983). We have also authorized 100 percent ownership of earth stations to Comsat where it is directly serving end users (TV service via the Santa Paula, California earth station) and where the local carrier does not desire joint ownership (American Samoa, Palau, Saipan, Marshall Islands, and Micronesia).

[9] General purpose earth stations are those Standard A (30–32 meters in diameter), Standard B (10–13 meters in diameter), and Standard C (18–19 meters in diameter) facilities with which all U.S. international carriers interconnect their operating centers in order to offer international switched and private line services to the public. These earth stations are owned by ESOC. Special purpose earth stations are Standard B or non-standard earth stations designed to meet private line needs of a dedicated user or group of users. Such stations are envisioned to be located near a customer's premises in order to reduce landline interconnection costs, improve quality of service, or both.

[10] Existing stations were considered to be stations that have been authorized, whether or not they were actually operating or under construction.

[11] Respondents were Comsat, AT&T, ITT and All America Cables filing jointly, RCA, Western Union Telegraph Company, TRT Telecommunications Corporation, American Satellite Company, Home Box Office, National Public Radio, American Petroleum Institute, and ABC, NBC, and CBS filing jointly, the Departments of Defense and Justice, and M/A–COM.

with the exception of Comsat, favored an open entry policy and proposed with respect to new general and special purpose earth stations that any carrier be allowed to apply to the Commission for authorization subject only to the "public interest, convenience, and necessity" test of section 201(c) of the Communications Satellite Act of 1962.[12] These parties claimed that a more competitive earth station ownership policy, coupled with an unbundling of Comsat's tariff, would lead to lower end-to-end rates without compromising service quality or injuring Comsat. Comsat favored the preservation of the current ownership arrangement and argued that independent ownership would promote a proliferation of earth stations that could jeopardize the low cost and high quality service provided by the existing arrangement, thus harming U.S. and INTELSAT interests.

8. Subsequent to the filing of comments and reply comments, Comsat, in recognition that its views were not supported by the other parties, proposed a new approach that it believed would preserve the benefits of the current arrangements (e.g., efficient use of the INTELSAT system and the ability of actual and potential U.S. carriers which are competitors in the provision of end-to-end international communications services to obtain fair and equitable access to the INTELSAT system) while being more acceptable to other interested parties.[13] Comsat's proposal contemplated that the ESOC members would negotiate among themselves the dissolution of the current ownership arrangement and convert the existing ESOC stations into "wholesale/retail" combination stations at which Comsat's international "wholesale" facilities and operations, as well as the carriers' ene-to-end "retail" facilities and operations, would be collocated. Comsat would acquire the land, buildings, antennas and most of the common electronic equipment. Comsat would then provide earth station services and the INTELSAT space segment to the end-to-end service carriers who in turn would provide a through service to their customers. Following a three-year moratorium, the "retail" service carriers would have the option of continuing to participate in joint earth station ownership arrangements and/or seek authority to construct and operate their own general purpose and most types of special purpose earth stations.[14]

9. Comments received with regard to Comsat's "wholesale/retail" facilities proposal were divided amont those parties who favored the proposal as a starting point for negotiations, those totally opposed to it, and those, including AT&T, who proposed alternative approaches. All parties opposed the proposed three-year moratorium on new applications for all general purpose and most special purpose earth stations by arguing that any moratorium could give to Comsat an anticompetitive head start in the earth station service market.

C. Recent Developments

10. Several recent developments in the international telecommunications arena, some of which we noted in the NPRM, highlight both the tensions which exist within ESOC and the need for us to re-examine our current earth station ownership policy. First, on April 9, 1984, we denied applications filed by RCA and WUI for review of an order issued pursuant to delegated authority by the Chief, Common Carrier Bureau[15] which resolved a dispute among WUI, RCA and Comsat relating to the financing of the U.S. earth stations that operate with the INTELSAT system.[16] In that order, we also denied the requests of RCA and WUI that we reallocate ownership shares within ESOC, noting that while RCA and WUI had made whole their capital accounts, the immediate *Earth Station Ownership* proceeding was the appropriate vehicle by which to consider any new ownership scheme. On August 1, 1984, RCA filed a petition for immediate interim relief which requested the reallocation of ownership shares.[17] Second, in an item accompanying the NPRM, the Commission granted Comsat's application to provide INTELSAT Business Service, (IBS) space segment capacity to U.S. carriers to enable these carriers to establish for their customers dedicated international earth stations to carry all types of digital communications services.[18] Third, the Commission granted the applications filed by Comsat and a number of carriers to construct and operate IBS earth stations in the United States.[19]

11. Fourth, on January 13, 1984, the United States Court of Appeals for the D.C. Circuit vacated and remanded our August 19, 1982 Report and Order in the *Authorized User* proceeding[20] in which

[12] 47 U.S.C. 721(c).

[13] Comsat moved for leave to file a pleading titled "Proposal for Restructuring Earth Station Ownership and Operation Arrangements." Motion of Communications Satellite Corporation for Leave to File a Proposal for Restructuring Earth Station Ownership and Operations Arrangements June 23, 1983. The Commission granted the motion and reopened the docket for additional comments and replies by interested parties. Earth Station Ownership, Mimeo No. 5713 (released August 2, 1983).

[14] Under this proposal, ESOC joint owners would negotiate the dissolution of the consortium and a division of the earth stations' assets. Also, applications for INTELSAT Business Service (IBS) and certain small earth stations could be submitted to the Commission during the moratorium period.

[15] Memorandum Opinion and Order, In the Matter of Joint Request of Communications Satellite Corporation and RCA Global Communications, Inc., to Resolve Dispute Concerning the Manner by which Capital Contributions for International Earth Station Facilities may be Adjusted, Mimeo 1202 (released December 9, 1983).

[16] The Commission affirmed the Bureau's finding that an ESOC member cannot, in accord with Commission policy, unilaterally suspend its capital contributions and compel the remaining joint owners, including Comsat and AT&T, to absorb any resulting shortfall. We found that such withholding of funds is tantamount to a forced ownership realignment and is thus contrary to Commission orders which expressly require an ESOC member to petition the Commission for an adjustment of ownership shares. The Commission also denied the RCA request for stay pending court review. Memorandum Opinion and Order, Mimeo. 34410 (released April 9, 1984). On April 26, 1984, RCA filed a Petition for Review in the United States Court of Appeals for the District of Columbia of the Commission's April 9, 1984 order. Case No. 84-1162 (D.C. Cir.).

[17] The Commission released a Public Notice requesting comment on RCA's petition. I-S-P-84-006 (released August 17, 1984). In response to this notice, comments were filed by AT&T, WUI, RCA, ITT, and Hawaiian. Reply comments were filed by AT&T, WUI, and RCA, with RCA filing late. Today, in this proceeding, we grant RCA's motion for leave to file late reply comments. *See* para. 41, *infra*., for discussion of the ESOC capital contributions dispute.

[18] In the Matter of the Application of the Communications Satellite Corporation for Such Authority as may be Necessary for it to Participate in a Program to Provide Satellite Capacity for New Digital Business Services as part of the INTELSAT System, FCC 84-124, Mimeo. No. 34374 (released April 11, 1984).

[19] Communications Satellite Corporation, FCC 84-124, Mimeo No. 34374 (released April 11, 1984); International Relay, Inc., FCC 84-125, Mimeo No. 34388 (released April 11, 1984); Communications Satellite Corporation, FCC 84-126, Mimeo No. 34390 (released April 11, 1984); ITT World Communications, Inc., Mimeo No. 5197 (released July 6, 1984); TRT Telecommunications Corporation, Mimeo No. 5195 (released July 6, 1984); International Relay, Inc., Mimeo No. 5194 (released July 9, 1984); Satellite Gateway Communications, Inc., Mimeo No. 6305 (released August 31, 1984).

[20] ITT World Communications Inc. v. FCC, 725 F. 2d 732 (D.C. Cir., Jan. 13, 1984) ("*Authorized User II Opinion*"), *vacated and remanded* Proposed Modification of the Commission's Authorized User Policy concerning Access to the International Satellite Services of the Communications Satellite Corporation, 90 FCC 2d 1394 (1984) ("Authorized User II"), *revising* Authorized Entities and Users, 4 FCC 2d 421 (1961), *recon. in part* 6 FCC 2d 593 (1967) ("*Authorized User I*"). On March 27, the Court of Appeals denied our petition for rehearing.

we had decided to permit Comsat to offer end-to-end service to the public through a separate subsidiary and require Comsat to offer basic INTELSAT transmission capacity at U.S. general purpose earth stations to both carriers and non-carriers pursuant to a single tariff to be filed with the Commission. While upholding our legal position, the court found that we had abused our discretion by not considering, prior to implementing our *Authorized User II* policy, issues under examination in two inquiries then pending before the Commission, *Direct Access* [21] and *Earth Station Ownership*, which the court found to be directly related to the issues in *Authorized User II*. We subsequently released an NPRM in the *Earth Station Ownership* proceeding and a Report and Order in the *Direct Access* docket.[22] We then issued a Further Notice of Inquiry soliciting comment on the impact of our actions in the *Direct Access* order and *Earth Station Ownership* NPRM on our proposed *Authorized User II* policy.

D. Notice of Proposed Rulemaking

12. Upon review of the responses addressing the classification scheme proposed in the NOI, we found that the proffered classes did not adequately reflect the future earth station environment. We thus tentatively adopted a more practical classification scheme based on prevalent technology, *i.e.*, IBS, television, and multi-purpose earth stations. We also identified in the NPRM several legal, policy, technical, economic, and operational concerns that interested parties had for the most part addressed in their responsive pleadings to the NOI. We then proffered and discussed our tentative conclusions based upon a thorough review of both our earth station ownership policy and the comments submitted in response to the NOI. We stated in the NPRM that our overriding concern in 1966, the successful establishment of a global satellite system, may no longer, in 1984, justify a rigid policy under which Comsat is a fifty percent owner and sole operator of U.S. international earth stations. We noted that INTELSAT is now a financially and operationally sound organization with over 100 members and its own management staff and that recent innovations in satellite and earth station technology have made technically feasible greater carrier participation in earth station ownership and operation. We further stated our belief that a more open and flexible ownership/operation policy would increase intramodal competition (i.e., increased competition among providers of satellite services) thereby serving to encourage innovation, promote efficiency and create a downward pressure on rates. Finally, we noted that intermodal competition may also be increased by our proposed policy as satellite services are provided more efficiently.

13. We tentatively concluded in the NPRM that the adoption of a more open and flexible earth station ownership policy which relies on competitive forces is consistent with the Communications Act of 1934 and the Communications Satellite Act of 1962.[23] We tentatively concluded that individually owned and operated IBS and television earth stations are technically feasible, create few, if any, significant economic or efficiency problems, will not significantly affect our foreign partners in INTELSAT, and will result in lower cost and technically superior services to consumers. With regard to multi-purpose stations, we stated that many of these concerns would likely arise. We proposed that Comsat be required to file cost-based tariffs for INTELSAT space segment usage through its World Systems Division and file earth station tariffs through a separate subsidiary acting as an international service carrier.[24] In the NPRM, we recognized that AT&T occupies a unique position in the international arena because it is the major owner of cable facilities, the primary source of international traffic, and is by far the greatest user of international earth station and space segment capacity. We also recognized that diversion of its traffic from existing stations could adversely impact on the public interest. We therefore requested comments addressing this potentiality. We also tentatively concluded that a moratorium on accepting applications as proposed by Comsat was unwarranted.

14. We tentatively concluded that it would be in the public interest to accept applications for IBS and television earth stations from any carrier and to process these applications in a routine fashion.[25] We also tentatively concluded that applications for multi-purpose earth stations should be subject to a more rigorous review of economic, technical, and operational considerations.[26] While we discussed certain authorization criteria relevant for multi-purpose stations, we particularly requested comment on the possible relevancy of such other factors as traffic and revenue diversion among stations and AT&T's unique position in the international market. As to the future of ESOC, we

[21] Regulatory Policies Concerning Direct Access to INTELSAT Space Segment for the U.S. International Service Carriers, 90 FCC 2d 1446 (1982) (Notice of Inquiry).

[22] Subsequent to the issuance by the Court of Appeals of *Authorized User II Opinion*, we adopted a Report and Order in the *Direct Access* proceeding in which we concluded that none of the "direct access" proposals, *i.e.*, bases, capitalized leaseholds, indefeasible rights of use (IURs), or direct investment in INTELSAT, would serve the public interest. *In the Matter of Regulatory Policies Concerning Direct Access to INTELSAT Space Segment for the U.S. International Service Carriers*, 97 FCC 2d 296 (released April 25, 1984) at para. 3. We stated that as to those concerns upon which proponents of direct access based their support, we would consolidate into the *Comsat Structure* proceeding and the immediate *Earth Station Ownership* proceeding measures alternative to direct access which should enhance the position of the end-user as well as Comsat's carrier customers. We emphasized, however, that in terminating the *Direct Access* inquiry we were not foreclosing our reconsideration of direct access should our alternative measures prove ineffective. *Direct Access* at para. 3.

[23] The Commission's authority over international earth stations within the United States is found in Titles I, II, and III of the Communications Act of 1934, as amended, and Titles I, II, and III of the Communications Satellite Act of 1962, as amended. Section 201(c)(7) of the Communications Satellite Act, in particular, directs the Commission to "grant appropriate authorization for the construction and operation of each satellite terminal station, either to the corporation (Comsat) or to one or more authorized carriers or to the corporation (Comsat) and one or more of such carriers jointly, as will best serve the public interest, convenience, and necessity."

[24] With regard to the unbundling of tariffs, the Commission sought Comsat's comments on how it might proceed in this respect. Specifically, we requested that: (a) Comsat submit sample tariffs with accompanying explanation of the methodology employed; (b) identify and explain all expenses and costs wholly associated with space segment and earth segment services; and (c) identify and describe costs of all activities common to earth station, space segment, and other services, with costs to be apportioned reasonably among all services. We also proposed: (a) The separation of Comsat's competitive earth station activities from its monopoly space segment activities; (b) that all Cosmat applications for new stations or for additions to existing stations be made through a Comsat subsidiary, and; (c) that Comsat transfer any ownership interests in existing INTELSAT stations from WSD to a separate subsidiary and that such proposed transfer be submitted to the Commission for review.

[25] We proposed that applications for IBS and television earth stations would be granted upon a showing of minimal legal and financial qualifications of the applicant and technical qualifications of the proposal, as required by sections 308 and 319 of the Communications Act of 1934. In fact, due to strong public interest considerations, we granted applications to construct and operate IBS earth stations, conditioned on the outcome of this proceeding.

[26] We proposed to closely examine each application for an independently owned multi-purpose station to determine, on a case-by-case basis, whether its construction and operation would result in technical inefficiencies and/or economic harm to existing stations that might outweigh the public interest benefits otherwise accruing from the proposed station. We determined that with respect to IBS and television stations, space segment efficiency and traffic diversion from multi-purpose to IBS and television stations are not significant issues.

proposed to permit, in the first instance, the ESOC joint owners to negotiate among themselves the future of ESOC. We indicated that absent a unanimous agreement of the owners to retain, modify, or dissolve ESOC, any individual owner could submit a proposed plan to the Commission for our consideration.[27] Finally, we tentatively concluded that Comsat should continue to represent the United States at INTELSAT meetings with continued government monitoring of its role. We also favored greater carrier/public input into INTELSAT policy, tariff, and procurement decisions through the instructional process and sought additional comments on this issue.

E. Responsive Pleadings

15. In response to the NPRM all parties, to some extent, supported the development of a competitive international earth station market and its attentive lower costs of services and increased use and viability of the satellite system.[28] Most of the respondents favored the classification scheme proposed in the NPRM which separated earth stations into three classes based upon prevalent technology: Television, IBS and multi-purpose.[29] The scheme was to be employed when addressing technical and other issues raised by the parties as well as in proposing application evaluation criteria. A majority of the respondents favored the Commission's two-tiered application approach under which applications for television and IBS earth stations would be processed on a routine basis while applications for the construction of multi-purpose earth stations would be subject to a more rigorous review.[30] Some parties, principally AT&T, favored extending expedited processing to all types of earth stations.[31] As to the criteria that should govern the consideration of IBS and television applications,[32] there was general agreement that these earth station applications should be reviewed for the minimal legal and financial qualifications of the applicant and technical qualifications of the proposal. As to multi-purpose applications, some parties suggested use of the IBS/television standards. However, most parties, including NTIA and Comsat, agreed with our proposal to more rigorously review these applications.[33] Further, most parties addressing the issue of an applicant's dominant status stated that Commission review should take due account of an applicant's monopoly or dominant status [34] and the potential for diversion of traffic from existing ESOC earth stations. Comsat argued that AT&T, as provider of approximately 90 percent of all international satellite traffic and as major owner and operator of cable facilities, should be barred from owning and operating earth stations since such a scheme would necessarily result in the domination of both international cable and satellite facilities by AT&T. According to Comsat, there is no real competition in the international voice market and thus permitting AT&T to divert traffic to its own earth stations would not be a natural and benign consequence of marketplace forces.[35] RCA, for the same reasons proffered by Comsat, proposed a five-year moratorium on AT&T's ownership and operation of earth stations.[36]

16. With regard to the future of ESOC, the parties unanimously supported the Commission's proposal to permit negotiations by the ESOC joint owners to determine ESOC's future. Several parties submitted proposed frameworks for such negotiations.[37] The parties were

[27] We noted that the ultimate disposition of ESOC would not be allowed to disrupt service to users or to unduly delay or hinder the institution of independent carrier ownership of new earth stations. NPRM at para. 44.

[28] We note that Equatorial Communications Systems (Equatorial) initially filed comments in support of deregulation of international receive-only earth stations located in the United States in the Earth Station Ownership proceeding. Equatorial subsequently filed a petition for rulemaking requesting that we revise Part 25 of our Rules to permit U.S.-based receive-only satellite earth stations to receive signals from any INTELSAT satellite without being licensed or otherwise individually authorized by the Commission. *See* Petition for Rulemaking of Equatorial Communication Service, Rulemaking No. 4845 (released August 16, 1984). Equatorial requests that we resolve this issue in the immediate proceeding as parties have had opportunity for comment on its petition. We shall deny this request. We do not believe that the record is sufficiently complete for us to act on Equatorial's petition. Moreover, Equatorial's rulemaking petition has created a separate proceeding in which we may comprehensively examine its proposal.

[29] IRI, ITT and TRT stated that the Commission's classification plan could, in the future, become too restrictive on the scope of services to be offered by competitive facilities, i.e., the classifications may not adequately reflect INTELSAT's service practices in the near future, and might, as a result, foreclose the most efficient use of independent facilities. IRI further stated that the plan imposes an undue burden of requiring repeated applications for the purpose of incorporating new service techniques. IRI, comments at p. 17; TRT, comments at p. 3.

[30] ITT, the Networks, Equatorial, NTIA, HBO, Federal Express, and Comsat. Comsat would favor extending routine processing only to applications for earth stations which would provide *exclusively* IBS or television service.

[31] AT&T, IRI, RCA, TRT, and NTIA. RCA would favor extending routine processing to applications for multi-purpose earth stations by all carriers except for AT&T.

[32] AT&T argued that the Commission should not scrutinize applications for new multi-purpose earth stations in a manner dispatate from that employed for other classes of international earth stations in that technological advancements in earth stations and satellite technology, especially TDMA/DSI, makes efficiency concerns irrelevant. AT&T also claimed that the INTELSAT charging policy provides a satisfactory mechanism for compensating inefficiencies.

[33] While agreeing with the need for a more thorough evaluation of multi-purpose earth station applications, some parties stated that there were sufficient safeguards already in place via the INTELSAT Agreements, tariffs, and the marketplace, to ensure the continued overall efficiency in the near term of the INTELSAT system and to dispel any concern of premature saturation.

[34] Comsat, RCA, and ITT.

[35] AT&T argued that the Commission should disregard the impact of traffic diversion when considering applications for multi-purpose earth stations (1) since AT&T's own economic interest in ESOC will temper the massive sudden diversion of traffic from existing ESOC earth stations; (2) since what diversion may occur will be offset by traffic growth in the system (a view supported by IRI, MCII, ASC, NTIA and Federal Express); and (3) because AT&T is the major source of international satellite traffic, restrictions on its use of less costly and more efficient earth stations will be detrimental to a large number of customers, and thus, not be in the public interest. In its reply comments, AT&T stated that it is willing to become sole owner of certain mainland ESOC stations and is prepared to negotiate with the other owners for the purchase of those stations. Comsat, in its reply comments, argued that AT&T's assertion with regard to traffic diversion does not provide an appropriate basis for the promulgation of policy on this issue and that AT&T has relied on overstated traffic forecasts. Comsat also argued that AT&T's scheme would result in an AT&T-dominated system, that existing earth stations, built basically to accommodate AT&T's traffic, could not remain financially viable on the basis of the remaining (non-AT&T) traffic. Comsat also rejected NTIA's suggestions that the Commission disregard AT&T's investment in other telecommunications technologies when considering multi-purpose applications. Comsat averred that AT&T control of both cable and satellite facilities would hamper intermodal competition.

[36] AT&T argued that with any granting of authority to Comsat for the construction/operation of an earth station should be the concomitant requirement that Comsat offer INTELSAT capacity on a full and partial transponder basis, based on equivalent voice channels and to offer such capacity in its unbundled space segment tariff. AT&T, comments at page 16. Both RCA and Comsat rejected AT&T's proposal. In its reply comments, RCA stated that this proposal would in practical terms primarily benefit AT&T since AT&T is the only carrier with sufficient traffic volumes to take advantage of partial or full transponder capacity. RCA also claimed that granting this proposal would enable AT&T to extend its current MTS monopoly into the now competitive international leased channel market. Comsat averred in its reply comments that (1) the issue was not raised in the NPRM and, therefore, cannot be a proper subject for discussion and resolution in the forthcoming order, and (2) INTELSAT does not now offer such capacity for international services and is only considering such an offer for IBS. Comsat concluded that there is nothing in the record regarding the terms on which capacity might be available or the implications of such an offering.

[37] AT&T proposed that prior to the Commission's final order in this docket, the joint owners meet to

Continued

generally concerned with continuity of efficient, high quality service at reasonable rates, and equitable access [38] to the existing ESOC stations. There was also a consensus of opinion that the development and approval of an ESOC transition plan should not hinder or delay the progress of the Commission in considering and granting applications for independent earth stations. All respondents rejected Comsat's proposed "moratorium" on applications for construction of multi-purpose earth stations, claiming it would be anticompetitive.[39]

17. Several parties commented on the appropriate structural form for Comsat's participation in the competitive ownership and operation of earth stations, e.g., whether Comsat's current ownership share of general purpose earth stations should be transferred from the WSD to a separate subsidiary and whether Comsat's ownership of new earth stations should be in the WSD or separate subsidiary. Most parties endorsed our proposal that Comsat's competitive earth station activities be separated from its monopoly space segment activities to minimize cross-subsidization between the emerging competitive activity for earth station services and the monopoly provision of space segment services. AT&T and RCA proposed a transitional arrangement under which Comsat's ESOC earth station ownership could be retained in WSD until the dissolution of ESOC, while competitive (new) earth station investments would be through a separate subsidiary. Most parties also proposed that we closely scrutinize any investment transfers and tariff filings to ensure that cross-subsidization does not occur between earth station and space segment operations.[40] Comsat argued that the ownership and operations of its multi-purpose earth stations should be permitted to remain in WSD. However, Comsat did not object to placing the ownership and operation of IBS and television earth stations in a separate subsidiary providing non-monopoly service. With reference to the separate subsidiary proposal found in our *Authorized User II* proposal for end-to-end services, Comsat favored WSD being limited to providing multi-purpose earth station and space segment services and one separate subsidairy providing end-to-end and *IBS*/television earth station services. Comsat argued that an arms-length separation between management of earth station and space segment services would impede the coordination and efficiency currently obtained through a single entity.[41]

18. All parties with the exception of Comsat supported the Commission's proposal that should non-ESOC or Comsat entities be authorized to construct and operate international earth stations, Comsat should unbundle its tariffs so as to enable carriers to obtain space segment capacity separate from earth station capacity. In so doing, the parties have gone to great lengths to advise us of Comsat's tendency to exceed its allowable rate of return and that it has rarely resisted prior temptations to overburden users of its monopoly services in order to support its competitive ventures.

19. With regard to the issue of what the proper role of Comsat, as U.S. Signatory to INTELSAT, should be in any ownership arrangement, most parties stated that Comsat shoud continue to represent U.S. interests in INTELSAT but that the Commission should adopt mechanisms for greater carrier/operator and public participation in the formulation of U.S. positions in INTELSAT. A variety of mechanisms were proposed by the respondents which reflect varying degrees of carrier/operator and public involvement in both Comsat/INTELSAT forums and the instructional process. There was general agreement that there should be significantly greater access to INTELSAT documents and meetings and greater imput into INTELSAT planning and coordination functions. While Comsat favors greater carrier input,[42] it stated that the instructional process should not be altered pending the completion of an ongoing congressional inquiry and the efforts of an inter-agency task force.

II. Discussion

A. Overview

20. The Communications Satellite Act of 1962 charges the Commission with the responsibility of establishing an earth station ownership policy which best

identify and evaluate various proposals for dissolution of ESOC, including sale and exchange of ownership interests and joint ownership of some stations, and then prepare and submit to the Commission a proposal for its approval. AT&T also identified a series of specific items of concern. The owners would implement the plan subsequent to Commission approval, at which time the transition period, if needed, would begin. Comsat stated that negotiations should be authorized without imposing time constraints on meetings during the pendency of this proceeding. After the termination of the proceeding, Comsat stated that the Commission should require prompt reporting of the discussions' status and evaluate such progress. Should no agreement be made, the Commission should prescribe a solution. Both Comsat and AT&T noted that the owners met on May 29, 1984, in an effort to establish a framework for discussion and have agreed to report to the Commission on the progress of their discussions.

[38] Section 201(c)(2) of the Communications Satellite Act of 1962, 47 U.S.C. 721(c)(2) requires that the Commission:

"insure that all present and future authorized carriers shall have nondiscriminatory use of, and equitable access to, the communications satellite system and satellite terminal stations under just and reasonable charges, classifications, practices, regulations, and other terms and conditions and regulate the manner in which available facilities of the system and stations are allocated among such users thereof."

[39] Comsat initially urged a three-year transition period to allow the marketplace to adjust to the change in regulatory philosophy and stated that although the Notices and other parties labeled its proposal a "moratorium," Comsat merely contemplated a transition period for the processing of applications. Comsat, in its comments to the NPRM, stated that under a case-by-case analysis of applications for multi-purpose stations, the Commission could begin processing those applications at the termination of this proceeding. *See* fn. 70, *infra*.

[40] The parties generally agreed that a rigorous investigation of Comsat's space segment rates should be made and that Comsat's sample tariff failed to provide adequate assurances that (1) Comsat's allocation of costs for its monopoly services are accurate and reasonable and do not reflect cross-subsidization; (2) the cost allocation between the ground and space segments is accurate and reasonable; and (3) the rates are fairly derived from valid demand projections, are reasonable for each use of its different services, and reasonably reflect services justifiably chargeable to Comsat's monopoly ratepayers. ITT also submitted a lengthy set of questions for Commission investigation. ITT reply comments at page 20. (*See* comments of ITT, RCA, Hinchman, AT&T, IRI, MCII.) MCII called for the immediate unbundling of rates even though an earth station policy has not yet been formulated. With regard to the manner by which to arrive at a lawful tariff, MCII and WUI stated that the Commission should refrain from rate-averaging, at least prior to any rate filings by carriers. WUI suggested that the Communications Satellite Act restricts the Commission from prescribing rate-averaging prior to a rate filing while Hawaiian argued that the Act does not restrict the prescription of rate averaging prior to rate filings, and that the Commission should maintain a policy of rate averaging for existing general purpose earth stations in order to assure continued viable rates and services to lower traffic areas, such as the Pacific Ocean region. IRI favored using the INTELSAT Utilization Charge (IUC) as a benchmark from which to derive a lawful tariff claiming that the IUC represents Comsat's revenue requirement, in a per circuit basis, for its INTELSAT investment expenses and associated costs.

[41] While recognizing that in some instances competitive activities should be carried out in a separate subsidiary so that the WSD's competitive ventures do not profit at the expense of ratepayers, Comsat claimed that a separate subsidiary requirement is expensive, necessitating a duplication of functions and impeding the overall efficiency of the international statellite system, and that traditional regulatory oversight would obviate the need for such separation. Comsat further stated that a separate subsidiary might be warranted with respect to WSD's ownership of IBS and television earth stations in that intense competition will result from the probable deregulation in the near future. Finally, NTIA stated that a separate subsidiary requirement was unnecessary in that stricter accounting procedures would suffice to ensure that cross-subsidization does not occur.

[42] Comsat has developed a program to increase public access to information regarding INTELSAT and its activities as well as Comsat's actions as U.S. Signatory, discussed at para. 48, *infra*.

serves the public interest.[43] The joint ownership arrangement that we established in 1966, and which was implemented by the carriers in 1967, addressed the needs of a nascent satellite telecommunications industry. We found that a joint ownership scheme would expedite the "establishment of an effective and efficient global satellite communications system" and assist the "orderly development of a comprehensive complex of earth stations."[44] We envisioned the involvement of carriers other than Comsat in international earth station management and ownership and sought to allow these carriers the opportunity to obtain experience in satellite communications and to provide them incentives to maximize their use of satellite technology.[45] We have however, always recognized the dynamic nature of the satellite and earth station technologies. We have witnessed the development of larger, more reliable and efficient satellites, smaller earth stations and new services. We have also witnessed the transformation of INTELSAT from an organization with few members managed by Comsat to a financially stable entity with its own management staff and over one hundred members.[46] In such a new environment we believe that a review of our existing earth station ownership policy is timely.

21. We conclude here that a liberalized earth station ownership policy which permits the construction and operation of earth stations outside of ESOC would benefit users by increasing carrier and service options and creating competitive pressures on rates. We also conclude here that such a policy is consistent with our INTELSAT obligations and can generally be implemented without adverse impact on service quality or efficiency. In effectuation this policy, we will allow competition consistent with our statutory objectives for existing and new earth stations, and will consider applications from any carrier. We will accept applications to provide IBS and television services and process such applications in a routine fashion. We will employ a more rigorous review, on a case-by-case basis, of applications for multi-purpose stations. We shall reallocate ESOC ownership shares in proportion to the joint owners' current usage of the ESOC facilities and then permit the ESOC joint owners to nogotiate among themselves the future of ESOC. WE shall require that Comsat file cost-based tariffs for INTELSAT space segment usage through its World Systems Division and file earth station tariffs through a subsidiary acting as an international service carrier. We further mandate: (a) That Comsat separate its competitive common carrier earth station activities from its monopoly common carrier space segment activities; (b) that all Comsat applications for new stations or for modifications to authorized stations be made through a Comsat subsidiary; and (c) that Comsat transfer any ownership interests in existing INTELSAT stations from the WSD to a separate subsidiary and that the mechanics of such proposed transfer be submitted to the Commission for review. While we are cognizant of the need for a smooth transition from one ownership arrangement to another, we shall not impose a moratorium period on any application for the ownership and operation of earth stations. We will also not impose any pre-filing restrictions on AT&T although we recognize that AT&T applications for multi-purpose earth stations may raise unique issues. We conclude that Comsat should continue to represent the United States at INTELSAT meetings with our continued monitoring of its role. Further, we find that it is appropriate to facilitate greater carrier, operator, and public input into the instructional process and INTELSAT decisions. Finally, we conclude that owners of international earth stations may attend the annual meetings of the Operational Representatives that address operating and coordinating matters that relate to space segment and earth stations.

B. Legal Considerations

22. Titles II and III of the Communications Act of 1934, as amended, and Titles I, II, and III of the Communications Satellite Act of 1962, as amended, grant to the Commission authority over international earth stations within the United States. Section 201(c)(7) of the Communications Satellite Act directs the Commission to "grant appropriate authorization for the construction and operation of each international satellite terminal station, either to the corporation (Comsat) or to one or more authorized carriers or to the corporation (Comsat) and one more such carriers jointly, as will best serve the public interest, convenience, and necessity." These statutory options and the statutory history make it clear that Congress expressed no preference for which ownership arrangement we should permit when it enacted this section and that the Commission was given the discretion to determine the ownership scheme which would best serve the public interest. Inherent in this grant of authority are the twin responsibilities of: (a) Using our expertise and discretion to establish an initial earth station ownership policy which served the public interest; and (b) modifying that policy as warranted by changes in the facts and circumstances underlying the original formation of the policy.[47]

C. Policy Considerations

23. A more flexible ownership scheme which permits independent earth station ownership outside of ESOC as market forces dictate and the public interest requires would foster innovation, establish more service and carrier alternatives for users, and create a downward pressure on earth station costs and rates. Thus, we would encourage the development of a market where earth stations could be owned with Commission approval by ESOC, by individual carriers, by Comsat or by any Comsat/carrier combination. We believe that Comsat's filing of a cost-based, unbundled tariff coupled with the opportunity for carriers to construct their own earth stations at locations of their choosing will foster the establishment of efficient networks and result in substantial savings for users. While we are aware of the need for both a smooth transition and the consideration of public interest factors when reviewing specific applications, the record in this proceeding demonstrates that new forms of ownership for all types of earth stations which access the INTELSAT system will serve the public interest.

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[43] 47 U.S.C. 721(c)(7) provides that the Commission shall: "Grant appropriate authorization for the construction and operation of each satellite terminal station, either to the Corporation (Comsat) and one or more authorized carriers or to the Corporation and one or more such carriers jointly, as will best serve the public interest, convenience, and necessity."

[44] *Second Report and Order*, 5 FCC 2d at 817.

[45] *Second Report and Orders*, 5 FCC 2d at 816, 818–820.

[46] INTELSAT has grown from 19 member countries in 1964 to 109 members in 1984, and the net investment in its space segments has grown from $69 million in 1967 to $1.5 billion in 1984.

[47] As we have already noted in the NPRM, these changes would include advances in earth station technology, the feasibility of competition in the provision of earth station services and facilities, the impact of a new policy within INTELSAT, the quality and price of service to users, the development of intramodal and intermodal competition in the international marketplace, foreign policy and national security considerations, and interference, compatibility and connectivity requirements.

24. Our experience has been that the introduction of competition in the provision of international services, or a segment of an international service, produces real benefits for users. In the last several years we have permitted the international record carriers to provide international service from all points in the United States (*Gateways*);[48] we have removed restrictions on AT&T's provision of international record services (*TAT–4 Revisited*);[49] and we have authorized new entrants for the provision of international record and voice services (Western Union, Graphnet, MCII, SBS, GTE Sprint, etc.). We have taken steps to assure that competitive activities will not be subsidized by monopoly offerings (*Comsat Structure*) [50] and information useful to competitive entities in the United States will be quickly and fairly disseminated (*Information Flow*).[51]

25. The central policy issue addressed by the respondents was whether earth station capacity can and should be provided by any entity other than ESOC. Comsat has maintained throughout this proceeding that the unrestricted independent ownership of U.S. international multi-purpose earth stations could hamper the efficient, reliable and cost-effective operation of the U.S. earth station network and adversely affect the optimum utilization of the INTELSAT space segment. However, Comsat has stated that other carriers' applications could be considered following a transition period and be granted if they satisfy a strict public interest standard. Other respondents contended that a more liberal ownership and operational plan for new and existing stations would better address the needs of international satellite users without compromising the efficiency of the INTELSAT global system. After a careful review of our earth station ownership policy and the responsive filings in this proceeding, with particular attention to questions relating to earth station and space segment efficiency, we conclude that a restrictive ownership policy is no longer warranted, that substantial benefits to users will flow from a more open and flexible earth station ownership policy, and that this new policy can be implemented in such a way as to ensure earth station and space segment efficiency. We more fully explain the technical considerations on which this policy conclusion is made in the following section.

D. Technical Considerations

26. For the purpose of addressing technical issues and formulating application review criteria, we adopted in the NPRM a classification scheme which divided earth stations into three classes: Multi-purpose, IBS, and television stations. While most respondents supported the use of these categories, some parties argued that the proposed classifications were too restrictive, constrained competition, and were inconsistent with prevailing procompetitive international service policies. We believe that these three classes of service are sufficiently broad to include both existing and future services. As will be emphasized in the section dealing with application criteria, our basic policy thrust is that if an earth station application for the provision of a particular service or services does not raise significant legal, policy, economic, technical or other issues, we would expect the staff to routinely process that application, just as it has done with the recently filed IBS and television earth station applications. On the other hand, if significant issues are raised, then a more rigorous review would be appropriate.

27. The principal technical issue raised by the parties was whether a policy encouraging competition in the provision of U.S. earth station services would have a significant adverse impact on the overall efficiency of the INTELSAT system. Comsat argued that the system's efficiency would decline as the number of earth station antennas accessing a particular satellite increased. Comsat contended that the unrestricted addition of U.S. multi-purpose earth station would cause fragmentation of major traffic streams which in turn would require a greater number of circuits to transmit the same volume of traffic. Comsat also argued that satellite capacity and design life could be adversely affected by a proliferation of small (Standard B) earth stations that require more powerful satellites or drain more power from existing satellites. Other parties, including AT&T, IRI, and RCA, averred that technological advancements in earth station and satellite technologies, such as TDMA/DSI,[52] make efficiency concerns irrelevant and that the INTELSAT charging policy already provides a satisfactory mechanism for compensating inefficiencies.[53]

28. We conclude that with respect to television and IBS earth station applications the issue of technical inefficiency is generally irrelevant.[54] However, such inefficiency concerns are real and must be examined when considering applications for multi-purpose earth stations which have in the past utilized mostly Standard A and Standard C antennas. We believe, however, that some increase in the number of new multi-purpose U.S. earth stations operating under today's access arrangements will not necessarily result in a noticeable change in achievable satellite efficiency from that obtainable under our current ownership policy. Nevertheless, efficiency factors such as the type of modulation and multiple access used, the frequency band, the particular satellite and transponder accessed, the type of communications, and the size of the antennas are relevant to our public interest finding and will be examined on a case-by-case basis when

[48] 76 FCC 2d 115 (1980), *aff'd sub nom. Western Union Telegraph Company* v. *FCC*, 655 F. 2d 1126 (D.C. Cir. 1981).

[49] 92 FCC 2d 641 (1982).

[50] 90 FCC 2d 1159 (1982) and 97 FCC 2d 145 (released April 30, 1984).

[51] Id.

[52] TDMA and DSI are acronyms for time division multiple access equipment and digital speech interpolation equipment, respectively. Use of TDMA, rather than frequency division multiple access (FDMA), increases the number of circuits a given satellite transponder can carry by approximately 50–60 percent. DSI equipment operates in a fashion similar to circuit multiplication equipment used on cables and approximately doubles the number of circuits used for message telephone services.

[53] As we stated in the NPRM, the inefficient use of the space segment can arise from a number of sources. Certain modulation formats for multi-purpose earth stations work more efficiently with one or two earth stations accessing a transponder than with multiple earth station access that one might expect in a competitive environment. Further, a competitive environment may tend to encourange the use of earth stations smaller than Standard A or Standard C stations for multi-purpose service which, in some situations, do not achieve the satellite efficiencies that could be achieved with the larger stations. INTELSAT does discourage overly wide use of small stations for voice-grade service by exacting a space segment surcharge for circuits transmitted from or received by these stations. The degree of inefficiency that might be generated by new earth stations in a competitive environment would depend upon such factors as the type of modulation and multiple access used (*i.e.*, FDMA vs. TDMA), the frequency band (*i.e.*, 6/4 GHz vs. 14/11 GHz), the ocean region, the particular satellite (*i.e.*, Major Path or Primary), the particular transponder with its connectivity requirements (*i.e.*, few vs. many contries), the type of communication (*i.e.*, analog vs. digital), and the size of the antennas on both the U.S. and foreign ends (*i.e.*, Standard A, Standard B, Standard C, or others).

[54] With regard to IBS earth stations, INTELSAT anticipates a multi-earth station service and has already evaluated considerations of satellite efficiency. It has arrived at space segment prices that compensate it for the full cost of space segment associated with each type of IBS earth station. As to television service earth stations, the number of television channels which can be derived from a transponder is generally independent of the number or size of earth stations accessing the transponder. Ordinarily, two earth stations can access the same transponder, thus, the operational nature of this service does not pose a significant inefficiency issue.

considering applications to construct and operate multi-purpose earth stations.

29. We find that advancements in both satellite and earth station technology, such as the further development of multiplexing equipment like TDMA, will enhance the efficiency of multi-purpose earth stations and the INTELSAT system. Such advancements will be considered in reviewing applications. We also believe that there exist additional safeguards within the INTELSAT organization and processes to help assure continued efficiency of the INTELSAT system.[55] We emphasize that our jurisdiction over this matter will continue and that we have the ability to re-examine how technical factors will be evaluated in the application process.

30. A second technical issue relates to technical coordination of new earth stations with the INTELSAT system and its Signatories. At the present time, technical coordination is a five-step process. First, an earth station application is filed and its construction and use is authorized. Second, the technical characteristics and specifications are presented to INTELSAT by Comsat, the U.S. Signatory. Third, the earth station is built and is tested. Fourth, INTELSAT reviews the test results and, if the results are satisfactory, approves the use of the earth station with the INTELSAT system. Finally, the earth station is coordinated (frequencies, antennas and transponders) with other Signatories. We do not envision any significant modification of this procedure. We would expect each owner/operator to work with Comsat to transmit test results to INTELSAT and to coordinate frequencies, antennas and transponder data with other owners. While the integration of earth station and reference station [56] operations and technical coordination of U.S. earth stations into the INTELSAT system does not pose technical problems, there might arise questions as to operational coordination, planning, and owners' responsibilities. The issue of operational coordination is discussed at para. 39, *infra*.

31. We note that Comsat has recently published and distributed its "Digital Express User's Guide" which describes the process for activation and operation of Digital Express (IBS) earth stations and includes references to information on technical performance standards. It appears that this publication will assist the integration of IBS earth stations into the INTELSAT system. The publication states that Comsat provides guidance and assistance on activation and operation of such stations and such follow-on services as operational planning, provision of space segment capacity, and maintenance of network integrity in collaboration with correspondent administrations.

E. Economic Considerations

32. The economic issues addressed by the respondents concern the costs and benefits of independent ownership both to the participants in the INTELSAT system (both Signatories and international carriers) and to users of the INTELSAT system. Of central concern were the additional costs for foreign administrations (PTTs) and revenue diversion. As to additional costs for the PTTs, Comsat has argued that the PTTs will be adversely affected by our more flexible earth station ownership policy since foreign earth stations would require additional equipment to operate with new U.S. stations.[57] Notwithstanding this claim, we note that the expenditure of additional funds and the interconnection with new entrants are decisions to be made by the PTTs. Thus, for the operation of any new U.S. earth station, a willing foreign partner must exist. Foreign administrations, in order to increase their revenues, may show a greater willingness to enter into operating agreements with U.S. carriers which provide new services, have distinct customer bases and own their own earth stations. Further, new entrants and increased competition in the United States should increase demand for all INTELSAT services and thus increase revenues for both INTELSAT and its members.[58]

33. The major economic consideration is the potential for traffic and revenue diversion from existing ESOC earth stations to new earth stations.[59] Because of the size of carrier investments and the nature of the operations of the ESOC joint owners, we anticipate that the issue of revenue diversion would most likely arise under the following scenario: ESOC continues and AT&T files an application to construct and operate a new multi-purpose earth station with the intention of diverting its traffic from an ESOC facility to its new earth station. The issue presented would be whether revenue diversion would harm Comsat to the extent that earth station or space segment services to the public would be, on balance, adversely affected. If the ESOC co-owners successfully reach a settlement on the future of ESOC, we would anticipate that some arrangements would be included to minimize any economic injury, mooting the issue. However, because of the clear potential for significant revenue diversions that such earth stations may present, we will defer to the application process the question of whether a particular earth station and anticipated traffic diversion would impact Comsat so that overall service to the public would be adversely affected.

34. Comsat contended that some international carriers, AT&T in particular, are apt to divert a substantial amount of traffic from existing ESOC stations to new stations, resulting in significantly reduced revenues and higher rates for the remaining carriers

[55] We note that INTELSAT can discourage overally wide use of small earth stations or other inefficient modes of operation by exacting space segment charges for circuits transmitted from or received by these stations. Further, earth station must meet INTELSAT's technical performance standards prior to accessing the INTELSAT satellite. *See* INTELSAT Operating Agreement, Art. 14(a); Procedures Governing Application, Approval, Verification, and Operation of Earth Stations in the INTELSAT System, INTELSAT Doc. BG–35–82 (Rev. 2) (March 18, 1981).

[56] A "reference station" is a TDMA earth station within a network of TDMA earth stations that acts as a standard, or reference, for the timing of all of the stations' transmissions.

[57] Comsat claimed that an increase in costs to the PTTs would result from their need to procure additional equipment to operate with new U.S. earth stations, thus creating an economic disincentive for these PTTs to enter into operating agreements with U.S. earth station operators.

[58] Comsat also argued that the use of a greater number of circuits to carry the same amount of traffic would accelerate satellite saturation schedules and accelerate the purchase by INTELSAT of additional space segment (satellite) capacity. This additional capacity would be partially (24%) funded by Comsat and would increase Comsat's space segment rate base, revenue requirement and charges. In response to this argument we must state that we doubt additional space segment capacity beyond that already planned by INTELSAT will have to be procured as a result of our new ownership policy. First, IBS is priced in a manner which anticipates inefficient use of the space segment. Second, television service does not create inefficiencies. Third, it is probable that the INTELSAT system will have excess capacity at least for the next several years. Fourth, even if additional space segment would have to be procured, we can not simply conclude that this added cost outweighs other savings to users brought about by our new policy. In fact, we are quite confident that any increase in space segment investment and charges will be offset by reductions in earth station rates and terrestrial hauls. Finally, INTELSAT could adopt a charging policy to generate additional funds necessary for supplemental satellite procurements.

[59] The NPRM solicited comments addressing the issues of: (a) What weight should be accorded potential traffic and revenue diversion when considering authorization applications; (b) whether to treat such diversion as a natural and benign consequence of the market mechanism; and (c) whether to balance the interests of the current providers of earth station capacity with the interests of consumers likely to benefit from more efficient entrants.

and users of these stations.[60] In response AT&T stated that: (a) Its ownership interest in existing earth stations and the dedicated connecting terrestrial facilities will temper massive diversion of traffic from existing ESOC stations; (b) any diversion that may occur will be offset by traffic growth in the system; and (c) restrictions on AT&T's use of less costly and more efficient earth stations will be harmful to a large number of customers. Many potential owners of new earth stations stated that any traffic diversion would generally be offset by increases in international satellite traffic. These parties averred that existing procedures for application approval, economic self-interest and a negotiated transition for ESOC would provide a sufficient safeguard to ensure traffic diversion does not adversely affect users.[61]

35. As we stated in the NPRM,[62] the IRCs and AT&T are the ESOC members which originate and terminate traffic. They provide end-to-end service to users in contrast to Comsat which, at present, serves these carriers as a carrier's carrier. The IRCs collectively generate approximately 10 percent of the international satellite traffic. They jointly own approximately the same percent of the existing ESOC stations. Since satellite traffic handled by U.S. earth stations is estimated by INTELSAT to grow in the next several years at an annual rate of approximately 16 percent,[63] we conclude that any diversion of traffic by one or more IRCs (or new entrants such as IRI) to new stations is likely to be offset by overall market growth, thus avoiding economic harm to AT&T, Comsat, other ESOC members or the public. For the same reasons we can also conclude that construction and operation by a Comsat subsidiary of a new earth station will not injure the IRCs, AT&T or the public. Furthermore, overall demand for satellite services is likely to increase as new services develop, new entrants enter the market, terrestrial hauls are shortened and intramodal competition develops.

36. We recognize, however, that if ESOC continued in its present form and if AT&T were to divert a substantial percentage of its traffic to a new facility, then Comsat would suffer a revenue loss and the joint owners, the IRCs and AT&T would suffer a rental payment decrease on their ESOC investments.[64] Yet, if AT&T's current costs of obtaining earth station capacity exceed its total costs under an arrangement where it builds and operates one or more earth station facilities, then independent or non-ESOC ownership of earth stations by AT&T could lead to a more efficient service offering and lower rates to its users. We are cognizant that traffic diversion may result from a policy of independent ownership of international earth stations and the competitive provision of international earth station services. We are also aware that Comsat will suffer a loss of traffic should it engage in overpricing of services.

37. We intend to evaluate specific contentions of revenue diversion in the application process when a particular set of facts are before us. We shall primarily look at the effect of diversion on service to the public rather than the effect on the petitioning carrier. Thus, unless it can be demonstrated that traffic diversion will significantly impact a carrier's ability to provide service to the public and that the public will, on balance, be adversely affected by this occurrence, we do not intend to limit or bar AT&T's (or any other carrier's) entry into the earth station market. The Supreme Court set the standard governing additional competitive entry into a given market by mandating that we determine whether competition is reasonably feasible in those markets sought to be served and that additional competition serves the public interest.[65] The Court stated that the Commission, in determining whether additional competition is in the public interest, "is not required to make specific findings of tangible benefit . . . but must at least warrant . . . that competition would serve some beneficial purpose."[66] The commission, in *Mackay Radio and Telegraph Co.*, 28 FCC 231 (1960) (*Mackay*), stated that the feasibility of competition depends upon whether there is sufficient traffic to support the additional competition and upon the effect of the additional competition upon the applicant as well as all other carriers providing service to the public. In *telocator Network of America* v. *FCC*, 691 F. 2d 525 (D.C. Cir. 1982) *(Telocator)* the circuit court reiterated the standard for additional competitive entry:

> [T]he Commission may lawfully allow, and indeed encourage, entry of multiple carriers offering overlapping services, if it has reviewed the characteristics of the particular communications field involved and rationally concludes that competition in that field predictably would further the public interest in larger, more economical, and more effective service. Essentially, the Commission must be able reasonably to forecast, first, that new entry will not so severely impair the economic base of existing carriers that the industry would experience an incidence of failure so high as to impair provision of service to the public and, second, the injection of new providers will probably result in better, cheaper, or more innovative communications offerings. These forecasts must have some ascertainable foundation in the record; at the same time, however, conclusions on the future conduct of licensees, the anticipated reaction of investors, the expected course of technological development, and other assumptions about the functioning of tomorrow's communications market are unavoidably exercises in prediction. For such prognoses, we can require only that the agency's decisional memoranda reveal that it identified all relevant issues, gave them thoughtful consideration duly attentive to comments received, and formulated a judgment which rationally accommodates the facts capable of ascertainment and the policies slated for effectuation (footnotes omitted).[67]

The District of Columbia Circuit Court also employed the *RCAC* standard in approving authorization to construct earth station for Hawaii—U.S. service.[68] The reasoning in this line of cases clearly indicates that the *RCAC* standard is applicable to the

[60] We again note that AT&T is the source of approximately 90 percent of international telecommunications traffic, is the largest owner of underseas cable, and owns the connecting terrestrial lines that link U.S. international earth stations and cables to major population centers.

[61] Most respondents argued that the Commission should at least consider revenue and traffic diversion on a case-by-case basis when determining whether to authorize new earth stations. Application criteria are discussed in greater detail within the context of the future market structure at para. 49, *infra*. Our discussion of the determination of the public interest follows at para. 37, *infra*.

[62] At para. 41.

[63] The forecasted annual global growth rate (percent) for INTELSAT traffic is estimated to grow approximately 14 percent. These figures are taken from the "INTELSAT Traffic Data Base Resulting From the 1984 Global Traffic Meeting," released by INTELSAT on August 13, 1984.

[64] Because the IRCs' ownership share in ESOC is realatively small, we can conclude that any rental payment loss suffered by the IRCs due to independent ownership and operation of a multi-purpose earth station by AT&T will not be substantial, will represent only a small percentage of their total revenues, and will not adversely affect their operations or the type, quality or price of services offered to the public.

[65] *FCC v. RCA Communications, Inc.*, 346 U.S. 86 (1953) (*RCAC*).

[66] *RCAC*, 346 U.S. at 96–97.

[67] *Telocator*, at 544. *See also in the Matter of Overseas Communications Services*, 92 FCC 2d 641 (1982) (*TAT–4*).

[68] *Hawaiian Telephone Co.* v. *FCC*, 589 F. 2d 647 (D.C. Cir., 1978). The Commission has employed the *RCAC* standard in approving SBS international service [*In the Matter of Satellite Business System*, 91 FCC 2d 940 (1982)]; the dirct provision of television service by Comsat [*In the Matter of Spanish International Network*, 70 FCC 2d 2127 (1978)]; and in setting aside both the TAT–4 policy which limited AT&T's international service offerings and any other policy which limited the IRC's offerings [*In the Matter of Overseas Communications Service*, 92 FCC 2d 641 (1982)].

determination of additional competitive entry into the international earth station services market.

38. On the issue of revenue diversion, we do not believe that the public would be adversely affected if Comsat no longer was the sole provider of earth station services. As to the provision of earth station services generally, other entities appear eager to construct and operate a variety of earth stations. The provision of earth station services by carriers with customer bases eliminates a middleman and may be the most efficient way to provide service. Further, regardless of the ownership and operation arrangement of international earth stations, all present and future authorized carriers are insured "nondiscriminatory use of, and equitable access to, the communications satellite system and satellite terminal stations. . ." pursuant to section 201(c)(2) of the Communications Satellite Act of 1962, as amended. 47 U.S.C. 721(c)(2). As to the provision of space segment services, we do not believe that the independent ownership of multi-purpose earth stations by AT&T will adversely affect Comsat's ability to provide space segment capacity. We first note that AT&T's large investment in ESOC, which we increase today, may temper, any AT&T plan for the major diversion of traffic from an ESOC facility to a wholly owned AT&T facility. We also note the growth in demand for international satellite services and the development of new services. Finally, the placement of Comsat's earth station investment in a separate subsidiary will insulate its earth station offerings from its jurisdictional space segment services which we anticipate would remain a profitable line of business.

39. Another area of concern is the integration of the operations of U.S. earth stations into the INTELSAT system and the obligation of the United States to install new earth station equipment as scheduled by INTELSAT. We do not regard the issue of integration as technical since there is no technical barrier to the ability of earth station owners to coordinate frequencies, antennas, and transponders data with the INTELSAT members. Integration does, however, pose the problem of who should bear the costs of operational coordination (*i.e.*, the costs of additional equipment or reference stations). For instance, as we noted in the NPRM,[69] an issue may arise when INTELSAT, with input from the United States, decides that certain traffic from certain countries should be handled by special modulation formats, such as TDMA. As an operational policy, INTELSAT does not decide which earth stations in a given country should change their formats to meet these requirements. It allows the country to make this decision. With competitive stations, disagreements among the owners may arise regarding who should incur the extra investment. We proposed in the NPRM to permit the station owners to resolve integration matters through negotiations. Subsequently, and only if necessary, would we resolve the matter through our retained jurisdiction and conditioned authorizations. We here affirm that tentative conclusion. Thus, earth station owners will, in the first instance, have the opportunity to resolve integration issues themselves. However, in recognition of the importance of these issues, we shall retain jurisdiction over U.S. earth stations and condition earth station authorizations, as necessary, to remedy any integration problem.

[69] At para. 38.

F. The Future of ESOC and Other Issues

40. *ESOC:* One of the central issues raised by the transition to a new competitive earth station ownership policy is the appropriate disposition of the ESOC earth station investments. We noted in the NPRM that the owners may opt to retain ESOC, to dissolve ESOC or to establish a "hybrid" ownership arrangement. We reached no tentative conclusion as to which arrangement would be most efficient or best serve the public interest. All respondents addressing this issue supported our proposal of permitting the joint owners to negotiate among themselves the future of ESOC and then submit an agreement to the Commission for our consideration.[70] We continue to believe that comprehensive negotiations among the joint owners are appropriate and we therefore affirm our tentative conclusion to permit negotiations. The more difficult question is what course of action would best serve the public interest if an agreement is not reached. We indicated in the NPRM that after a negotiating period of several months we would consider individual proposals on the disposition of the earth stations. We proposed such a filing to emphasize to the carriers the importance we attach to resolving this issue and to convey to them a sense of urgency. Since the carriers have already initiated discussions it is clear that they share our concern and sense of urgency. Therefore, we need not establish an artificial deadline for the negotiations. We do, however, request the owners to file periodic reports on the state of negotiations as they have done over the past several months. If these reports indicate that the negotiations have broken down, we will solicit proposals for our consideration. We expect, of course, that any arrangement would be consistent with the antitrust laws and assure the continuance of efficient, high quality service without any disruption at reasonable rates and with equitable access to all earth stations.

[70] We note that the joint owners have in fact initiated discussions subsequent to the release of the NPRM. From the pleadings, we can discern that some progress has been made in negotiating the disposition of ESOC. *See* fn. 39, *supra.*

41. *ESOC Dispute:* In resolving this limited dispute, we required RCA and WUI to make whole their ESOC capital contribution accounts prior to requesting that we act on their requests to reallocate ownership shares.[71] Having satisfied that condition precedent, RCA and WUI requested, both in this proceeding and a separate Common Carrier Bureau proceeding,[72] that we reallocate ownership shares in ESOC to more accurately reflect the current usage of ESOC facilities by the joint owners. In their filings in this docket WUI and RCA indicated their belief that a reallocation of ownership shares would facilitate the ESOC negotiations.[73]

[71] *See* para. 10 and fn. 16, *supra.*

[72] RCA Request for Immediate Interim Relief, I-S-P-84-006 (released August 17, 1984). *See* fn. 17, *supra.*

[73] Hawaiian stated that it had no objection to RCA's requested reallocation as long as it did not delay the current ESOC negotiations or prejudge the Commission's policy with regard to the eventual dissolution or rearrangement of ESOC. ITT, which took no position with regard to the ESOC capital contribution dispute between RCA and Comsat, opposed RCA's proposal concerning reallocation of ownership shares in the Paumalu, Hawaii earth station. ITT objected to RCA's proposal that both RCA and ITT receive approximately the same ownership share even though RCA has three times the usage at this earth station. AT&T opposed RCA's request for reallocation, stating that: (a) RCA's request is, in effect, a late filed petition for reconsideration of the Commission's earlier *ESOC Dispute* order; (b) the Commission had already ruled on RCA's reallocation request and RCA thus waived its right for appellate review of the ruling; (c) reallocation would violate the fundamental basis for the establishment of ESOC as a voluntary organization; (d) reallocation is now imprudent in light of the current negotiations to end the present ESOC joint ownership scheme; and (e) RCA's claim that it is overinvesting in ESOC facilities is weak since RCA receives through rental payments paid by AT&T and other non-ESOC carriers a return on the capital which it invests in ESOC. Further, AT&T argued that RCA's investment in ESOC is included in its rate base on which it earns its authorized rate of return.

We shall today grant this request in this proceeding for three reasons.[74] First, our 1966 policy decision and subsequent orders establish that we have asserted jurisdiction over the existing ownership arrangement and the ownership shares. The ESOC Agreement specifically acknowledges our power to reallocate shares by conditioning the ownership of the existing and additional earth stations "subject to the further order of the Commission."[75] Second, we have always recognized the dynamic nature of the satellite telecommunications industry and state in our *Second Report and Order* that the quotas prescribed by us are "subject to revision in the light of experience gained and will be expressly subject to reexamination and possible readjustment on the basis of data submitted to the Commission."[76] Reallocation is also consistent with our earlier ESOC orders, that the allocation of ownership shares "is one under which ownership is reasonably related to use."[77] All parties to ESOC agree as to the disparity between the ownership shares initially assigned by the Commission in 1966 based on carrier projections and the joint owners' current usage. Third, because the continued existence of ESOC, on one form or another, is a possible outcome of the joint owners' discussions, we believe it equitable to act on these reallocation requests. We note, however, that this reallocation is not intended to suggest our preference as to the future ownership and operation arrangement. We further note that the ESOC negotiations are broad discussions relating to the future operations of ESOC as well as the disposition of ESOC investment shares. While this reallocation of shares may impact the broad negotiations, we do not believe that the effect will be significant or create any major stumbling blocks.

42. The ownership shares which we now adopt on the basis of actual use of the international earth stations are set out below under the "use" column:

Station and carrier	Existing ownership share (percent)	Reallocated ownership share (percent) based on current usage [78]
Contiguous United States:		
Comsat	50.0	50.0
RCA	10.5	1.4
WUI	4.0	1.1
AT&T	35.5	47.5
Hawaii:		
Comsat	50.0	50.0
RCA	11.0	4.85
WUI	3.0	1.9
ITT	6.0	4.35
Hawaiian	30.0	38.9
Guam:		
Comsat	50.0	50.0
RCA	42.0	48.9
WUI	8.0	1.1

[78] Traffic shares are the number of circuits projected to be in use divided by 2, to reflect usage in terms of ownership shares. We note that in authorizing the construction by ESOC of a third east coast earth station we required the ESOC members to enter into ownership svtotiations with all eligible international service carriers. In this case, TRT Telecommunications Corporation (TRT) had indicated a desire to acquire an ownership interest in ESOC that was reasonably related to its use of the international earth station facilities. *Comsat*, 90 FCC 2d 68 (1982), at 86. TRT ultimately decided not to become an ESOC member.

Usage ratios are as of June 30, 1984. *See* letter from Allen E. Flower, ESOC Financial Representative, Comsat, to Robert E. Conn, MCII, dated August 30, 1984. The figures are from the ESOC Financial Statements, August, 1984.

Because there is no disagreement among the joint owners as to their respective current usage of each of the ESOC facilities, we will require that all operating licenses held by Comsat on behalf of all ESOC members, or by all ESOC members jointly, for each of the respective international earth stations be amended to reflect the above-stated new ownership interests.

43. *Unbundling:* The unbundling by Comsat of space segment and earth station charges is a necessary and logical requirement to make competition feasible in the provision of earth station facilities. Because the WSD continues to be the sole provider of INTELSAT space segment, Comsat would have both the incentive and ability to favor use of its own earth stations if bundled rates were permitte.[79] Comsat could accomplish this by lowering costs which it allocates to space segment for its own offerings and bundling space segment and its own earth station services into one rate element. If this were done, we would have great difficulty in assessing whether these changes were reasonable and whether lengthy investigations could be required. We shall therefore require that Comsat unbundle the earth station and space segment components of the rate elements for all of its offerings presently contained in Tariff No. 6, 14 and 101 and refile separate cost-based rates.[80] On a related matter, we reject AT&T's proposal that we require Comsat to request at this time the availability of full and partial transponder capacity from INTELSAT based on equivalent voice channels requirement and to offer such capacity in its unbundled space segment tariff.[81] We agree with Comsat and ITT that this issue is beyond the scope contemplated by the NPRM and that there is an insufficient record on which to base such a decision.

44. In response to our request in the NPRM, Comsat submitted sample tariffs and an explanation of the methodology employed to derive such rates. Most respondents found the submission unacceptable and called upon the Commission to both investigate or arrange an independent audit of space segment costs and direct Comsat to file fully supported tariff proposals. The parties argued that Comsat failed to clearly identify and describe the costs of all activities and failed to verify that: (a) Its total costs for its INTELSATE services are accurate and reasonable and do not reflect cross-subsidization; (b) its allocation of costs between space and ground segments is accurate and reasonable; and (c) its rates are fairly derived from valid demand projections, are just and reasonable for each of its different services and reasonably reflect "used and useful" endeavors justifiably chargeable to Comsat's monopoly ratepayers.[82] The purpose of receiving a sample tariff from Comsat was to permit interested parties and the Commission staff the opportunity to preview an unbundled tariff and to give Comsat a preliminary opportunity to receive feedback on such a filing. The attention paid to the sample filing indicates that it served this purpose well. However, as merely a sample tariff, it cannot be the subject of any conclusions here. When

[74] As we stated in our Capital Contributions Dispute order, Mimeo. No. 34410, *supra*., petitions for reallocation of ESOC ownership shares would be considered in the *Earth Station Ownership* proceeding. MO&O, *supra*. para. 9. We have incorporated the responsive pleadings in File No. I-S-P-84-006 into the Earth Station Ownership docket and have decided the reallocation issue in the immediate proceeding on the basis of the public record developed in both proceedings.

[75] Earth Station Ownership Agreement, March 23, 1967, at para. 1.2.

[76] *Second Report and Order*, 5 FCC 2d at 819.

[77] *Second Report and Order*, 5 FCC 2d at 817.

[79] In most instances, Comsat presently operates as a carrier's carrier in that it is the sole provider of earth station and space segment service utilized by other international carriers in the provision of their end-to-end services. As to television offerings, Comsat can furnish its service directly to end-users.

[80] Comsat provides its services under five separate tariffs: Tariff No. 6—voice grade service for NASA between Comsat earth stations and ship mobile terminals; Tariff No. 14—high speed digital service for Advanced Research Project Agency between the Etam earth station and overseas locations; Tariff No. 16—television service between customer-provided earth stations in the U.S. and Mexico; Tariff No. 101—a general offering of voice grade, television, audio, high speed data, digital data, point-to-alternate point, and international business satellite services; and Tariff No. 102—maritime services. The rates in Tariff Nos. 6, 14 and 101 contain bundled rate elements for each service based on the costs of the INTELSAT space segment and earth stations. Tariff No. 102 includes maritime services which contain bundled rate elements for each service based on the costs of the INMARSAT space segment and earth stations. Tariff No. 16 covers only space segment costs.

[81] AT&T comments at page 16.

[82] *See* Reply Comments of ITT, pp. 3–12, RCA, Hinchman, and AT&T.

filing its tariff, we would expect Comsat to take into account the suggestions and concerns raised by the parties in the comments.

45. *Moratorium:* Comsat argued in its "wholesale/retail" combination earth station proposal that the Commission should adopt a three-year moratorium on applications for the construction of multi-purpose earth stations in order to allow the marketplace to adjust to the new ownership policy.[83] Under a deluge of responses unanimously attacking the moratorium as unwarranted and anticompetitive, Comsat restated its position as favoring a modest transition period only, that under a case-by-case analysis of multi-purpose stations, the Commission could begin processing those applications at the termination of this proceeding. We conclude that a lengthy moratorium period is unwarranted and not in the public interest. We do not believe a formal transition period for multi-purpose earth station applications is necessary as there is a built-in delay period in the application process as well as in the INTELSAT coordination and earth station construction processes. Moreover, we do not expect to receive many applications for multi-purpose earth stations while the ESOC disposition negotiations are in progress. In addition, all parties to this proceeding have been on notice since the issuance of the NOI and NPRM that we were seriously contemplating the immediate acceptance and processing of multi-purpose earth station applications upon the release of this order. It cannot be said, therefore, that any party is unfairly surprised. We shall thus begin processing such applications.[84]

46. *INTELSAT Representation:* With regard to the issue of INTELSAT representation, most respondents agreed that Comsat should continue to represent U.S. interests in INTELSAT but that we should adopt mechanisms for greater public participation in the formulation of U.S. positions in INTELSAT. This issue concerns U.S. input into INTELSAT policy, tariff and procurement decisions as distinct from the issues of earth station integration or technical coordination of U.S. earth stations with the INTELSAT system. Pursuant to the INTELSAT Agreements, Comsat is currently the U.S. Signatory to INTELSAT and represents the United States at INTELSAT meetings. Comsat's actions within INTELSAT are subject to our instructional process by which NTIA, the Department of State and the Commission develop U.S. positions on various issues. Under a competitive policy, different earth stations would be owned by different entities; these earth stations, however, would continue to be considered by INTELSAT as U.S. operated earth stations. Most parties proposed various mechanisms by which to increase carrier, operator and public participation in INTELSAT meetings and to guarantee greater carrier and public input into the instructional process. Concern was also expressed that investing carriers and interested parties should have timely access to INTELSAT documents in order to formulate and present meaningful comment to the Commission in its instructional function.

47. Comsat, the U.S. Signatory to INTELSAT under the INTELSAT Agreement, is the only U.S. entity responsible for investing in space segment. We believe that Comsat, through the instructional process, will continue to adequately represent U.S. interests. Notwithstanding this conclusion, we believe that greater carrier input on certain issues into the instructional process would be highly beneficial. The government agencies responsible for monitoring Comsat's representational role at INTELSAT meetings and issuing instructions to the Signatory (NTIA, the Department of State and the Commission) have instituted an informational procedure by which to provide the public with an opportunity to comment on issues to be addressed in INTELSAT meetings in order to broaden the base of information prior to the issuance of government instructions to Comsat. Consistent with the Commission's directives and criteria concerning the public dissemination of INTELSAT-related documents and information established in the *Comsat Structure* proceeding,[85] the Commission now makes most INTELSAT documents received by Comsat available for public inspection and comment. The comments are reviewed and considered to the extent that time allows and may, if deemed appropriate, be incorporated into specific instructions. If this procedure proves workable, it will be continued for future INTELSAT meetings. If not, we will employ whatever means may be necessary to find a workable procedure. Further, any owner/operator of an international earth station will be able to attend the annual meetings of Operational Representatives that address operating and coordinating matters that relate to the space segment and earth stations as integral parts of the global communications satellite system.[86] These meetings have traditionally been open to all earth station owners, whether they are Signatories or not. Comsat shall work with owners/operators of international earth stations to arrange for their participation in OR meetings.

48. We take special note that Comsat has taken a number of steps to increase the public availability of information regarding INTELSAT and its activities as well as Comsat's actions as U.S. Signatory. At the first of an ongoing series of public meetings, held on August 2, 1984, Comsat presented a detailed overview of INTELSAT's structure and activities including its procurement process, the mechanics of its meetings, Comsat's document distribution program, and the government instructional process.[87] Comsat also presented a review of issues currently before the INTELSAT Board of Governors.[88] Comsat also stated its intention to make available the agendas and documents for INTELSAT meetings in advance of those meetings in order to enable carriers and others to review and comment on the material before the meetings. Comsat's second public meeting on October 10, 1984, was designed to acquaint individuals with the INTELSAT operational planning process and with Comsat's role in this process. The meeting included a review of procedures instituted in the United States by

[83] Under this proposal, the first part of this period would involve negotiations necessary for the dissolution of ESOC and the establishment of the combination earth stations operations. The second part would be a baseline period during which Comsat would develop and offer a range of services to carriers only. Comsat proposed that the Commission completely forebear from accepting applications for multi-purpose and television earth stations at this time.

[84] As we have noted earlier, IBS earth station applications have already been granted conditioned on this Report and Order. *See* fn. 19, *supra.*

[85] *Changes in the Corporate Structure and Operations of the Communications Satellite Corporation,* 90 FCC 2d 1159 (1982) (*First Structure Order*), *recon. denied,* 93 FCC 2d 701 (1983), *Comsat,* 97 FCC 2d 145 (released April 20, 1984) (*Second Structure Order*). *See also* letter dated March 30, 1984, from the Chief, Common Carrier Bureau, to Lawrence M. DeVore, Vice President and General Counsel, World Systems Division, Comsat, regarding Comsat's implementation of the Commission's directives in its *Comsat Structure* order on the public availability of information, technical data and patented inventions generated by or on behalf of the INTELSAT and INMARSAT organizations.

[86] *See* Operations Representatives Organization and Coordination Procedures, BC–29–62E, October 3, 1977.

[87] While Comsat has indicated in its letter to Chairman Fowler, August 9, 1984, that similar overview briefings will not be necessary on a regular basis, it has offered to hold them for any interested individuals or groups.

[88] Comsat stated its intention to hold such forums for review and discussion on a quarterly basis, in synchrony with the schedule of Board of Governors' meetings, and to place taped records of these review meetings in the public document room.

Comsat to insure that all U.S. operational requirements are identified, planned for, and satisfied in a timely and coordinated fashion, and the continuity and quality of U.S. services using INTELSAT is maintained. Comsat also conducted two public working group meetings on October 11, 1984, one of which was designed for U.S. International Service Carriers and U.S. international earth station operators on the preparation for the October 24, 1984 INTELSAT Operations Representatives' Conference. The other working group meeting was designed for operators and potential operators of U.S. Digital Express (IBS) earth stations to review and discuss planning, implementation, operation, and coordination matters affecting earth stations for INTELSAT IBS services. Finally, Comsat has established an office of the World Systems Division Vice-President, International Operations, to handle in a timely and equitable manner, public inquiries related to INTELSAT issues.[89]

49. *Application Criteria:* We conclude with respect to application criteria that all relevant public interest factors shall continue to be considered under Parts 25 and 63 of the Commission's Rules in deciding whether to authorize the construction and operation of new earth stations and determining the future operation of existing stations.[90] We are aware, however, that the pertinent factors can differ with respect to different classes of earth stations. As to applications for IBS stations, the issues of system efficiency and revenue diversion are not critical for our consideration. IBS is a flexible, totally digital integated service designed to accommodate a full range of user applications including private facsimile, data and teleconferencing. INTELSAT has planned the space segment capacity for IBS, unlike its standard capacity, to enable a single transponder to accommodate access by a large number of earth stations. The IBS capacity is further designed to accommodate user networks through a variety of connectivity arrangements. Since the multiple access concept is an integral part of the IBS concept, we need not consider the efficiency effect of multiple IBS earth stations on established INTELSAT services.[91] As to applications for television earth stations, we again do not consider the issues of inefficiency or revenue diversion to be critical for review. Like IBS, television service is a specialized offering distinct from INTELSAT's general offering of space segment capacity. This service is a minor source of revenues for INTELSAT (4 percent) and is provided by a small number of specific satellite transponders which can be accessed by only a limited number (ordinarily two) earth stations per transponder at a given time. Since no greater number of earth stations would access technically a particular transponder even under a more liberal ownership policy, and since revenue diversion would be an insubstantial part of Comsat's current revenues, we shall not consider these factors in our application authorization analysis. We shall therefore process the applications for both IBS and television service stations on a routine basis with consideration limited to legal (citizenship and character), financial (ability to meet the costs of construction and operation), and technical (station location, desired frequencies and types of equipment to be used, hours and mode of operation, etc.) qualifications of the applicant as required by sections 308 and 319 of the Communications Act. Absent special problems, the Commission shall treat these applications as routine and will seek to expeditiously process them. Upon grant, the applicant shall be issued a combined Radio Station Construction Permit and License (FCC Form 456–P). While we shall limit the use of the facilities authorized for the provision of IBS or television services to these services, carriers may seek additional authorization if they desire to use these facilities as multi-purpose earth stations.

50. We shall continue to closely scrutinize applications for multi-purpose earth stations as they raise more complex economic, technical and operational issues and may affect the variety, quality and price of services offered to users. In determining whether the public interest would be served by a grant of a particular application, we shall analyze the impact of a grant on the provision of earth station and space segment services. We shall proceed with this analysis of how a proposed facility would affect service to the public by balancing the possible benefits (*e.g.*, shorter terrestrial hauls, increased user options, lower charges to users, and increased customer base for INTELSAT services) against the possible detriments (reduced technical efficiency, harmful revenue diversion, service deterioration and higher changes to users) which a particular application may present. Because we have adopted a case-by-case approach, a moratorium or permanent bar on the ability of AT&T or any other entity to own and operate its own international earth stations is unwarranted.

51. With regard to applications for all classes of earth stations, we shall monitor frequency coordination and engage in procedures to implement the National Environmental Policy Act of 1969, 42 U.S.C. 4321–4347, as may be necessary. Applicants shall file FCC Forms 401 (Application for New or Modified Common Carrier Radio Station Construction Permit) and 430 (Common Carrier and Satellite Licensee Qualification Report) in addition to a section 214 application under § 63.01 of the Commission's Rules. Upon acceptance for filing, the applications shall be placed on 30 days public notice pursuant to section 309 of the Act and § 63.52 of the Rules. Further, section 201(c)(2) of the Communications Satellite Act requires authorized carriers to have nondiscriminatory use of and equitable access to the communications satellite system and satellite earth stations owned by other carriers.

52. *Structure:* As to the appropriate organizational form for Comsat's participation in the competitive ownership and operation of earth stations, we conclude that all of Comsat's earth station activities must be provided through a common carrier entity separate from the parent World Systems Division. We reject Comsat's agrument that earth station ownership must be within the World Systems Division rather than within a competitive subsidiary in that as a matter of law, the parent is the "corporation" as referenced in section 201(c)(7) of the Communications Satellite Act.[92] We believe that the term

[89] Comsat has proposed that it will continue to provide carriers with the plans which INTELSAT proposes for consideration by the meetings of Operations Representatives, and continue to hold briefings before and after these meetings to discuss both the proposed and agreed upon plans with the carriers. We have concluded that any independent earth station owner may attend such meetings. However, the participants in the OR meetings may, at their discretion, continue to hold briefings among themselves before and after the OR meetings to discuss any of the technical issues arising from the meetings.

[90] *See* para. 37, *supra*, for our discussion on the determination of the public interest in the 214 application process.

[91] We reject Comsat's proposal for a structured framework to be instituted by which the Commission could restrict the number of IBS stations in a particular market or geographic area that could otherwise inhibit efficient use of IBS capacity to serve all areas of the United States. We believe that U.S. use of IBS capacity should be determined by the actual need for IBS service as demonstrated by applications that we may receive and not by some predetermined plan.

[92] Section 201(c)(7) of the Communications Satellite Act directs the Commission to grant appropriate authorization for the construction and operation of earth stations to the corporation (Comsat), to authorized carrier(s), or to both jointly.

"corporation" includes the subsidiaries of Comsat. This view is consistent with our determination in the *Comsat Study*, the *First Comsat Structure* order and the *Second Comsat Structure* order that most activities other than the provision of INTELSAT space segment capacity should be performed outside of the World Systems Division.[93] We reject Comsat's arguments that: (a) There would be overriding cost problems resulting from this structural separation; (b) traditional regulatory oversight would obviate the need for separation; (c) structural separation would sacrifice efficiency resulting from Comsat's management of both earth stations and space segment services; and (d) if *Authorized User II* policy is reinstated, Comsat would have to form two separate subsidiaries, one for the provision of end-to-end services and the other for basic transmission service.[94]

53. As we emphasized in our *Comsat Structure* decisions, the structural separation of Comsat's jurisdictional activities from its nonjurisdictional activities will minimize cross-subsidization between competitive and monopoly services. It will also insulate Comsat's monopoly rate base, provide for separate accounting treatment for the monopoly services, assure arms-length dealings between the competitive subsidiary and the WSD, and help prevent improper transfers of information. Comsat has not filed with us data that would refute our finding of the need for a separate common carrier subsidiary. We also reject the transitional proposal raised by AT&T and RCA which would permit Comsat to retain its interest in multi-purpose earth stations in the WSD until ESOC's future is determined. This approach would be reasonable if ESOC were to be dissolved shortly. However, that is not necessarily the case: The owners may decide to continue ESOC. Thus, we find moving all of Comsat's earth station investment from the WSD to a separate subsidiary to be the prudent solution.[95]

54. We therefore conclude that all Comsat applications for new stations or for modifications to authorized stations be made through a Comsat common carrier subsidiary. Comsat shall also transfer any ownership interests in authorized INTELSAT stations from its World Systems Division, which provides monopoly space services, to a separate common carrier subsidiary, which will provide competitive earth segment services. Applications shall include a description of all functions to be transferred to the subsidiary as well as a description of all functions to be retained by the World Systems Division. An application for such a transfer shall be submitted to the Commission for review prior to implementation.

III. Summary of Conclusions

55. *Flexibility in Authorization for New Earth Stations.* We conclude that the adoption of a more liberal earth station ownership policy which depends upon marketplace forces is consistent with the Communications Act of 1934 and the Communications Satellite Act of 1962. We find that carrier owned and operated earth stations are technically feasible, create no major economic hurdles, will not greatly affect our foreign partners in INTELSAT, and will result in lower cost and technically superior service to consumers. We also find that a smooth transition to this environment can be achieved without jeopardizing service to users or carrier investments. We thus permit any international carrier or group of carriers to apply for authority to construct and operate such stations, whether IBS, television, or multi-purpose types. To facilitate this policy, Comsat shall be required to file unbundled, cost-based tariffs for INTELSAT space segment and earth segment usage. Consistent with our *Comsat Structure* orders, Comsat shall file space segment tariffs through its World Systems Division and earth station tariffs through a subsidiary acting as a common carrier. Finally, we conclude that a moratorium on accepting applications is not in the public interest.

56. *Authorization Criteria for New Earth Stations.* We conclude that relevant technical, economic and operational considerations shall be addressed in our determination of whether to authorize a particular multi-purpose application. Pursuant to the *RCA, Mackay, Telocator,* and *Hawaiian* line of cases, we shall evaluate on a case-by-case basis whether, among other things, a particular proposal will serve the public interest. We shall balance the benefits of reduced distance to users, access to new satellites, lower charges to users, and increased customer base for INTELSAT services against the detriments of reduced technical efficiency and revenue diversion. We shall particularly look at the overall impact on the provision of earth station services and space segment capacity. Applications for IBS and television (video) earth stations shall be processed in a streamlined, routine fashion, with consideration limited to legal (citizenship and character), financial (ability to meet the costs of construction and operation), and technical (station location, desired frequencies and types of equipment to be used, hours and mode of operation, etc.) qualifications of the applicant as required by sections 308 and 319 of the Communications Act.

57. *Flexibility in Determining the Future of ESOC.* We conclude that equity and the public interest demands that we reallocate ownership shares in ESOC to accord with the joint owners' current usage of ESOC facilities. Subsequent to the release of this order, the joint owners of the existing international earth stations shall have the opportunity to negotiate a resolution of the future of ESOC. Any arrangement unanimously agreed upon by the joint owners shall be subject to Commission review.

IV. Ordering Clauses

58. This Order is Issued to adopt and promulgate our new policy with regard to the ownership and operation of U.S. international earth stations that operate with the INTELSAT global communications satellite system.

59. It is ordered that pursuant to our authority under sections 4 (i) and (j) and 205 of the Communications Act of 1934 and sections 201(c) (7), (9), and (11) of the Communications Satellite Act of 1962, and § 1.423 of the Commission's Rules this order is issued.

60. Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), it is certified, that sections 603 and 604 of the Act do not apply because this rule will not have a significant economic impact on a substantial number of small entities. See 5 U.S.C. 603, 604, 605(b). We do not anticipate that a substantial number of carriers will enter the earth station market. Further, we do not believe that very many of these entrants will be small entities.

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[93] *See Comsat Study*, 77 FCC 2d 564 (1980) *Comsat*, 90 FCC 2d 1159 (1982) (*First Structure Order*) and *Comsat*, 97 FCC 2d 145 (released April 20, 1984). (*Second Structure Order*).

[94] While recognizing that in some instances competitive activities should be carried out in a separate subsidiary so that the corporation's competitive ventures do not profit at the expense of ratepayers, Comsat claimed that a separate subsidiary requirement is expensive, necessitating a duplication of functions and impeding the overall efficiency of the organization.

[95] We find here only that implementation of our *Earth Station Ownership* policy requires that Comsat place its investment in earth stations into a separate subsidiary. In *Authorized User II*, we are considering whether Comsat should also be allowed to offer end-to-end (retail) telecommunications services and, if so, whether it should be required to offer such services through a separate subsidiary. We have not yet resolved either question. We shall therefore include Comsat's arguments on the disadvantages of multiple subsidiaries in our *Authorized User II* policy.

61. It is ordered, that the Secretary shall cause a copy of this order to be published in the **Federal Register** and shall mail a copy of this order to the Chief for Advocacy of the Small Business Administration.

62. It is ordered, that the ESOC joint owner's ownership shares in ESOC facilities shall be reallocated based on current usage figures. All operating licenses held by Comsat on behalf of all ESOC members, or by all ESOC members jointly, for each of the international earth stations shall be amended by January 18, 1985 to reflect the new ownership interests set forth below:

Station and carrier	New (reallocated) ownership shares (percent)
Mainland:	
Comsat	50.0
RCA	1.4
WUI	1.1
AT&T	47.5
Hawaii:	
Comsat	50.0
RCA	4.85
WUI	1.9
ITT	4.35
Hawaiian	38.9
Guam:	
Comsat	50.0
RCA	48.9
WUI	1.1

63. It is ordered, that to effectuate the separation by Comsat of its earth station activities from its space segment activities, Comsat shall transfer from the parent World Systems Division to a subsidiary all ownership interests in authorized international earth stations operating with the INTELSAT global satellite system.

64. It is ordered, that on or before January 18, 1985, the Comsat subsidiary referred to in paragraph 63 shall file an application under Section 214 of the Communications Act for certification as a common carrier to provide earth station services via the INTELSAT global satellite system.[96]

65. It is ordered, that on or before January 18, 1985, the Comsat World Systems Division shall file an application: (a) To modify its authorizations under section 214 of the Act to provide for the transfer of earth station activities to the separate common carrier subsidiary referred to in paragraph 63; and (b) to transfer to the separate subsidiary all Title III radio licenses issued to the World Systems Division on its own behalf or on behalf of the Earth Station Ownership Committee for the operation of satellite earth stations in connection with services of the INTELSAT global satellite system.

66. It is ordered, that Comsat shall file, in accordance with our rules, cost-based tariffs for INTELSAT space segment through the parent World Systems Division and file earth station tariffs through a separate subsidiary acting as a common carrier on February 1, 1985, to become effective on 45 days notice after filing of tariffs.

67. It is ordered, that Comsat shall file through a separate common carrier subsidiary all applications for new international earth stations or for modifications to authorized international earth stations.

68. It is ordered, that the request of Equatorial Communications Systems for Commission revision, in this proceeding, of Part 25 of our Rules to permit U.S.-based receive-only satellite earth stations to receive signals from any INTELSAT satellite without being licensed is denied.

69. It is ordered, that the motion of RCA Global Communications, Inc. for leave to file late reply comments to a Public Notice released in File No. I–S–P–84–006 (RCA Request for Immediate Interim Relief) is granted.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84–33473 Filed 12–24–84; 8:45 am]

BILLING CODE 6712-01-M

[96] We note that these filing procedures may necessitate our granting Comsat special temporary authority, pending final action on the required applications.

47 CFR Parts 73 and 78

Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends broadcast station regulations in 47 CFR Parts 73 and 78 of the FCC rules. Amendments are made to delete regulations that are no longer necessary, correct inaccurate rule tests, contemporize certain requirements and to execute editorial revisions as needed for purposes of clarity and ease of understanding.

EFFECTIVE DATE: Effective on December 26, 1984.

FOR FURTHER INFORMATION CONTACT: Steve Crane, Policy and Rules Division, Mass Media Bureau, (202) 632–5414.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 73

Radio broadcasting, Television broadcasting

47 CFR Part 78

Cable television relay service.

Order

In the matter of oversight of the radio and TV broadcast rules.

Adopted: December 13, 1984.
Released: December 20, 1984.

By the Chief, Mass Media Bureau.

1. In this *Order*, the Commission focuses its attention on the oversight of its radio and TV broadcast rules. Modifications are made herein to update, delete, clarify or correct broadcast regulations as described in the following amendment summaries:

(a) Section 73.61, AM directional antenna field measurements, was adopted in the Fourth Report and Order in Docket 20817, the Radio Operator Licensing Program, 46 FR 35450, July 8, 1981. That proceeding eliminated the testing and licensing program for First Class Radiotelephone operators.

In the Report and Order, the Commission recognized that there were a ". . . number of AM stations, using directional antenna systems, that are not required to make certain antenna field strength measurements or annual proofs of performance because they employ as duty operators only persons holding the First Class license." The text of the Order continues, "As there will no longer be any First Class operator requirements, some modification of this rule must be considered. "Until such a rulemaking procedure is concluded, however, those stations will continue to be exempt from the measurement requirements."

The exemption to the requirements for measurements was stated in Note 2 to§ 73.61. This Note 2 has prompted many queries from licensees and engineering consultants asking for clarification. In this Order, the Note is rewritten for purposes of clarity; and also several inaccuracies in the rule will be corrected, as follows:

—Paragraph (b) states that antenna proof measurements must be made and analyzed pursuant to procedures given in § 73.154 (Directional antenna partial and skeleton proof of performance filed strength measurements). Missing is the reference to an equally important procedural regulation, § 73.186. Establishment of effective field at one mile. It is added to the rule herein; and

—Paragraph (b)(2) cross references itself. It is corrected to state in the closing sentence of (b)(2) ". . . . as required by paragraph (b)(1) of this section"; and

—Paragraph (a)(1) is redesignated paragraph (c). Its stated requirements to have correctly functioning . . . . equipment" for the required measurement procedures pertains to paragraph (b) as well as (a) and is therefore redesignated the final paragraph (c), in the rule section. (See appendix item 1.)

(b) Quite a few inquiries have been received by the staff regarding interpretation of the amendments to §§ 73.68 and 73.69 which were revised in the Report and Order in BC Docket 82–537,[1] regarding elimination of operating and maintenance logs.

In § 73.68, Sampling systems for antenna monitors, paragraph (d) formerly provided that in the event the antenna monitoring sampling system became temporarily inoperative, a station could operate for up to "60 days without further authority from the FCC" if certain technical operational determinations were made (i.e., base currents, their ratios and deviations from station authorization values) and if field strength measurements were made at least once every 7 days. These measurements and observations, of course, formerly had to be entered in the maintenance log.

In revising the rule to eliminate the maintenance logging requirement, the frequency of determining base currents, et al, was unintentionally overlooked. The decision to reduce the frequency of observation from "once each day" to "as often as necessary to insure proper directional antenna system operation" was, unfortunately, lost in the drafting of the revised rule. Further, the requirements to take field strength measurements weekly during this out-of-service period of the sampling system, was inadvertently dropped. These time-frequency elements, mistakenly dropped from our rule as revised, have directly caused the large numbers of questions from our licensees and their technical advisors regarding the matter. The rule is herein revised and corrected to restate the required frequency of determination of base currents and their ratios and the making of field strength measurements on a weekly schedule. (See appendix item 2.)

(c) In addition to § 73.68's aberrations as described in paragraph (b) above, we also find shortcomings in § 73.69, Antenna monitors, as revised in the Report and Order in BC Docket 82–537.[2] In this rule, in paragraph (b), we find that stations whose antenna monitors become defective may be operated without them for up to 60 days without further FCC authority, pending their repair or replacement. As in § 73.68, there are certain requirements to which licensees must adhere: base currents and their ratios must be determined. But here again (as in § 73.68) the revised rule is silent regarding frequency of these determinations; and the taking of field strength measurements, weekly, has heedlessly been omitted in the final rule text. Again, we take the direction that relaxes the former rule and simply state that base currents and their ratios, and deviations of those ratios from the values in the station authorization will be determined "as often as necessary to ensure proper directional antenna system operation." Further, we herein reenter the mistakenly eliminated requirement to take field strength measurements at each monitoring point once each calendar week during the period the monitor is inoperative. (See appendix item 3.)

(d) FM allotments and assignments must be separated from other allotments and assignments on the same channel and five adjacent channels by certain minimum distances. The minimum distance separation requirements are found in § 73.207. Paragraph (b)(2)(ii) of this rule states "Under the Canada-United States FM Agreement, a short spacing of up to 8 kilometers (5 miles) in the direction of a related station may be considered acceptable depending on the circumstances of each individual case." This text is derived from the old Working Arrangement of the Canada-United States FM Broadcasting Agreement of 1947 (paragraph f thereto). In the new Working Arrangement between the two countries, dated September 7, 1984, this 5 mile short spacing consideration was eliminated. It is therefore removed from § 73.207 since it is no longer applicable. Also, Table B, "Minimum Distance Separation Requirements," is revised to show the new agreements reached in the new Working Arrangement. (See Appendix item 4.)

(e) Section 73.675 Operation during emergency was absorbed into a Subpart H (Part 73) rule applicable to all services, AM, FM and TV, in the Order adopted by the Commission September 22, 1978. 69 FCC 2d 979. The new rule was numbered and titled § 73.1250 Broadcasting emergency information. Failure to change cross references in the EBS rules in Subpart G, Part 73 leaves the old TV section number (§ 73.675 which has been deleted) in §§ 73.933 and 73.936 instead of the correct cross reference to § 73.1250. Correction is made herein. (See appendix items 7 and 8.)

(f) Section 73.681 sets forth the definitions for the FCC's TV technical standards. The definition of effective radiated power states, in part, that "the licensed effective radiated power is based on the average antenna power gain for each direction in the horizontal plane." However, this value is not specifically requested on the application form, is not determined in most applications and is not used by the Video Services Division engineering staff in their study of applications. The effective radiated power (ERP) in the horizontal plane was previously used to determine coverage contour distances, but in 1970 the Commission adopted the current method of using the ERP at the appropriate depression angle to the radio horizon to determine contour distances. 22 FCC 2d 354. Since then the ERP in the horizontal plane has not been used. The use of "average" (or RMS) power has been virtually non existant. The staff is concerned primarily with the *maximum* power/height limitations set by the rules. Therefore, the definition of *Effective Radiated Power* in § 73.681 is modified to so state. (See appendix item 5.)

(g) Paragraph (b) of § 73.688, Indicating instruments, is devoted entirely to a cross reference to § 73.689. The requirements of § 73.689 Operating power were, in past Commission actions, dispersed into three other rule sections, which focus on the three elements formerly contained in the rule, and the section was deleted. The elements are determining operating power, now in § 73.663; and operating power tolerance and reduced power operation, which are not in § 73.1560. Paragraph (b) of § 73.688, serving no purpose whatever, is removed herein. In past proceedings, § 73.688 has also been revised by removing paragraph (c) and paragraphs (e)(1) and (2) and marking them [Reserved]. With the removal of paragraph (b) herein, along with the prior removal of paragraph (c), we will redesignate paragraphs (d) and (e) as (b) and (c); and redesignate paragraphs (e)(3) and (4) as (c)(1) and (2). (See Appendix item 6.)

(h) The Report and Order in General Docket No. 83–322 modified (or eliminated) certain rules pertaining to licensed radio operators. 49 FR 20658, May 16, 1984. One of the rules amended is § 73.1860, Transmitter duty operators.

[1] 48 FR 38473, August 24, 1983.

[2] Id.

The Order deleted reference to operator "permit" in the opening sentence of paragraph (a) which formerly read, "Each AM, FM and TV broadcast station must have at least one person holding a commercial radio operator license 'or permit'. . . ." The term "permit" was dropped because it is synonymous with license and deemed redundant. However, many of our broadcast licensees interpret its removal to mean the elimination of a type of operator's license—the "permit"—assuming it deletes the Restricted Radiotelephone Operator *Permit*. It does not. But since the change in the rule is causing confusion, particularly in light of use of the term "permit" in the designation of the Restricted Radiotelephone Operator Permit, we will return it to the text of paragraph (a) for clarity. (See Appendix item 9.)

(i) Another modification, much like the one in paragraph (h) above, is made herein to remove potential confusion: paragraph (a) of § 73.1870, Chief operators, fails to reference "permit" when it describes ". . . . a person holding a commercial radio operator license. . . ." The text in § 73.1870(a) is amended to add permit to the phrase pertaining to "radio operator license" *or permit*. (See Appendix item 10.)

(j) The following FCC policies are added to the policy listing in Subpart H, Part 73:

Policy statement regarding advancement of minority ownership in broadcasting. (§ 73.4140).

Public notice regarding incomplete and patently defective AM and FM construction permit applications. (§ 73.4015). (See Appendix items 11 and 12.)

(k) The FCC Report citation in the policy listing, § 73.4097, EBS attention signal tests on automated programming systems, is incorrectly stated as 72 FCC 2d 780. It is corrected to read 72 FCC 2d 788. (See Appendix item 13.)

(l) In the Report and Order in General Docket No. 82-334, regarding spectrum utilization policy for fixed and mobil services in the 947 MHz—40 GHz band, an inadvertent error was made in amending § 78.101. A "new paragraph (d)" was added. The rule section contained two paragraphs prior to the addition of "new . . . (d)"; obviously, the new paragraph should be designated (c), and is so changed via this Order. (See Appendix item 14.)

2. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude, for the reasons set forth above, that these revisions will serve the public interest.

3. These amendments are implemented by authority delegated by the Commission to the Chief, Mass Media Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rulemaking, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

4. Since a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act does not apply.

5. Therefore, it is ordered, That pursuant to sections 4(i), 303(r) and 5(c)(1) of the Communications Act of 1934, as amended, and §§ 0.61 and 0.283 of the Commission's Rules, Parts 73 and 78 of the FCC Rules and Regulations are amended as set forth in the attached Appendix, effective on the date of publication in the **Federal Register**.

6. For further information on this *Order*, contact Steve Crane, (202) 632-5414, Mass Media Bureau.

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

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

PART 73—[AMENDED]

1. 47 CFR 73.61 is amended by revising paragraphs (b) and (b)(2) and Note 2; and by revising paragraph (a)(1) and redesignating it paragraph (c).

§ 73.61 AM directional antenna field measurements.

* * * * *

(b) Partial and skeleton antenna proof of performance measurements must be made and analyzed pursuant to the procedures given in §§73.154 and 73.186 according to the following schedule:

* * * * *

(2) For stations not having an approved sampling system, a skeleton proof of performance measurement must be completed during each calendar year that a partial proof of performance measurement is not completed as required by paragraph (b)(1) of this section.

(c) The station must have correctly functioning field strength measuring equipment readily available to perform the measurements described in paragraphs (a) and (b) of this section.

* * * * *

Note 2.—Prior to the amendments in § 73.93, AM operator requirements, (Fourth Report and Order in the Radio Operator Licensing Program effective 8/7/81. 46 FR 35450, July 8, 1981), AM stations employing First Class Radiotelephone Operators, or AM stations which were not remotely controlled when using their directional antenna systems, were exempt from the requirements of paragraph (b) of this section. These exemptions continue until such time as the need for these periodic antenna proof measurements for all stations using directional antennas is addressed in a future rule making proceeding.

2. 47 CFR 73.68 is amended by revising paragraph (d) to read as follows:

§ 73.68 Sampling systems for antenna monitors.

* * * * *

(d) In the event that the antenna monitor sampling system is temporarily out of service, the station may be operated, pending completion of repairs, for a period not exceeding 60 days without further authority from the FCC, if

(1) The base currents, their ratios, and the deviations of those ratios, in percent, from the values specified in the station authorization are determined for each radiation pattern used, as often as necessary to ensure proper directional antenna system operation and,

(2) Field strength measurements, at each monitoring point specified in the station's authorization, are read at least once each calendar week.

* * * * *

3. 47 CFR 73.69 is amended by revising paragraph (b) to read as follows:

§ 73.69 Antenna monitors.

* * * * *

(b) In the event an antenna monitor becomes defective, the station may be operated without the monitor pending its repair or replacement for a period not in excess of 60 days without further authority from the FCC, if

(1) The base currents, their ratios, and the deviations of those ratios, in percent, from the values specified in the station authorization are determined for each radiation pattern used, as often as necessary to ensure proper directional antenna system operation and,

(2) Field strength measurements, at each monitoring point specified in the station's authorization, are read at least once each calendar week.

* * * * *

4. 47 CFR 73.207 is amended by removing paragraph (b)(2)(ii) and revising Table B—Minimum Distance Separation Requirements in Kilometers to read as follows:

§ 73.207 Minimum distance separation between stations.

* * * * *

TABLE B.—MINIMUM DISTANCE SEPARATION REQUIREMENTS IN KILOMETERS

Relation	Co-Channel	Adjacent Channels			I.F.
	0 kHz	200 kHz	400 kHz	600 kHz	10.6/10.8 MHz
A–A	132	85	45	37	8
A–B1	180	113	62	54	16
A–B	206	132	76	69	16
A–C1	239	164	98	90	32
A–C	242	177	108	100	32
B1–B1	197	131	70	57	24
B1–B	223	149	84	71	24
B1–C1	256	181	106	92	40
B1–C	259	195	116	103	40
B–B	237	164	94	74	24
					8
B–C1	271	195	115	95	40
B–C	274	209	125	106	40
C1–C1	292	217	134	101	48
C1–C	302	230	144	111	48
C–C	306	241	153	113	48

5. 47 CFR 73.681 is amended by revising the definition of *Effective Radiated Power* to read as follows:

§ 73.681 Definitions.

* * * * *

Effective radiated power. The product of the antenna input power and the antenna power gain. This product should be expressed in kW and in dB above 1 KW (dBk). (If specified for a particular direction, effective radiated power is based on the antenna power gain in that direction only. The licensed effective radiated power is based on the maximum antenna power gain. When a station is authorized to use a directional antenna or an antenna beam tilt, the direction of the maximum effective radiated power will be specified.) Where circular or elliptical polarization is employed, the term effective radiated power is applied separately to the horizontally and vertically polarized components of radiation. For assignment purposes, only the effective radiated power authorized for the horizontally polarized component will be considered.

* * * * *

6. 47 CFR 73.688 is amended by removing paragraph (b); removing paragraph (c) marked [Reserved]; and paragraphs (e)(1) and (2), both marked [Reserved]; and by redesignating paragraphs (d) and (e) introductory text, and (e) (3) and (4) as (b) and (c) introductory text, and (c)(1) and (2) to read as follows:

§ 73.688 Indicating instruments.

* * * * *

(b) The function of each instrument shall be clearly and permanently shown on the instrument itself or on the panel immediately adjacent thereto.

(c) In the event that any one of these indicating instruments becomes defective, when no substitute which conforms with the required specifications is available, the station may be operated without the defective instrument pending its repair or replacement for a period not in excess of 60 days without further authority of the FCC, provided that:

(1) If the defective instrument is the transmission line meter used for determining the output power by the direct method, the operating power shall be determined or maintained by the indirect method whenever possible or by using the operating parameters of the last radio stage of the transmitter during the time the station is operated without the transmission line meter.

(2) If conditions beyond the control of the licensee prevent the restoration of the meter to service within the above allowed period, informal request in accordance with § 73.3549 may be filed with the Engineer in Charge of the radio district in which the station is located for such additional time as may be required to complete repairs of the defective instrument.

7. 47 CFR 73.933 is amended by revising paragraph (b)(7) to read as follows:

§ 73.933 Emergency Broadcast System operation during a National level emergency.

* * * * *

(b) * * *

* * * * *

(7) TV Broadcast stations shall display an appropriate EBS slide and then transmit all announcements visually and aurally in the manner described in § 73.1250(h).

* * * * *

8. 47 CFR 73.936 is amended by revising paragraph (d)(3) to read as follows:

§ 73.936 Emergency Broadcast System operation during a State level emergency.

* * * * *

(d) * * *

* * * * *

(3) All licensees participating in the State level EBS shall discontinue normal programming and follow the transmission procedures set forth in the appropriate EBS Checklist and State EBS Operational Plan (§ 73.921) under the State and Local Level Instructions. Stations which provide foreign language programming may transmit emergency announcements in the foreign language prior to broadcasting such announcements in English. TV broadcast stations shall display and appropriate EBS slide and then transmit all announcements visually and aurally in the manner described in § 73.1250(h).

* * * * *

9. 47 CFR 73.1860 is amended by revising paragraph (a) to read as follows:

§ 73.1860 Transmitter duty operators.

(a) Each AM, FM or TV broadcast station must have at least one person holding a commericial radio operator license or permit (any class, unless otherwise otherswise endorsed) on duty in charge of the transmitter during all periods of broadcast operation. The operator must be on duty at the transmitter location, a remote control point, an ATS monitor and alarm point, or a position where extension meters are installed under the provisions of § 73.1550.

* * * * *

10. 47 CFR 73.1870 is amended by revising paragraph (a) to read as follows:

§ 73.1870 Chief operators.

(a) The licensee of each AM, FM, or TV broadcast station must designate a person holding a commercial radio operator license or permit (any class, unless endorsed) to serve as the station's chief operator. At times when the chief operator is unavailable or unable to act (e.g., vacations, sickness), the licensee shall designate another licensed operator as the acting chief operator on a temporary basis.

* * * * *

11. New 47 CFR 73.4015 is added to Part 73 to read as follows:

§ 73.4015 Applications for AM and FM construction permits, incomplete or defective.

See Public Notice, FCC 84–366, dated August 2, 1984, 49 FR 47331, December 3, 1984.

12. 47 CFR 73.4140 is revised by adding new paragraph (c) to read as follows:

§ 73.4140 Minority ownership; tax certificates and distress sales.

* * * * *

(c) See Policy Statement, General Docket 82-797, FCC 82-523, adopted December 2, 1982. 92 FCC 2d 849.

13. 47 CFR 73.4097 is revised to read as follows:

§ 73.4097 EBS attention signal tests on automated programming systems.

See Public Notice dated March 1, 1979. 72 FCC 2d 788; 44 FR 17792, March 23, 1979.

PART 78—[AMENDED]

§ 78.101 [Amended]

14. 47 CFR 78.101 Power limitations, is amended by redesignating paragraph (d) as paragraph (c).

[FR Doc. 84-33454 Filed 12-24-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Refuge Specific Hunting Regulations; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule on regulations governing hunting on national wildlife refuges that appeared in the Federal Register of Wednesday, September 19, 1983 (49 FR 36736). Corrections are made to the regulations for migratory game bird hunting at Lower Suwannee and Lower Hatchie National Wildlife Refuges and for big game hunting at Mark Twain National Wildlife Refuge (NWR). To avoid confusion between the general provision prohibiting baiting on refuges and the Service's policy of permitting hunting on national wildlife refuges in Alaska in accordance with State regulations, § 32.2(h) is further clarified.

FOR FURTHER INFORMATION CONTACT: James F. Gillett, Chief, Division of Refuge Management, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (telephone 202-343-4311).

SUPPLEMENTARY INFORMATION: The migratory game bird hunting regulations for Lower Suwannee and Lower Hatchie NWR and the big game hunting regulations for Mark Twain NWR were incorrect as published in the final rule (49 FR 36736). These regulations are corrected to read as they were published in the proposed rule (49 FR 27334, July 3, 1984).

The final rule on refuge specific regulations (49 FR 36736) was developed for national wildlife refuges in the lower 48 States, and the general provision prohibiting baiting on refuges was developed to address problems associated with this practice on refuges in the lower 48 States. As stated in the preamble of the final rule (page 36740), hunting on national wildlife refuges in Alaska is authorized in accordance with State regulations. Therefore, paragraph §32.2(h) is corrected to clarify that baiting on national wildlife refuges in Alaska is authorized in accordance with State regulations.

Accordingly, FR Doc. 84-24681 appearing at page 36736 in the issue of September 19, 1984, is corrected as follows:

§ 32.2 [Corrected]

1. On page 36740 in § 32.2(h), in the second column, add the following sentence to the paragraph: "(Baiting is authorized in accordance with State regulations on national wildlife refuges in Alaska.)"

§32.12 [Corrected]

2. On page 36742 in § 32.12(h)(2), third column, third line, delete "moorhens, purple".

3. On page 36747 in § 32.12(kk), third column, third line, "ducks, geese and coots" should read "migratory game birds".

§ 32.32 [Corrected]

4. On page 36756 in § 32.32(n)(3), third column, fifth line, "shotgun" should read "archery".

Dated: December 14, 1984.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-33397 Filed 12-24-84; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 645

[Docket No. 41156-4156]

Spiny Lobster Fishery of Puerto Rico and the U.S. Virgin Islands

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

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to implement the Fishery Management Plan for the Spiny Lobster Fishery of Puerto Rico and the U.S. Virgin Islands (FMP). The rule (1) establishes a minimum harvestable size limit; (2) establishes harvest restrictions for egg-bearing spiny lobsters; (3) prohibits the taking of spiny lobsters by certain gear and methods; and (4) requires degradable panels on lobster traps. The regulations are designed to prevent overfishing and increase production of spiny lobsters.

EFFECTIVE DATE: January 1, 1985.

ADDRESSES: The final regulatory impact review/regulatory flexibility analysis may be obtained from Donald W. Geagan, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

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

SUPPLEMENTARY INFORMATION: The Assistant Administrator for Fisheries initially approved the fishery management plan for the Spiny Lobster Fishery of Puerto Rico and the U.S. Virgin Islands on July 14, 1982, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). Proposed regulations to implement the FMP, prepared by the Caribbean Fishery Management Council (Council), were published on September 3, 1982 (47 FR 38950). Comments on the FMP and proposed rule were invited through October 18, 1982.

Because the preponderance of the spiny lobster landings come from waters under the jurisdiction of Puerto Rico and the U.S. Virgin Islands, promulgation of this final rule has been withheld pending adoption of comparable regulations by the two local governments. Puerto Rico and the U.S. Virgin Islands have adopted similar regulations allowing implementation of this final rule. The effective date for this final rule is January 1, 1985, to coincide with the effective date of Puerto Rico's regulations. The U.S. Virgin Islands implemented compatible regulations on June 1, 1984, inside their territorial waters.

The preamble to the proposed rulemaking contained a description of the spiny lobster fishery, the condition of the stocks, the economic value of landings, and fishing practices within the commercial and recreational sectors. Also discussed in detail were problems in the fishery (i.e., increasing number of smaller lobsters in the landings and the decreasing average size indicating a

trend towards overfishing, gear ownership conflicts between fishermen, and the need for adequate statistics for better management). These discussions are not repeated here.

In the proposed rulemaking, § 645.5—Recordkeeping and reporting requirements were reserved. This section will be reserved in the final rule, pending determination as to whether existing data collection systems can be expanded to obtain sufficient management information. If they cannot, a reporting system will be developed and implemented later.

Comments and Responses

Comments on the proposed rulemaking were received from the U.S. Coast Guard and one Puerto Rican fisherman.

Comment 1: The Coast Guard recommended § 645.6—Vessel and gear identification be changed to require that the official number and color code be displayed on an appropriate weather deck in addition to the port and starboard sides of the hull to facilitate at-sea enforcement. Also, the Coast Guard recommended that the official number be at least 18 inches high for vessels over 65 feet long, and 10 inches high for all other vessels over 25 feet long. All numerals should be in block Arabic form and on contrasting background. The color code should be displayed in the form of a circle with a diameter at least the height of the official number.

Response: The wording in § 645.6 has been changed in this final rule to include the Coast Guard's recommendation.

Comment 2: The Coast Guard suggested § 645.8—Facilitation of enforcement be modified by changing the wording in paragraph (d)—Signals to identify Channel 16, VHF–FM radio as the normal method of contact between the Coast Guard and fishermen.

Response: This section has been changed to reflect the most recent language as approved by the Coast Guard and published on March 15, 1984 (49 FR 9736). This standardized wording applies to all domestic fisheries.

Comment 3: One Puerto Rican fisherman commented to the effect that male lobsters should be exempted from the size limitation since they do not "reproduce," and the prohibition of their harvest would create an unnecessary economic burden.

Response: To take full advantage of the period of most rapid growth, a size limit of 3.5 inches carapace length (CL) is necessary. Harvesting male lobsters less than this size would reduce the total market value and continue the problem of declining average size of lobsters in the catch. At this time no data has been found that indicate the maturation size of males is different from that of females, or determines the effects of sex ratios on the total population. Therefore, this restriction is implemented as proposed.

Changes From the Proposed Rule

The final rule differs from the proposed rule for the reasons discussed above.

Section 645.1. This section has been modified to clarify the purpose of the FMP to manage the domestic spiny lobster fishery.

Section 645.6(c). Provisions for the disposition of unidentified or abandoned traps have been included to facilitate enforcement of the regulations.

Section 645.8. This section has been changed to the most recent standardized language for facilitation of enforcement procedures.

Classification

The Assistant Administrator determined that the FMP is necessary for the conservation and management of the spiny lobster fishery of Puerto Rico and the U.S. Virgin Islands and that it is consistent with the Magnuson Act and other applicable law.

The Council prepared a final environmental impact statement for this FMP; notice of availability was published on August 19, 1983 (48 FR 37702).

The Administrator, NOAA, determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. Summary published at 47 FR 38948, September 3, 1982.

The Council prepared a final regulatory flexibility analysis which describes the effects this rule will have on small entities. You may obtain a copy of this analysis from the address listed above.

This rule contains collection of information requirements for purposes of the Paperwork Reduction Act at § 645.4—Permits and § 645.6—Vessel and gear identification. A request to collect this information has been submitted to the Office of Management and Budget for approval. Most spiny lobster vessel permits will be issued by Puerto Rico and the U.S. Virgin Islands and it is anticipated that fewer than ten applications will be submitted for Federal permits.

The Council determined that this rule does not directly affect the coastal zone of any state with an approved coastal zone management program.

Part of the 30-day delay in implementation required by the Administrative Procedures Act is waived so that the final rule can be in place on January 1, 1985, to coincide with the adoption of comparable regulations by Puerto Rico. If no regulation is in place for the FCZ, Puerto Rico will experience difficulty in enforcing its new regulations. Furthermore, the adoption of the new regulations by Puerto Rico has been widely publicized among fishermen. Therefore, delay in the implementation of corresponding Federal regulations for a full 30-day period would be impracticable and not in the public interest.

List of Subjects in 50 CFR Part 645

Fish, Fisheries, Fishing.

Dated: December 19, 1984.

Carmen J. Blondin,

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

For the reasons set out in the preamble, Chapter VI of 50 CFR is amended by adding a new Part 645 to read as follows:

PART 645—SPINY LOBSTER FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Subpart A—General Provisions

Sec.

645.1 Purpose and scope.
645.2 Definitions.
645.3 Relation to other laws.
645.4 Permits.
645.5 Recordkeeping and reporting requirements. [Reserved]
645.6 Vessel and gear identification.
645.7 Prohbitions.
645.8 Facilitation of enforcement.
645.9 Penalties.

Subpart B—Management Measures

645.20 Harvest limitations.
645.21 Size limitations.
645.22 Gear limitations
645.23 Specifically authorized activities.

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

Subpart A—General Provisions

§ 645.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for the Spiny Lobster Fishery of Puerto Rico and the U.S. Virgin Islands prepared by the Caribbean Fishery Management Council under the Magnuson Act.

(b) This part regulates domestic fishing for spiny lobster within that portion of the fishery conservation zone (FCZ) surrounding Puerto Rico and the U.S. Virgin Islands. For Puerto Rico the inner boundary of the FCZ is nine nautical miles from the baseline used to

measure the territorial sea; for the U.S. Virgin Islands it is three nautical miles.

§ 645.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meanings:

Authorized officer means

(a) Any commissioned, warrant, or petty officer of the United States Coast Guard;

(b) Any special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary of Commerce and the Commandant of the U.S. Coast Guard to enforce the Magnuson Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Berried lobster means an egg-bearing lobster.

Carapace length (CL) means a head-length measurement taken from the orbital notch inside the orbital spine, in a line parallel to the lateral rostral sulcus, to the posterior margin of the cephalothorax (figure 1).

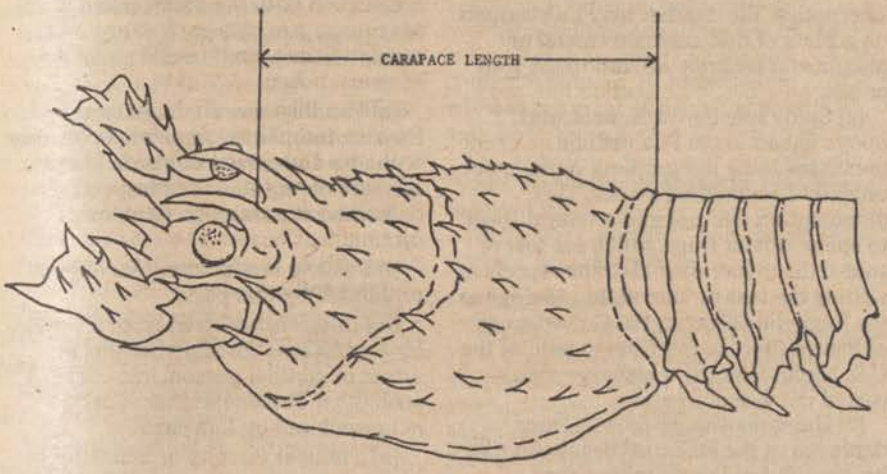

Figure 1 Method of Measuring Carapace Length

Fish means the spiny lobster, *Panulirus argus*.

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research conducted by a scientific research vessel, which involves:

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b), or (c) of this definition.

Fishing gear means snares, nets, pots, traps, and use of hands.

Fishing vessel means any vessel, boat, ship or other craft which is used for, equipped to be used for, or of a type which is normally used for:

(a) Fishing; or

(b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Management area means that portion of the FCZ adjacent to the waters under the jurisdiction of the U.S. Virgin Islands and Puerto Rico.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et seq.*).

Official number means the documentation number issued by the U.S. Coast Guard, or the registration number issued by a State or the U.S. Coast Guard for undocumented vessels.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time or voyage;

(c) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function or operation of the vessel; or

(d) Any agent designated as such by any person described in paragraph (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Regional Director means the Regional Director, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702; telephone 813–893–3141, or a designee.

Secretary means the Secretary of Commerce or a designee.

Spiny lobster means *Panulirus argus*.

State includes the Commonwealth of Puerto Rico and the U.S. Virgin Islands.

U.S. fish processors means facilities located within the United States for, and vessels of the United States used or equipped for, the processing of fish for commercial use or consumption.

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any fishery regulated by a fishery management plan or preliminary fishery management plan implemented under the Magnuson Act.

Vessel of the United States means:

(a) Any vessel documented under the laws of the United States;

(b) Any vessel numbered in accordance with the Federal Boat Safety Act of 1971 and measuring less than five net tons; or

(c) Any vessel numbered under the Federal Boat Safety Act of 1971 and used exclusively for pleasure.

§ 645.3 Relation to other laws.

(a) Persons affected by these regulations should be aware that other Federal and State statutes and regulations may apply to their activities.

(b) Certain responsibilities relating to data collection and enforcement may be performed by authorized State personnel under a cooperative agreement entered into by the State, the U.S. Coast Guard, and the Secretary.

§ 645.4 Permits.

(a) *General.* A vessel in the spiny lobster fishery must possess a valid fishing permit and color code issued by the Regional Director, unless the vessel possesses a valid fishing permit and color code issued by the Government of Puerto Rico or the Government of the Virgin Islands.

(b) *Application to the Regional Director.* (1) An application for a Federal permit and color code must be submitted to the Regional Director 45 days prior to the date on which the applicant desires receipt of the permit and color code.

(2) Each application must contain the following information:

(i) The applicant's name, mailing address, and telephone number;

(ii) The name and length of the vessel;

(iii) The vessel's official number; and

(iv) The vessel's radio call sign.

(c) *Fees.* No fee is required for a permit or color code issued by the Regional Director under this part.

§ 645.5 Recordkeeping and reporting requirements. [Reserved]

§ 645.6 Vessel and gear identification.

(a) *Vessel identification.* Each fishing vessel subject to this part must display its official number and color code issued with the vessel's permit on the port and starboard sides of the deckhouse or hull. In addition, each vessel over 25 feet long must display its official number and color code on an appropriate weather deck. All official numbers and color codes must be displayed permanently and conspicuously so as to be readily identifiable from the air and water. The number must contrast with the background and be in block Arabic numerals at least 18 inches high for vessels over 65 feet long, at least 10 inches high for vessels over 25 feet long, and at least 3 inches high for vessels 25 feet long or smaller. The color code representation must be in the form of a circle of a diameter not less than the height of the numerals or, in the case of a 3-inch high numerals, in the form of a strip not less than 3 inches high and 18 inches long.

(b) *Duties of operator.* The operator of each fishing vessel subject to this part must (1) Keep the markings displaying the official number and color code clearly legible and in good repair; and (2) Insure that no part of the vessel, its rigging or its fishing gear obstructs the view of the official number and color code from an enforcement vessel or aircraft.

(c) *Gear identification.* (1) All traps, pots, and buoys used in the spiny lobster fishery must be marked and identified as follows:

(i) Buoys affixed to traps and pots must bear the number and color code specified with the vessel's permit. The identification number must be legible and at least 3 inches high on each buoy.

(ii) Traps and pots must bear the number specified with the vessel's permit. The number must be legible and at least 3 inches high, or as high as the widest available space if such space is less than 3 inches wide. As an alternative, the number may be stamped on a plate of non-corrosive metal or plastic and securely affixed to the trap or pot.

(2) Spiny lobster traps, pots, and buoys fished in the FCZ will be presumed to be the property of the most recently documented owner. This presumption will not apply with respect to spiny lobster traps which are lost or sold if the owner of such traps reports in writing the loss or sale within 15 days to the Regional Director, the Government of Puerto Rico, or the Government of the U.S. Virgin Islands, whichever entity issued the vessel's permit.

(3) Unmarked spiny lobster traps deployed in the FCZ are illegal and may be disposed of in any appropriate manner by the Secretary or the Secretary's designee (including an authorized officer). Lines and buoys are considered part of the trap. If owners of the unmarked traps can be ascertained, those owners remain subject to appropriate civil penalties.

§ 645.7 Prohibitions.

It is unlawful for any person to—

(a) Falsify or fail to affix and maintain gear and vessel markings as required by § 645.6;

(b) Fail to comply immediately with enforcement and boarding procedures specified in § 645.8;

(c) Retain on board or possess on land any berried spiny lobster, as specified in § 645.20(a)(1);

(d) Strip eggs from or otherwise molest any berried spiny lobster as specified in § 645.20(a)(2);

(e) Willfully tend, pull, open, or otherwise molest another person's traps except as provided in §645.20(b);

(f) Possess in the FCZ any spiny lobster with a carapace length less than the minimum size limit specified in § 645.21(a) except as allowed in § 645.21(b);

(g) Possess spiny lobster tails separated from the carapace before they have been landed, as specified in § 645.21(c);

(h) Use traps without degradable panels, or use prohibited gear or methods, as specified in § 645.22;

(i) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, land or export any spiny lobsters taken or retained in violation of the Magnuson Act, this part, any permit issued under this part, or any other regulation or permit issued under the Magnuson Act;

(j) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation or permit issued under the Magnuson Act;

(k) Forcibly assault, resist, oppose, impede, intimidate, threaten, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (j) of this section;

(l) Resist a lawful arrest for any act prohibited by this part;

(m) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this part;

(n) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested spiny lobsters to any foreign fishing vessel, while such vessel is in the FCZ, unless the foreign fishing vessel has been issued a permit under section 204 of the Magnuson Act which authorizes the receipt by such vessel of U.S.-harvested spiny lobsters; or

(o) Violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

§ 645.8 Facilitation of enforcement.

(a) *General.* The operator of, or any other person aboard any fishing vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record (where applicable) and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Communications.* (1) Upon being approached by a U.S. Coast Guard vessel or aircraft, or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) If the size of the vessel and the wind, sea, and visibility conditions allow, loudhailer is the preferred method for communicating between vessels. If use of a loudhailer is not practicable, and for communications with an aircraft, VHF–FM of high frequency radiotelephone will be employed. Hand signals, placards, or voice may be employed by an authorized officer and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. Coast Guard units will normally use the flashing light signal "L" as a signal to stop.

(4) Failure of a vessel's operator to stop his vessel when directed to do so by an authorized officer using loudhailer, radiotelephone, flashing light signal, or other means constitutes *prima facie* evidence of the offense of refusal to permit an authorized officer to board.

(5) The operator of a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel instantly.

(c) *Boarding.* The operator of a vessel directed to stop must—

(1) Guard Channel 16, VHF–FM if so equipped;

(2) Stop immediately and lay to or maneuver in such a way as to allow the authorized officer and his party to come aboard;

(3) Except for those vessels with freeboard of four feet or less, provide a safe ladder, if needed, for the authorized officer and his party to come aboard;

(4) When necessary to facilitate the boarding or when requested by an authorized officer, provide a manrope or safety line, and illumination for the ladder; and

(5) Take such other actions as necessary to facilitate boarding and to ensure the safety of the authorized officer and the boarding party.

(d) *Signals.* The following signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone. Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necesssity of sending the signal "L" and the necessity for the vessel to stop instantly.

(1) "AA" repeated (.—.—)[1][2] is the call to an unknown station. The opertor of the signaled vessel should respond by identifying the vessel by radio-telephone or by illuminating the vessel's identification.

(2) "RY–CY" (.—. —.—— —.—. —.——) means "you should proceed at slow speed, a boat is coming to you." This signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) "SQ3" (... ——.— ...——) means "you should stop or heave to; I am going to board you."

(4) "L" (.—..) means "you should stop your vessel instantly."

§ 645.9 Penalties.

Any person or fishing vessel found to be in violation of this part is subject to the civil and criminal penalty provisions and forfeiture provisions of the Magnuson Act, and 15 CFR Part 904 (Civil Procedures) and other applicable law.

Subpart B—Management Measures

§ 645.20 Harvest limitations.

(a) *Berried lobsters.* (1) Berried spiny lobsters must be returned to the water unharmed. Berried lobsters may be retained in traps or pots as attractants until the eggs are shed provided the traps are returned to the water and not retained on the vessel or landed.

(2) Berried spiny lobsters may not be stripped, scraped, shaved, clipped, or in any other manner molested, in order to remove the eggs.

(b) *Pulling traps.* Traps may be pulled, tended, or opened only aboard the owner's vessel, unless the boat tending another person's traps has on board written consent of the trap owner or the owner is on board with his or her permit. This restriction is not applicable to authorized officers.

§ 645.21 Size limitations.

(a) Spiny lobsters with a carapace length of less than 3.5 inches (89 millimeters) must be returned immediately to the water unharmed.

(b) Spiny lobsters with a carapace length less than the 3.5-inch minimum sized limit may be used as "attractants" in traps or pots, but may not be retained on the vessel or landed.

(c) Spiny lobsters must remain whole prior to landing at shoreside. Tails may not be separated from the carapace before the spiny lobsters have been landed.

§ 645.22 Gear limitations.

(a) *Degradable panel.* All traps or pots used for fishing in the FCZ must contain on any vertical side or on the top an opening no smaller in diameter than the throat or entrance of the trap or pot. The opening may be covered either by degradable netting made of any of the materials listed below, or by a cover made of any material and fastened to the fish trap or pot with any of the materials listed below:

(1) Untreated fiber of biological origin not more than three millimeters (approximately ⅛") maximum diameter; this includes, but is not limited to tyre palm, hemp, jute, cotton, wool or silk.

(2) Non-galvanized black iron wire not more than ⅛ inch (approximately 1.59 millimeters in diameter); that is, 16 gauge wire.

(b) *Prohibited gear or methods.* Spiny lobsters may not be taken with:

(1) Explosives, poisons, drugs or other chemicals; or

(2) Spears, hooks, or similar devices. The possession of a speared, pierced, or punctured spiny lobster is *prima facie* evidence of violation of this section.

§ 645.23 Specifically authorized activities.

The Secretary may authorize, for the acquisition of information and data, activities that are otherwise prohibited by these regulations.

[FR Doc. 84–33527 Filed 12–21–84; 8:45 am]

BILLING CODE 3510–22–M

[1] (.) means a short flash of light.

[2] (—) means a long flash of light.

Proposed Rules

Federal Register
Vol. 49, No. 249
Wednesday, December 26, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Changes in Property Insurance Requirements for NRC Licensed Nuclear Power Plants; Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: Extension of comment period.

SUMMARY: On November 8, 1984, (49 FR 44645), the NRC published for public comment a proposed rule amending its regulations requiring licensees to maintain substantial amounts of on-site property insurance to assist in the decontamination of their reactors. The comment period for this proposed rule was to have expired on January 7, 1985. The Edison Electric Institute (EEI) has requested a thirty-day extension of the comment period. In view of the importance of the proposed rule, the amount of time that the EEI suggests is required to provide meaningful comments on behalf of its members, and in view of the desirability of developing a final rule as soon as practicable, the NRC has decided to extend the comment period for an additional thirty days. The extended comment period now expires on February 6, 1985.

DATES: The comment period has been extended and now expires February 6, 1985. Comments received after this date will be considered if it is practical to do so but assurance of consideration cannot be given except as to comments received before this date.

ADDRESSES: Send written comments or suggestions to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert S. Wood, of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–9885.

Dated: at Washington, DC, this 19th day of December, 1984.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 84–33514 Filed 12–24–84; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71 and 73

[Airspace Docket No. 84–ANM–19]

Proposed Establishment of Restricted Area, Guernsey, WY

In FR Doc. 84–29868 beginning on page 45168, in the issue of Thursday, November 15, 1984, make the following corrections:

1. On page 45168, in the third column, in the "summary" paragraph, fourth line, "R–70001A" should read "R–7001A".

2. On page 45169, in the third column, fourth line, "42°20'30" " should read "42°20'00".

BILLING CODE 1505–01–M

14 CFR Part 73

[Airspace Docket No. 84–ASO–22]

Proposed Alteration of Restricted Area, Fort Campbell, Ky.

Correction

In FR Doc. 84–29865 beginning on page 45169 in the issue of Thursday, November 15, 1984, make the following correction:

§ 73.37 [Corrected]

On page 45170, in § 73.37, third column, in "R–3702C", fourth line, "87°32'15"" should have read "87°34'15" ".

BILLING CODE 1505–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 872

Close of Comment Period on the Proposed Apportionment Policy for Distributing the Secretary's Share of the Abandoned Mine Land Fund

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Notice of close of comment period.

SUMMARY: During the summer of 1983, OSM issued the draft apportionment policy for distributing the Secretary's share of the Abandoned Mine Land (AML) fund through 1992 and solicited comments from all concerned individuals, States and Indian Tribes. Following receipt of the comments, OSM made revisions to the proposed apportionment policy, and prepared a paper consisting of comments and OSM responses. These documents were issued in early 1984, along with a time extension to allow for further review and comments. The extended comment period ended on November 23, 1984, and OSM is now developing the final apportionment policy which will be released in January 1985.

FOR FURTHER INFORMATION CONTACT: Phyllis Thompson, Chief, Division of Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951, Constitution Avenue, NW., Washington, DC. 20240, telephone (202) 343–7921.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of Action
III. Procedural Matters

I. Background

Title IV of SMCRA of 1977, Pub. L. 95–87, 30 U.S.C. 1235 establishes an abandoned mine land reclamation (AMLR) program for the purposes of reclaiming and restoring lands and water resources adversely affected by past coal mining. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State and Federal law.

Each State having within its borders coal mine lands eligible for reclamation under Title IV of SMCRA may submit to the Secretary of the Interior a State reclamation grant application to implement the provisions of the approved State Reclamation Plan. Grants for reclamation, however, may be issued only to States with an approved Title V Regulatory Program for active mine reclamation and an approved Title IV Reclamation Program.

Revenues of the AMLR program are generated through reclamation fees imposed upon the production of coal and are deposited in the AML fund established by Title IV of SMCRA of 1977, Pub. L. 95–87, 30 U.S.C. 1231. A 50-percent share of the fees collected is allocated to the States or Indian Tribes from which they were derived to be used for the purposes of this title. These funds are provided to eligible States/Tribes through reclamation grants. The remaining 50-percent share, after deduction of administative costs, is allocated to the Secretary to carry out the purposes of this title in eligible areas of the country. Under section 402(g) of SMCRA, the geographic allocation of funds must reflect the area from which the revenues were derived as well as the national program needs. The Secretary has the discretion of expending the balance of the funds either directly in any State or by allocating them to approved State programs.

II. Discussion of Action

The OSM developed a policy for distributing the balance of the Secrtary's share of the AML fund through 1992 to be utilized in the critical problem areas nationwide. The draft distribution is based on the National Abandoned Mine Land (AML) Inventory, the best means available to OSM for identifying those areas with the greatest need. The States/Tribes may add, amend and update any material in the inventory. Due to the history of mining in the Eastern States as opposed to the more recent mining in the West, this policy results in a de facto transfer of funds from West to East. Congress, however, was fully appraised of this possibility prior to enactment of SMCRA and specifically chose only to mandate that 50 percent of the fund collected be transferred back to the States/Tribes from which they were derived.

Following receipt of all comments, OSM made slight revisions to the draft policy and prepared a "comment-and-response" paper. The package was submitted to all commenters in March 1984 and the comment period was extended to allow all interested parties additional time for review.

The purpose of this notice is to inform the States/Tribes and other concerned parties that the comment period on the draft apportionment policy was closed effective November 23, 1984. The OSM is now developing the final policy which will be issued in January 1985.

III. Procedural Matters

List of Subjects in 30 CFR Part 872

Administrative practice and procedures, Coal mining, Surface mining, Underground mining.

Dated: December 11, 1984.

William B. Schmidt,

Assistant Director, Program Operations and Inspection, Office of Surface Mining.

[FR Doc. 84–33478 Filed 12–24–84; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[08–84–09]

Drawbridge Operation Regulations; Terrebonne Bayou, LA

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Louisiana Department of Transportation and Development (LDOTD), the Coast Guard is considering a change to the regulation governing the operation of the lift span bridge over Terrebonne Bayou, mile 33.9, on LA 3087 (Prospect Street) at Houma, Terrebonne Parish, Louisiana, by requiring that at least four hours advance notice be given for an opening of the draw from 5:00 p.m. to 9:00 a.m. and on signal from 9:00 a.m. to 5:00 p.m. Presently, the draw is required to open on signal from 5:00 a.m. to 9:00 p.m. and on 12 hours advance notice from 9:00 p.m. to 5:00 a.m. This proposal is being made because of the infrequent requests for opening the draw during the proposed four hours advance notice period. This action should relieve the bridge owner of the burden of having a person at the bridge to open the draw from 5:00 p.m. to 9:00 a.m., while still providing for the reasonable needs of navigation.

Additionally, this document proposes to correct the regulation governing the operation of the bridge over Terrebonne Bayou, on LA 24 at Presquille, Louisiana, to show that this bridge is located at mile 31.3 and that the draw need not open for the passage of vessels. In the recodification of 33 CFR Part 117, by 49 FR 17450 dated April 24, 1984, the bridge was incorrectly listed as located at mile 28.8 and on 24 hours advance notice for an opening.

DATE: Comments must be received on or before February 11, 1985.

ADDRESS: Comments should be mailed to Commander (obr), Eighth Coast Guard District, 500 Camp Street, New Orleans, Louisiana 70130. The comments and other materials referenced in this notice will be available for inspection and copying in Room 1115 at this address. Normal office hours are between 8:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Perry F. Haynes, Chief, Bridge Administration Branch, at the address given above, telephone (504) 589–2965.

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

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

Drafting Information

The drafters of this notice are Perry Haynes, project officer, and Steve Crawford, project attorney.

Discussion of Proposed Regulation

Vertical clearance of the bridge in the closed position is 3.5 feet above high water and 6.5 feet above low water. Navigation through the bridge consists of commercial and pleasure vessels. Data submitted by the LDOTD show that this traffic is infrequent during the proposed four hours advance notice period, as noted below:

(1) In 1983, between 5:00 p.m. and 9:00 a.m., there were 140 bridge openings—an average of 11.7 openings per month or an average of one opening about every three days. In 1982, for the same time period, there were 142 bridge openings.

Considering the few openings involved between 5:00 p.m. and 9:00 a.m., the Coast Guard feels that the current on site attendance at the bridge

is not warranted and adoption of the four hours advance notice for an opening of the draw during that period will provide relief to the bridge owner, while still reasonably providing for the needs of navigation. From 9:00 a.m. to 5:00 p.m., the draw will continue to open on signal.

The advance notice for opening the draw would be given by placing a collect call at any time to the LDOTD Office at Houma (504) 851–0900 or the LDOTD District Office at Lafayette (318) 233–7404.

The LDOTD recognizes that during the period from 5:00 p.m. to 9:00 a.m., there may be an unusual occasion to open the bridge on less than four hours notice for a bonafide emergency or to operate the bridge on demand for an isolated but temporary surge in waterway traffic, and has committed to doing so if such an event should occur.

Economic Assessment and Certification

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

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that there are few vessels that pass this bridge during the proposed advance notice period, as evidenced by the 1983 and 1982 bridge opening statistics which show that the bridge averages one opening about every three days. These vessels can reasonably give four hours notice for a bridge opening during the designated period by placing a collect call to the bridge owner at any time. Mariners requiring the bridge openings are mainly repeat users and scheduling their arrival at the bridge at the appointed time should involve little or no additional expense to them. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, by revising § 117.505 (a) and (b) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.505 Terrebonne Bayou.

(a) The draw of the S24 bridge, mile 31.3 at Presquille, need not be opened for the passage of vessels.

(b) The draw of the S3087 bridge, mile 33.9 at Houma, shall open on signal; except that, from 5 p.m. to 9 a.m. the draw shall open on signal if at least four hours notice is given.

* * * * *

(33 U.S.C. 499; 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: December 12, 1984.

W.H. Stewart,

Read Admiral, U.S. Coast Guard.

[FR Doc. 84-33434 Filed 12-24-84; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[General Docket Nos. 84-689 and 84-690]

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

AGENCY: Federal Communications Commission.

ACTION: Order denying requests for postponement of processing of applications and granting requests for clarification of certain matters.

SUMMARY: The Federal Communications Commission has denied requests for indefinite postponements of the processing of the applications of Geostar Corporation and other applications for radiodetermination satellite systems, has granted requests for clarification of certain matters relating to the processing of these applications, and has granted an extension of the filing date for applications to be considered concurrently with Geostar's. This action was necessary due to several requests to modify the application filing and processing procedures adopted by the Commission in a *Notice of Proposed Rulemaking* in the above-captioned proceeding. 49 FR 36512 (September 18, 1984).

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

FOR FURTHER INFORMATION CONTACT: Fern Jarmulnek, (202) 634–1682.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 2

Radio.

Order

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), 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. 2194–DSS–P/LA–83, 2192–DSS–P/LA–83, 2193–DSS–P/LA–83, 2193–DSS–P/LA–83).

Adopted: December 12, 1984.

Released: December 13, 1984.

By the Chief, Common Carrier Bureau.

Introduction

1. Before us for consideration are several requests to modify the application filing and processing procedures adopted in the above-captioned processing. Specifically, the National Association of Broadcasters (NAB) filed a "Petition for Partial Reconsideration" and a "Combined Request for Stay and Motion for Extension of Time," Omninet Corporation (Omninet) filed a "Petition for Postponement of Procedural Dates and for Clarification," and Analytical Technology Laboratories, Inc. (Analytical) filed a "Motion for Extension of Time." Geostar Corporation (Geostar) filed an opposition to these pleadings.[1]

2. On September 7, 1984, the Commission released a *Notice of Proposed Rulemaking*, FCC 84–319 (NPRM), proposing to allocate frequencies for a radiodetermination satellite service and to establish associated licensing policies and procedures. To expedite initiation of this new service to the public, the

[1] In addition, Omninet filed "Comments" on these pleadings. Mobile Satellite Corporation (Mobilesat) filed "Comments in Support of Petition for Postponement of Procedural Dates and for Clarification" and a "Reply" to Geostar's Opposition, the Association of Maximum Service Telecasters (MST) filed "Comments on NAB's Request for Stay and Motion for Extension of Time," and NAB filed a "Reply" to Geostar's Opposition. The petitions and comments received regarding Geostar's application which address issues raised in the above pleadings are Omninet's "Petition to Deny," Analytical's "Comments and Petition to Deny," Mobilesat's "Comments on, and Petition to Dismiss and Deny, Applications of Geostar Corporation," and the Utilities Telecommunications Council and Central Committee on Telecommunications of the American Petroleum Institute's (UTC/API's) "Joint Petition to Deny."

Commission concurrently released a public notice accepting for filing the above-captioned applications of Geostar for authority to construct, launch and operate four space stations in the radiodetermination satellite service and inviting other radiodetermination satellite system proposals to be considered concurrently with Geostar's. FCC 84–320, Report No. DS–305. Because the Geostar system design appeared to be consistent with Commission policies such as multiple entry (it seemed to allow several independently operating radiodetermination satellite systems to be authorized in the spectrum), and no counter proposals were advanced in comments on Geostar's initial petition for rulemaking to allocate frequencies for this service, Geostar's design was used as our initial baseline for radiodetermination satellite system design and operation. Any applicant proposing a system design incompatible with Geostar's was required to demonstrate how multiple entry would be accomplished and how the proposed design would better serve the public interest. Although it did not believe it likely, the Commission stated it was possible that situations of mutual exclusivity could arise either because more applications would be received than could be accommodated or because an applicant would propose a system incompatible with Geostar's. The Commission proposed to establish appropriate procedures if this occurred.

3. Several parties request modification and clarification of these procedures. Omninet and Mobilesat argue that supplemental information submitted by Geostar on September 27, 1984 substantially changes the system design and is, in fact, incompatible with Geostar's earlier proposal. Analytical also argues that Geostar has made extensive substantive changes to its proposed system. These parties therefore request clarification of the "baseline" system and filing procedures for applications to be considered concurrently with Geostar's. Omninet and Mobilesat also contend that the Commission was premature in accepting Geostar's proposal as the baseline system. Omninet further argues that use of a baseline constituted a rule promulgated without public notice and comment in violation of the Administrative Procedure Act (APA). NAB, supported by MST and UTC/API, argues that acceptance and processing of applications in advance of final rules establishing radiodetermination service prejudges the frequency allocation rulemaking and violates the APA. Finally, Mobilesat argues that several other issues concerning the licensing of radiodetermination satellite systems need clarification before comments on the frequency allocation rulemaking and other applications may be submitted.

4. For the reasons set forth below, we dismiss NAB's petition for reconsideration of the NPRM and deny all other requests for indefinite postponements of the processing of Geostar's or other applications for radiodetermination satellite systems. To the extent necessary, we also grant requests for clarification of certain matters raised by the parties relating to the processing of these applications. Finally, in light of the possible confusion that might have been caused by the pendency of these filings, and to facilitate the filing of simultaneous applications for land mobile and radiodetermination satellite systems pursuant to the *Notice of Proposed Rulemaking* in Gen. Docket 84–1234 adopted November 21, 1984, we also are granting an extension of the filing date for applications to be considered concurrently with Geostar's.

Discussion

i. Procedural Matters

5. The Commission has wide discretion to adopt whatever procedures "will best conduce to the proper dispatch of business and to the ends of justice." [2] The decision in the NPRM for radiodetermination satellite service to accept and process applications simultaneously with the frequency allocation rulemaking was designed to enable radiodetermination service to be provided to the public as rapidly as possible if the frequency allocations were in fact adopted. In addition, the procedure was intended to solicit proposals for this new service from all interested parties so that a concrete framework for the establishment of policies and conditions regarding the licensing and operation of radiodetermination systems would be established.[3] Parallel rulemaking and processing of applications has often been employed by the Commission and has been affirmed by the courts. For example, the D.C. Circuit Court upheld the Commission's decision to act concurrently on rules governing the establishment of Direct Broadcast Satellite (DBS) Service and an application for authority to construct and operate a DBS satellite.[4] Thus, we believe the Commission's decision to accept and process applications for radiodetermination systems during the allocation rulemaking was a reasonable exercise of its discretion to fashion proccedures, and is consistent with past Commission procedures affirmed by the courts.[5] We therefore deny the requests to postpone indefinitely the date by which applications for other radiodetermination satellite systems must be filed.[6]

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[2] 47 U.S.C. 154(j). An agency's broad discretion in fashioning procedures has been noted by the courts. *See, e.g., FCC* v. *Schreiber*, 381 U.S. 279 (1965); *SEC* v. *Chenery*, 332 U.S. 194 (1947) and *Nat'l Association of Broadcasters* v. *FCC*, 740 F. 2d 1190 (D.C. Cir. 1984).

[3] NPRM at paras. 30–31. In accepting applications concurrently with the frequency allocation rulemaking, we note that we made no determination as to whether the proposed allocations would be made. Rather, our intent was to enable radiodetermination service to be quickly available to the public *if* our initial finding, based on the comments received in response to Geostar's petition for rulemaking, that there was need for this service was confirmed in public comment on the NPRM. *See* NPRM at paras. 29–30.

[4] *Nat'l Ass'n. of Broadcasters*, note 3 *supra*. *See also Network Project* v. *FCC*, 511 F. 2d 786 (D.C. Cir. 1975), where the Commission accepted applications to construct and operate communications satellites for domestic use while shaping an "open entry" policy for these satellites in concurrent rulemaking. In both cases, the Commission's decision to adopt parallel procedures was based upon the public interest in expediting the introduction of the service. UTC/API attempts to distinguish the DBS proceeding on the mistaken premise that there the Commission had issued a notice of proposed policy statement and rulemaking concerning the need for DBS service, whereas in the present proceeding there was no similar opportunity to comment on radiodetermination service. This ignores the fact that Geostar's petition for rulemaking and applications were put on public notice and the NPRM issued as a result of favorable comment on the need for radiodetermination service.

[5] NAB, in a "Petition for Partial Reconsideration" supported by MST and UTC/API, takes issue with parallel processing. NAB's petition, however, is improperly filed and will be dismissed. The Commission's rules permit any interested person to petition for reconsideration of a final action in a rulemaking proceeding. 47 CFR 1.429. The issuance of an NPRM does not constitute final action, but merely proposes an action and invites comments on the propoal. *See, e.g., Amendment of Television Table Assignments*, 62 FCC 2d 752 (1976), *Modification of FM Broadcast Station Rules*, 78 FCC 2d 1232 (1980) where the Commission rejected motions to reconsider the issuance of notices of proposed rulemaking. NAB's contention that the NPRM constitutes a "final action" because it was placed on public notice is misplaced. In any event, as discussed above, acceptance and processing of applications while final rules are being adopted for a proposed service is permissible, and in no way prejudges the frequency allocation rulemaking, as NAB contends.

[6] We also reject Mobilesat's assertion that certain other issues, including multiple entry, priority access for aeronautical radionavigation users, regional sharing, the nature of the permissible market and the extent to which the Federal Aviation Administration and Coast Guard must be involved, must be clarified before other applications can be filed or comments submitted on the NPRM. These issues are appropriately considered in the rulemaking.

6. Because the only concrete proposal before us was Geostar's, no other proposals had been advanced in comments on Geostar's rulemaking petition, and Geostar's design appeared to be consistent with Commission policies, including multiple entry,[7] we used the Geostar system as our "initial baseline" for radiodetermination satellite system design and operation.[8] We believed that use of a specific application as the baseline would promote efficiency of process.[9] The NPRM, however, specifically left open the possibility that if the proposed frequency allocation was made, the final regulations may require a design different from Geostar's.[10] Thus, the Geostar design was to serve only as a point of reference for other applicants to consider in submitting their own proposals and comments on our proposals in the NPRM. However, any applicant proposing an inherently incompatible design was required to show why that design was superior to Geostar's. This is the same showing that must be made in any rulemaking in which proposals substantially different from those in the NPRM are submitted. Moreover, we emphasize that our primary focus was to implement our proposal policy objective of multiple entry. To estalish the minimum technical standards that might be necessary to implement this policy, it was advisable to propose a specific system design in order to facilitate focused comments. In this way, we sought to ensure an adequate record to establish any technical standards necessary to implement multiple entry in the radiodetermination satellite service and grant multiple applications for radiodetermination satellite systems sharing the same orbit and spectrum without the need for comparative hearings to select among competing applicants.

7. Thus, contrary to the assertions of Omniment and Mobilesat, our designation of the Geostar proposal as the baseline system for the purposes of this proceeding was not premature. We have neither decided that Geostar's design will be the one ultimately adopted nor have we limited our flexibility to choose among competing concrete system designs. We further reject Omniment's unsupported argument that the use of Geostar's system as an initial baseline constituted a "rule" that was improperly promulgated without notice and comment under the APA.[11] Non-binding agency actions which are not "determinative of issues or rights addressed" do not constitute rules since they do not "foreclose alternative courses of action or conclusively affect rights of private parties."[12] Here, use of Geostar's design as an initial baseline has not foreclosed other designs from being proposed or adopted, nor has it significantly affected the rights of applicants proposing competing systems. Identification of Geostar's design as the initial baseline system against which comments and counter-proposals should be based merely fulfills our obligation to provide notice of "the terms or substance of the proposed rule or a description of the subjects and issues involved."[13]

8. Moreover, parties have been provided with a full opportunity to comment on the proposed baseline system design, and to propose competing designs. Specifically, comments on the underlying NPRM may address our proposed multiple entry policy, licensing policies and procedures and the minimum basic design features of radiodetermination satellite systems in these banks. Any commenter proposing a system design that is not compatible with the baseline system may also propose policies and procedures to allow us to choose among the competing technologies or propose technical or operational standards or other approaches to resolve these incompatibilities. If competing applications are then, in fact, filed, comments on the merits of the specific proposals and on the establishment of policies and technical rules and criteria to govern the licensing of specific radiodetermination satellite systems can be submitted in response to the public notice accepting these applications for filing. The merits of all proposals, whether or not compatible with the baseline system, will therefore be fully considered in this rulemaking proceeding. Thus, we believe the procedure established in the NPRM was a reasonable exercise of the Commission's discretion to fashion procedures promoting efficiency of process, while providing all interested parties with a full and fair opportunity to be heard.

ii. Baseline System Design Consideration

9. Omninet and Mobilesat further argue that supplemental information provided by Geostar on September 27, 1984 changes the "baseline" system design and renders Geostar's revised design incompatible with the "baseline" system. Specifically, Omniment argues that Geostar's initial proposal to use random access TDM with slotted ALOHA protocol and differential phase shift keying has been replaced with a spread spectrum modulation. Concluding that a radiodetermination system employing the "baseline" technology could not share the same frequency band with the spread spectrum design, Omninet urges us to clarify the "baseline" system.

10. To the extent that any confusion has arisen in light of Geostar's latest submission, we would like to clarify here that we are proposing multiple entry as our basic requirement. In order to provide a technical basis to implement this policy, we further propose random access TDM compatibility as a system standard in the bands being proposed for radiodetermination satellite service. Any applicant proposing random access TDM operations will tentatively be considered compatible with the baseline design regardless of specific modulation characteristics, power levels or coding schemes. We recognize that with this initially wide range of transmission parameters, unacceptable levels of interference may occur between radiodetermination systems operating on a random access TDM basis. Thus, all applications must include a technical discussion of any conditions or constraints on other systems that might be necessary to assure that unacceptable interference would not result between its system and other random access TDM systems.[14] This technical analysis may be refined in the course of filing comments on the specific system applications filed. Any applicant proposing a system design which is not

[7] *See, e.g., Satellite Orbital Spacing*, 54 Rad. Reg. (P&F) 577 (1983), *recon.* FCC 84-487 (adopted October 17, 1984); *Domestic Communications Satellite Facilities*, 22 FCC 2d 80 (1970), 35 FCC 2d 844, *recon.* 38 FCC 2d 665 (1972).

[8] NPRM at para. 33.

[9] *Id.* at para. 41.

[10] *Id.* at paras. 34, 41.

[11] Section 2 of the APA defines a rule as an "agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy," 5 U.S.C. 551(4).

[12] *See Batterton* v. *Marshall*, 648 F.2d 694, 702 (D.C. Cir. 1980).

[13] 5 U.S.C. 553(b)(3). This approach is consistent with our approach in both *Instructional Television Fixed Service*, FCC 84-363 (released August 10, 1984) and the DBS proceeding, note 3 *supra*. In those proceedings, we accepted and processed applications prior to the adoption of final rules, while proposing "interim standards" for proposed systems.

[14] For the purposes of addressing "issues relating to compatibility with the proposed Geostar system" as required by our *Public Notice*, applicants should use the most current technical parameters proposed for the Geostar system.

random access TDM must demonstrate how multiple entry would be accomplished and how the proposed design is more efficient or better serves the public interest than random access TDM. The superiority of any particular design to permit multiple access to be accomplished, along with any necessary electromagnetic compatibility criteria or other technical rules required to ensure that such multiple systems can operate on a non-interference basis, will be determined by rule.[15] Once final rules are adopted, all applicants will be provided with the opportunity to amend their proposals to be fully compatible with the requirements established in the rulemaking. Applications that are not amended to comply with the rules will be dismissed.

11. With respect to Geostar's supplemental information, Geostar claims that its spread spectrum transmission is simply one way of implementing generic random access TDM and continues to permit multiple entry with other random access TDM systems.[16] We do not have a sufficient technical record developed here to conclude whether Geostar's design still comports with the baseline standard.[17] To aid us in this determination, and because of the confusion caused by the various Geostar technical submissions, we expect Geostar to provide an unambiguous technical description of its proposed system operation and to discuss how multiple entry would be accommodated in view of the clarification above.[18] Moreover, Geostar is expected to demonstrate why its proposed system is superior to random access TDM if, in fact, that aspect of its system has been altered. This information may be submitted no later than the filing date for other applications to be considered concurrently with Geostar's.

iii. Filing Dates

12. In view of the fact that this order is intended to clarify any confusion the parties might have had concerning the application filing procedures, we believe it reasonable to provide applicants additional time to perfect their applications. Moreover, as discussed in the *Notice of Proposed Rulemaking* in Gen. Docket No. 84–1234 concerning land mobile satellite systems adopted November 21, 1984, we will allow for the simultaneous filing of land mobile and radiodetermination satellite system applications. Thus, proposals for radiodetermination systems to be considered concurrently with Geostar's must be filed within 60 days of the release of the land mobile NPRM. The Commission will then issue a public notice listing those applications appearing *prima facie* acceptable for filing and setting time limits for the filing of comments or petitions on the applications. As noted in the land mobile satellite service rulemaking notice, if review of the applications filed for the proposed radiodetermination and land mobile services confirms our belief that the two services can be treated separately, we will continue to establish rules, policies and licensing procedures for these services in independent proceedings.

13. We do not believe, however, that a further extension of time for comments on the underlying NPRM is warranted. In addition to addressing our proposed multiple entry policy, licensing procedures, and a basic system design as discussed in paragraph 8 *supra*, comments may address the proposed frequency allocations and any other general issues such as those mentioned in note 6, *supra*. Because it is not necessary to review specific applications before submitting these comments, comments on the NPRM will remain due on or before December 17, 1984 and reply comments on or before January 17, 1985.

Conclusion and Ordering Clauses

14. The parties' comments regarding procedural issues are helpful, but we restate that our primary obligation is to make available to consumers a rapid and efficient communications service. The Commission has crafted an orderly and fair process to allow for, the prompt implementation of radiodetermination service to the public if, consistent with our initial finding that the initial comments demonstrated a need for such a service, the proposed allocations are made. These procedures will enable us to proceed in the frequency allocation and licensing policy rulemaking and to license specific radiodetermination systems with full knowledge of the possible range of concrete proposed systems. Aside from the modification to the application filing date and clarifications given above, no arguments have been presented to warrant a departure from the basic rulemaking and application processing procedure for the radiodetermination satellite service established by the Commission in its NPRM.

15. Accordingly, it is ordered that the "Petition for Partial Reconsideration" filed by the National Association of Broadcasters is dismissed, and the "Petition for Postponement of Procedural Dates and for Clarification" filed by Omninet Corporation, and the "Combined Request for Stay and Motion for Extension of Time" filed by the National Association of Broadcasters, and the "Motion for Extension of Time" filed by Analytical Technologies, Inc. are granted to the extent set forth herein and are denied in all other respects.

16. It is further ordered that the pleading cycle in this proceeding is extended as stated above.

Federal Communications Commission.

Albert Halprin,

Chief, Common Carrier Bureau.

[FR Doc. 84–33455 Filed 12–24–84; 8:45 am]

BILLING CODE 6712–01–M

[15] If different system design technologies are proposed which are inherently incompatible, we propose to establish policies and procedures that will allow us to select among these competing system design proposals to implement a multiple entry policy. The criteria that will be used to determine the superiority of a given system design are increased orbit/spectrum efficiency while retaining multiple entry possibilities, economy and efficiency of service to users, and further advancement of the public interest.

[16] We note that spread spectrum transmission reduces transmit power levels and sharing difficulties identified in the NPRM.

[17] We do not presently believe, however, that Geostar's change to a spread spectrum transmission constitutes a major amendment requiring public notice under Section 309 of the Communications Act, 47 U.S.C. 309. Geostar's design appears to continue to permit multiple entry and to use random access TDM in the user to central station direction. Although the modulation characteristics of the central station to user transmissions have been altered, modulation changes traditionally have not been considered to be major amendments when the potential for interference has not been increased. In this case, the reduced power levels reduces the likelihood of interference. Thus, no change is needed to the September 7, 1984 Public Notice accepting Geostar's application for filing. *See, e.g., United States Satellite Company* v. *FCC*, No. 83–1692 (D.C. Cir. July 24, 1984). In any event, construction notice of the change has been given and parties have been provided with sufficient time to comment on Geostar's supplemental information.

[18] If, on the basis of this information, we determine that Geostar's system no longer comports with the baseline standard, we will place Geostar's amended application on Public Notice for comment along with the other applications acceptable for filing.

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47 CFR Parts 2, 73, and 90

[Gen. Docket No. 84–902; RM–3975]

Amendment of the Commission's Rules To Allocate Additional Channels in the Band 407–512 MHz for Public Safety Services; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment/reply comment period.

SUMMARY: This action extends for thirty-two (32) days the date for filing comments to the Notice of Proposed Rule Making to allocate additional channels in the band 470— 512 MHz for Public Safety Service. This action is taken in response to a Petition filed by the Consumer Electronics Group of the Electronics Industries Association. The Proposed Rule in this proceeding was published in the **Federal Register** of November 21, 1984, 49 FR 45875.

DATES: Comments in the above noted proceeding must be filed on or before January 22, 1985 and Reply Comments must be filed on or before February 7, 1985.

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

FOR FURTHER INFORMATION CONTACT: Marjorie S. Reed, Office of Science and Technology, (202) 632-7067.

SUPPLEMENTARY INFORMATION:

Order Extending Time for Comments

In the matter of amendment of Parts 2, 73, and 90 of the commission's rules and regulations to allocate additional channels in the band 470–512 MHz for public safety services; Gen. Docket 84–902, RM–3975.

Adopted: December 14, 1984.
Released: December 17, 1984.

By the Chief Scientist.

1. On October 11, 1984, the Commission released a Notice of Proposed Rule Making, GEN. Docket 84–902, 49 FR 45875 (1984), proposing to make frequencies available for public safety use in the Los Angeles County area from television Channel 19 (500–506 MHz). Comments were to be filed on or before December 20, 1984, and reply comments on or before January 4, 1985.

2. The Consumer Electronics Group of the Electronics Industries Association (EIA/CEG) has timely filed a Petition for an Extension of the Comment Date in the above-captioned proceeding. In this Petition EIA/CEG request that the comment date be extended for at least sixty (60) days after the Los Angeles County Sheriff's Department (the Sheriff) files a report on the results of tests concerning the feasibility of using the proposed frequencies. EIA/CEG argues that this report is critical to this proceeding and that it should be reviewed as part of the comment process rather than the reply process.

3. To date the Sheriff has not filed his full report, although this report is expected by December 20, 1984. However, on December 7, 1984, the Sheriff filed a Motion to Modify Notice of Proposed Rule Making seeking to enlarge the issues in this proceeding. This includes a statement of preliminary test results. The Sheriff has also timely filed a Motion to Continue Comment Dates pending Commission action on his Motion to Modify.

4. It appears that the Commission would benefit from analysis of the Sheriff's completed report by commenters during the comment stage of this proceeding. Accordingly, pursuant to § 0.241(d) of the Commission's Rules, it is ordered that comments be filed on or before January 22, 1985, and reply comments on or before February 7, 1985. We assume the Sheriff will file a complete report on results of its testing on or before December 20, 1984.

5. It is further ordered that the Petition for an Extension of Comment Date filed by the Consumer Electronics Group of the Electronics Industry Association is granted in part as set forth above and otherwise denied. The Sheriff's Motion to modify and related Motion to continue Comment Dates are deferred pending further consideration.

Robert S. Powers,

Chief Scientist.

[FR Doc. 84–33453 Filed 12–24–84; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[Docket No. 41270–4170]

Atlantic Surf Clam and Ocean Quahog Fisheries

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

ACTION: Proposed rule.

SUMMARY: NOAA issues a proposed rule to implement Amendment 5 to the Altantic Surf Clam and Ocean Quahog Fisheries (FMP). The revisions within this amendment are necessary to allow (1) a mechanism for adjustments to the minimum size limit for surf clams, (2) a revision of the method of inspecting surf clams for compliance, (3) a requirement that surf clam cages be tagged, and (4) a presumption that surf clams landed on an authorized fishing day were caught in the Fishery Conservation Zone (FCZ) and are subject to the Federal minimum size limit. The intended effect of this rule is to reduce the mortality rate caused by discarding undersized clams, resulting in greater short- and long-term yield from the resource and to facilitate enforcement of the minimum size limit.

DATE: Comments on the proposed rule must be received on or before February 8, 1985.

ADDRESSES: Comments on the proposed rule, Amendment 5, or supporting documents should be sent to Richard Schaefer, Acting Regional Director, National Marine Fisheries Service, Northeast Regional Office, 14 Elm Street, Gloucester, MA 01930–3799. Mark the outside of the envelope "Comments on Surf Clam and Ocean Quahog Amendment 5."

Copies of the amended FMP, the environmental assessment, and the draft regulatory impact review/initial regulatory flexibility analysis are available from John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901.

FOR FURTHER INFORMATION CONTACT: Richard G. Seamans, 617–281–3600, ext. 262.

SUPPLEMENTARY INFORMATION: .

Background

Amendment 5 was prepared by the Mid-Atlantic Fishery Management Council (Council) in consultation with the New England Fishery Management Council. A notice of availability for the proposed amendment was published in the **Federal Register** on December 3, 1984 (49 FR 47278). Amendment 5 revises management measures for surf clams.

The regulations implementing the FMP contain at § 652.25 provisions that include a minimum size limit for surf clams of 5½ inches, allow fishermen to reserve from inspection 10 percent of the full cages of surf clams aboard a vessel, and provide for a tolerance of no more than 240 undersized surf clams in any single inspected cage. This results in a combined tolerance of about 19 percent for sublegal surf clams.

When the minimum size limit was developed, the Council tried to balance conflicting goals of the industry. The 5½ inch size was considered optimum in terms of product value, although maximum yield per recruit for surf clams occurs at a smaller size of approximately 4¾ inches. Surf clams occur in bed which are generally mixed in size, so that even the most careful fishermen catch some small clams. The tolerance in the implementing regulations was therefore considered necessary to minimize discarding where small clams have been harvested despite efforts to harvest legal sized clams. Discards are considered wasteful

since it is estimated that about 50 percent of the discarded clams die.

The size distribution of surf clams, combined with the fixed minimum size limit, has at times resulted in discard rates of up to 50 percent of the clams harvested, when fishermen cull their catches to ensure that their harvests are legal sized.

The FMP currently states: "No person shall harvest or possess surf clams smaller than 5.5" in length". Amendment 5 changes that provision to read: "There is a surf clam minimum size limit. After consultation with the Council and opportunity for public comment, the Regional Director shall adjust, by increments no less than 0.25", the surf clam minimum size limit to a value less than 5.5" as necessary, so that discards on average do not exceed 30% of the trip catch. In no event shall the size limit be less than 4.75". When data indicate the clams have grown sufficiently, the limit would be increased, ultimately reaching the 5.5" limit. There is a tolerance of 240 undersized clams per cage but no more than 50 clams per cage under 4.75". If any cage is in violation of the size limit, the entire load is in violation. In adjusting the size limit the Regional Director shall consider current stock assessments, catch reports, and other relevant information concerning the size distribution of the surf clam resource. No person shall harvest or possess surf clams smaller than the minimum size limit." This means that, at any time when the size limit is to be changed, the Regional Director and the Council may select any of the following values (5½, 5¼, 5, or 4¾ inches); i.e., the change could be ¼, ½, or ¾ inch at any one time.

Amendment 5 adds the requirement that all surf clam cages must be tagged before leaving the vessel with tags to be supplied by the Regional Director, and that tags may not be removed until cages are emptied at the processing plant. Vessel operators in both the New England and Mid-Atlantic Areas will be required to attach tags to each cage of clams before landing, and to make a note of the tag numbers in their logbooks. Processors will be required to note the tag numbers in their logbooks and, immediately after the cage is emptied, to remove and discard the tags. Tagging is intended to improve enforcement of the size limit, thereby decreasing violations and the resultant landing of large numbers of small clams.

Amendment 5 adds the provision that all surf clams landed on an "authorized FCZ fishing day" are assumed to have been caught in the FCZ and are subject to the Federal size limit. This measure, which is enforceable at dockside, will improve the enforcement of the FMP. A definition of "authorized FCZ fishing day" is added to § 652.2.

Classification

Section 304(a)(1)(C)(ii) of the Magnuson Act, as amended by Pub. L. 97–453, requires the Secretary of Commerce (Secretary) to publish regulations proposed by a Council within 30 days of receipt of the FMP and proposed regulations. The Secretary has not yet determined that the FMP these rules would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the information, views, and comments received during the comment period.

The Council prepared an environmental assessment (EA) for this amendment which analyzes the consequences of this action. The Assistant Administrator concluded that there will be no significant impact on the human environment. A copy of the EA is available from the Council at the address listed above.

The NOAA Administrator determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This determination is based on the draft regulatory impact review (DRIR) prepared by the Council which demonstrates positive net short-term and long-term economic benefits to the fishery under the proposed management measures. The amendment should not have an annual effect of $100 million or more, since the value of the total fishery has never exceeded $27 million. The net effect will be an adjustable size limit that will make it easier for fishermen to land surf clams that meet the size limit with minimal discarding. It will also be easier to obtain convictions of those who violate the size limit. Industry costs should decrease by eliminating the need to discard large numbers of small clams, and by minimizing violation problems associated with catching and not discarding undersized clams. Costs for the Federal Government should balance, with administrative costs increasing slightly and enforcement costs decreasing. Costs to consumers, State or local government agencies, and geographic regions should not be affected; nor should there be adverse effects on U.S.-based enterprises competing with foreign-based enterprises. A copy of this review may be obtained from the Council at the address listed above.

This proposed rule is exempt from the procedures of Executive Order 12291 under section 8(a)(2) of that order. Deadlines imposed under the Magnuson Act, as amended by Pub. L. 97–453, require the Secretary to publish this proposed rule 30 days after its receipt. The proposed rule is being reported to the Director of the Office of Management and Budget with an explanation of why it is not possible to follow review procedures of the order.

The Council prepared an initial regulatory flexibility analysis as part of the regulatory impact review which concludes that this proposed rule, if adopted, would not have a significant effect on small entities. Both large and small businesses are affected by the current size limit problem, and will benefit by the solution contained in the amendment. The impacts of the amendment do not favor large businesses over small businesses, except to the extent that the smaller processors and the independent vessels that work with them may be more dependent on larger surf clams than are the large, vertically intergrated processors that also use smaller surf clams and ocean quahogs. An impact could occur with a decrease in the size limit to the lowest allowed size of 4¾ inches. A copy of the regulatory flexibility analysis may be obtained from the Council at the address listed above.

The existing rule contains collection of information requirements previously approved by the Office of Management and Budget (OMB) under Control numbers 0648–0013, –0016, –0097, and –0114. Because sections proposed in this rule contain a collection of information subject to the Paperwork Reduction Act, this collection has been submitted to OMB for approval. Comments should be directed to the desk Officer for NOAA, Office of information and Regulatory Affairs, OMB.

The Council determined that this rule will affect the State's coastal zone and will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management (CZM) programs of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, and Maryland. On 7 August 1984, letters were sent to all of the States listed above stating that the Council concluded that Amendment 5 is consistent to the maximum extent practicable with th State's CZM program as understood by the Council. Maryland and Rhode Island have 5.5" surf clam minimum size limits, Massachusetts has a 5" minimum size limit, and New York has a 4" minimum size limit. The letters

to those States recommended that State minimum size limits be revised to match the proposed size limit to facilitate enforcement while also noting that the FCZ catch presumption is intended to minimize the impact of these differences. Maine, Massachusetts, Connecticut, New York, Pennsylvania, Delaware and Maryland responded, and agreed with the consistency determination. Maryland also responded that it will change its size limit to conform with this amendment.

List of Subjects in 50 CFR Part 652

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

Dated: December 19, 1984.

Carmen J. Blondin,

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

For the reasons set out in the preamble, 50 CFR Part 652 is proposed to be amended as follows:

PART 652—[AMENDED]

1. The authority citation for Part 652 reads as follows:

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

2. The Table of Contents is amended by redesignating §§ 652.7 through 652.10 as §§ 652.8 through 652.11 and by adding a new entry § 652.7 "Cage identification."

3. In § 652.2, the definition *"Authorized FCZ fishing day"* is added in alphabetical order to read as follows:

§ 652.2 Definitions.

* * * * *

Authorized FCZ fishing day means a day assigned by the Regional Director under § 652.22 to a vessel owner or operator on which harvest of surf clams pursuant to the plan is allowed, except as limited by substitution or cancellation of the authorized day, or by limitations on fishing time pursuant to these regulations.

* * * * *

4. In § 652.5, paragraph (a)(1) is amended by revising paragraphs (v) and (vi) and by adding a new paragraph (vii), and paragraph (b)(1) is amended by revising paragraphs (xi) and (xii) and by adding a new paragraph (xiii) to read as follows:

§ 652.5 Recordkeeping and reporting requirements.

(a)(1) * * *

(v) Price per bushel, by species;

(vi) Meat yield per bushel, by species; and

(vii) Tag numbers from cages purchased, by vessel.

* * * * *

(b)(1) * * *

(xi) Price per bushel;

(xii) Buyer; and

(xiii) Tag numbers from cages used.

* * * * *

§§ 652.7 through 652.10 [Redesignated as §§ 652.8 through 652.11]

5. Sections 652.7 through 652.10 are redesignated as §§ 652.8 through 652.11 and a new § 652.7 is added to read as follows:

§ 652.7 Cage identification

(a) *Tagging.* Vessel operators must tag all surf clam cages that contain clams before off-loading them with color coded, serially numbered tags provided annually by the Regional Director under paragraph (b) of this section. Tags must not be removed until cages are emptied at the processing plant, at which time the processor must promptly remove and discard them.

(b) *Acquisition and return of tags.* (1) An initial supply of tags will be issued to each individual vessel by the Regional Director prior to the beginning of each fishing year. The number of tags issued will be based on the previous year's landings.

(2) Additional tags may be obtained, if required, upon written request to the Regional Director.

(3) Tags will expire at the end of the fishing year for which they were issued. Unused tags must be returned to the Regional Director at the end of the fishing year.

(c) *Specifications.* Changes in specifications of the tagging program will be made by the Regional Director in consultation with the Council.

(d) *Use of tags.* (1) Tags are not transferrable among vessels.

(2) Alteration, theft, destruction, transfer, or other misuse of tags is a violation of these regulations.

(3) Any cage of surf clams found in commerce without a tag is in violation of these regulations.

(4) Processors must promptly remove and discard a tag after a cage is emptied.

(e) *Presumption.* Cages with colored numbered tags matching those issued to a vessel will be presumed to have been taken by that vessel.

6. In redesignated § 652.8, paragraph (h) is amended by adding a new paragraph (3), paragraph (j) is redesignated as (k), and a new paragraph (j) is added to read as follows:

§ 652.8 Prohibitions.

* * * * *

(h) * * *

(3) Any surf clam cage tags issued under § 652.7(b).

* * * * *

(j) No person may use surf clam cage tags issued under § 652.7(b) in a manner inconsistent with the terms of § 652.7(d).

* * * * *

7. In § 652.22 paragraph (a)(2) is amended by revising sentences 3 and 4, and paragraph (f) is amended by redesignating the existing text as paragraph (1) and by adding a new paragraph (2) to read as follows:

§ 652.22 Effort restrictions.

(a) * * *

(2) *Hours.* * * * The vessel owner or operator must send the Regional Director written notice of the owner or operator's selection or cancellation of allowable surf clam fishing period for that vessel. All selections or cancellations must be provided to the Regional Director no less than 15 days prior to the intended effective date. * * *

* * * * *

(f) *Presumption.* * * *

(2) All surf clams landed on an authorized FCZ fishing day are assumed to have been caught in the FCZ and are subject to the Federal size limit.

8. Section 652.25 is revised to read as follows:

§ 652.25 Size restrictions.

(a) *Minimum length.* A minimum size limit for surf clam of 5½ inches in length is imposed with the following exceptions:

(1) *Size limit selections.* The Regional Director will select the size limit, after consultation with the Council and opportunity for public comment, from among the following values: 5½, 5¼, 5, and 4¾ inches. The selection of the size limit will be made to reduce the amount of discards of surf clams so that they do not exceed 30 percent, on average, of trip catches. The Regional Director will monitor current stock assessments, catch reports, and other relevant information concerning the size distribution of the surf clam resource to determine if any adjustment in the size limit is appropriate. The Secretary will publish notice of any adjustments in the **Federal Register.**

(2) *Tolerance.* (i) When the minimum size limit is greater than 4¾ inches, as many as 240 surf clams in any full cage may be less than the legal minimum size, but not more than 50 clams in any full cage may be less than 4¾ inches.

(ii) When the minimum size limit is 4¾ inches, no more than 50 clams in any full cage may be less than 4¾ inches.

(iii) If any inspected cage is found to be in violation of paragraphs (2)(i)–(ii) of this section, all cages in possession will be deemed in violation of the size limit.

(b) *Measurement.* Length is measured at the longest dimension of the surf clam.

[FR Doc. 84-33526 Filed 12-20-84; 5:07 pm]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 49, No. 249
Wednesday, December 26, 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 COMMERCE

Minority Business Development Agency

Minority Business Development Center Program; Grant Application

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3 year period, subject to available funds. The cost of performance for the first 11 months it estimated at $413,417 for the project performance of May 1, 1985 to March 31, 1986. The MBDC will operate in the Baltimore, Md. Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $351,404 in Federal funds and a minimum of $62,013 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3 year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continue funding will be at the discretion of MBDA, based on such factors as the MBDC's satisfactory performance, the availability of funds, and Agency priorities.

DATE: Closing date: The closing date for applications is January 18, 1985. Applications must be postmarked on or before January 18, 1985.

ADDRESS: Washington Regional Office, Minority Business Development Agency, U.S. Department of Commerce, Washington, D.C. 20230, 202–377–8280.

FOR FURTHER INFORMATION CONTACT: Stanley W. Tate, Regional Director, Washington Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development (Catalog of Federal Domestic Assistance))

Dated: December 17, 1984.

Stanley W. Tate,

Regional Director, Washington Regional Office.

[FR Doc. 84–33423 Filed 12–24–84; 8:45 am]

BILLING CODE 3510–21–M

Minority Business Development Center Program; Grant Applications

AGENCY: Minority Business Development Agency, Commerce

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3 year period, subject to available funds. The cost of performance for the first 11 months is estimated at $705,833 for the project performance of May 1, 1985 to March 31, 1986. The MBDC will operate in the Philadelphia, Pa. Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $599,958 in Federal funds and a minimum of $105,875 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3 year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continue funding will be at the discretion of MBDA, based on such factors as the MBDC's satisfactory performance, the availability of funds, and Agency priorities.

DATE: Closing date: The closing date for applications is January 18, 1985. Applications must be postmarked on or before January 18, 1985.

ADDRESS: Washington Regional Office, Minority Business Development Agency, U.S. Department of Commerce, Washington, D.C. 20230, 202–377–8280.

FOR FURTHER INFORMATION CONTACT: Stanley W. Tate, Regional Director Washington Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development (Catalog of Federal Domestic Assistance))

Dated: December 17, 1984.

Stanley W. Tate,

Regional Director, Washington Regional Office.

[FR Doc. 84–33424 Filed 12–24–84; 8:45 am]

BILLING CODE 3510-21-M

Minority Business Development Centers Program; Grant Applications

AGENCY: Minority Business Development Agency; Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive application under its Minority Business Development Center (MBDC) Program to operate an MBDC for a 3 year period, subject to available funds. The cost of performance for the first 15 months it estimated at $343,750 for the project performance of April 1, 1985 to June 30, 1986. The MBDC will operate in the Pittsburgh, Pa. Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $292,188 in Federal funds and a minimum of $51,562 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3 year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continue funding will be at the discretion of MBDA, based on such factors as the MBDC's satisfactory performance, the availability of funds, and Agency priorities.

DATE: Closing date: The closing date for applications is January 18, 1985. Applications must be postmarked on or before January 18, 1985.

ADDRESS: Washington Regional Office, Minority Business Development Agency, U.S. Department of Commerce, Washington, D.C. 20230, 202–377–8280.

FOR FURTHER INFORMATION CONTACT: Stanley W. Tate, Regional Director, Washington Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development (Catalog of Federal Domestic Assistance))

Dated: December 17, 1984.

Stanley W. Tate,

Regional Director, Washington Regional Office.

[FR Doc. 84–33425 Filed 12–24–84; 8:45 am]

BILLING CODE 3510-21-M

Minority Business Development Center (MBDC), Solicitation of Competitive Applications

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate and MBDC for a 3 year period, subject to available funds. The cost of performance for the first 11 months is estimated at $705,833 for the project performance of May 1, 1985 to March 31, 1986. The MBDC will operate in the Washington, D.C. Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $599,958 in Federal funds and a minimum of $105,875 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3 year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continue funding will be at the discretion of MBDA, based on such factors as the MBDC's satisfactory performance, the availability of funds, and agency priorities.

DATE: Closing date: The closing date for applications is January 18, 1985. Applications must be postmarked on or before January 18, 1985.

ADDRESS: Washington Regional Office, Minority Business Development Agency,

U.S. Department of Commerce, Washington, D.C. 20230, 202–377–8280.

FOR FURTHER INFORMATION CONTACT: Stanley W. Tate, Regional Director, Washington Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development (Catalog of Federal Domestic Assistance))

Dated: December 17, 1984.

Stanley W. Tate

Regional Director, Washington Regional Office.

[FR Doc. 84–33426 Filed 12–24–84; 8:45 am]

BILLING CODE 3510–21–M

Minority Business Development Center Program; Grant Applications

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3-year period, subject to available funds. The cost of performance for the first 12 months is estimated at $187,000 for the project performance period of April 1, 1985 to March 31, 1986. The MBDC will operate in the Seattle Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $158,950 in Federal funds and a minimum of $28,050 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The I.D. Number for this project will be 10–10–85001–01.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as the MBDC's satisfactory performance, the availability of funds, and Agency priorities.

A pre-application conference to assist all interested applicants will be held at the following address and time:

Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Room 13216C, San Francisco, California 94102

January 11, 1985 at 10:00 a.m.

Proposals Are To Be Mailed to the Following Address

Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102, 415/556–6734.

DATE: Closing date: The closing date for applications is January 24, 1985. Applications must be postmarked on or before 5:00 p.m.—January 24, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Xavier Mena, Regional Director, San Francisco Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development (Catalog of Federal Domestic Assistance))

Xavier Mena,

Regional Director, San Francisco Regional Office.

December 19, 1984.

[FR Doc. 84–33438 Filed 12–24–84; 8:45 am]

BILLING CODE 3510–21–M

Minority Business Development Centers Programs; Grant Applications

AGENCY: Minority Business Development Agency; Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds. The cost of performance for the first 12 months is estimated at $275,000 for the project performance period of April 1, 1985 to March 31, 1986. The MBDC will operate in the Sacramento Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $233,750 in Federal funds and a minimum of $41,250 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The I.D. Number for this project will be 09–10–85002–01.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to

determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as the MBDC's satisfactory performance, the availability of funds, and Agency priorities.

A pre-application conference to assist all interested applicants will be held at the following address and time:

Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Room 13216C, San Francisco, California 94102
January 11, 1985 at 10:00 A.M.

Proposals Are To Be Mailed to the Following Address:

Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102, 415/556-6734.

DATE: Closing Date: The closing date for applications is January 24, 1985. Applications must be postmarked on or before 5:00 pm—January 24, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Xavier Mena, Regional Director, San Francisco Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development (Catalog of Federal Domestic Assistance))

Xavier Mena,

Regional Director, San Francisco Regional Office.

December 19, 1984.

[FR Doc. 84-33439 Filed 12-24-84; 8:45 am]

BILLING CODE 3510-21-M

Minority Business Development Centers Program; Grants Application

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds. The cost of performance for the first 12 months is estimated at $187,000 for the project performanee period of April 1, 1985 to March 31, 1986. The MBDC will operate in the Stockton Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $158,950 in Federal funds and a minimum of $28,050 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services.

The I.D. Number for this project will be 09-10-85003-01.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of business. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as the MBDC's satisfactory performance, the availability of funds, and Agency priorities.

A pre-application conference to assist all interested applicants will be held at the following address and time:

Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Room 13216C, San Francisco, California 94102
January 11, 1985 at 10:00 A.M.

Proposals Are To Be Mailed to the Following Address

Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102, 415/556-6734.

DATE: Closing date: The closing date for applications is January 24, 1985. Applications must be postmarked on or before 5:00 pm—January 24, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Xavier Mena, Regional Director, San Francisco Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development (Catalog of Federal Domestic Assistance))

Xavier Mena,

Regional Director, San Francisco Regional Office.

December 19, 1984.

[FR Doc. 84-33440 Filed 12-24-84; 8:45 am]

BILLING CODE 3510-21-M

Minority Business Development Centers Program; Grants Applications

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds. The cost of performance for the first 12 months is estimated at $187,000 for the project performance period of April 1, 1985 to March 31, 1986. The MBDC will operate in the Santa Barbara Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $158,950 in Federal funds and a minimum of $28,050 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The I.D. Number for this project will be 09-10-85013-01.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority

individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as the MBDC's satisfactory performance, the availability of funds, and Agency priorities.

A pre-application conference to assist all interested applicants will be held at the following address and time:

Minority Business Development Agency, U.S. Department of Commerce, 450 Golden Gate Avenue, Room 13216C, San Francisco, California 94102
January 11, 1985 at 10:00 a.m.

Proposals Are To Be Mailed to the Following Address:

Minority Business Development Agency, U.S. Department of Commerce, San Francisco Regional Office, 450 Golden Gate Avenue, Box 36114, San Francisco, California 94102, 415/556-6734.

DATE: Closing date: The closing date for applications is January 24, 1985. Applications must be postmarked on or before 5:00 p.m.—January 24, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Xavier Mena, Regional Director, San Francisco Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development (Catalog of Federal Domestic Assistance))

Xavier Mena,

Regional Director, San Francisco Regional Office.

December 19, 1984.

[FR Doc. 84-33441 Filed 12-24-84; 8:45 am]

BILLING CODE 3510-21-M

National Technical Information Service

Intent to Grant Exclusive Patent License; Oncogene Science, Inc.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Oncogene Science, Inc. having a place of business at Mineola, New York, an exclusive right to practice the invention embodied in U.S. Patent Application SN 6-571,911, "Deoxyribonucleic Acid Molecules Useful as Probes for Detecting Deleterious Genes Incorporated inot Chromosomal DNA." The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comment and other materials relating to the proposed license must be submitted to the Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Office of Federal Patent Licensing, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 84-33472 Filed 12-24-84; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Requesting Public Comment on Bilateral Textile Consultations With the Government of Hong Kong To Review Trade in Category 359 pt. (Infants' Sets)

December 19, 1984.

On December 3, 1984 the Government of the United States requested consultations with the Government of Hong Kong with respect to Category 359 pt. (infants' sets in TSUSA numbers 383.0350, 383.0855, 383.3060 and 383.5075). This request was made on the basis of the agreement of June 23, 1982, as amended, between the Governments of the United States and Hong Kong relating to trade in cotton, wool and man-made fiber textiles and textile products.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consulations between the two governments, the Committee for the Implementation of Textile Agreements may request the Government of Hong Kong to limit exports in Category 359 pt. (infants' sets), produced or manufactured in Hong Kong and exported to the United States during 1984. The Government of the United States reserves the right to control imports in this category at the established limit.

Anyone wishing to comment or provide data or information regarding the treatment of this category under the agreement, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in this category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Consultations will be held December 20-21, 1984. Any comments or information submitted in response to this notice will be available for public inspection in the Office of Textile and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 84-33353 Filed 12-24-84; 8:45 am]

BILLING CODE 3510-DR-M

Increasing the Import Limit for Certain Man-Made Fiber Textiles From Romania

December 19, 1984.

The Chairman of the Committee for the Implementation of Textile Agreements (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 December 26, 1984. For further information contact Eve Anderson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 377–4212.

Background

Under the terms of the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania and at the request of the Government of the Socialist Republic of Romania, the limit established for Category 604 is being increased by 7 percent swing to 2,712,250 pounds for goods produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 1984. To account for the increase being applied to Category 604, the limit for Category 638/639 will be reduced to 3,246,730 square yards equivalent.

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), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), and November 9, 1984 (49 FR 44782).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 19, 1984.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: On December 19, 1983, the Chairman, Committee for the Implementation of Agreements, directed you to prohibit entry of certain wool and man-made fiber textile products, produced or manufactured in Romania, and exported during 1984, in excess of designated restraint limits. The Chairman further advised you that these limits are subject to adjustment.[1]

Effective on December 26, 1984, paragraph 1 of the directive of December 19, 1983 is hereby further amended to include an adjusted limit of 2,712,250 pounds[2] for man-made fiber textiles in Category 604, produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 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. 84–33354 Filed 12–24–84; 8:45 am]

BILLING CODE 3510-DR-M

[1] The term "adjustment" refers to those provisions of the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania, which provides, in part, that: (1) Specific limits may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (2) consultations may be held to adjust levels of restraint for categories not subject to specific limits; and (3) administrative arrangements or adjustments or may be made to resolve minor problems arising in the implementation of the agreement.

[2] The limit has not been adjusted to reflect any imports exported after December 31, 1983.

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare; Draft Environmental Impact Statement (DEIS) for the Proposed Expansion of Moss Landing, CA, Harbor

AGENCY: U.S. Army Corps of Engineers, San Francisco District, DOE.

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement (DEIS)/Feasibility Report.

SUMMARY: 1. Moss Landing Harbor is on the California Coast approximately 100 miles south of San Francisco. The proposed federal project would be a one-thousand foot southerly extension of the existing federal channel into the Old Salinas River. The channel extension would allow the Moss Landing Harbor District to construct 150 to 180 new berths for commercial fishing vessels.

2. The alternatives considered are: (a) New channel in the Old Salinas River with a new access road constructed on fill at the southern terminus of the new channel. Culverts and tidegates would allow full tidal action in the area upstream from the new crossing. (b) Same as "a" above but with a low level bridge instead of a roadway on fill. (c) Same as "a" and "b" but no new crossing. An existing crossing approximately 4,000 feet south of the new channel would be utilized. Alternatives "a", "b", and "c" would require removal of the existing Sandholdt Bridge. (d) New channel in Moro Coho Slough, which is just to the east of the Old Salinas River. This alternative would require relocation of a major pipeline, elevation or relocation of the access road into Moss Landing Harbor, and removal of existing berths. Depths of 10, 12, and 14 feet (mean lower low water datum) will be evaluated for each of the channel alternatives. (e) No action.

3. Significant issues to be analyzed in depth in the DEIS/Feasibility Report include impact on wetlands, water quality, conformance with the coastal plan, and selection of a disposal site for the dredged material removed for the channel deepening.

4. Conducted concurrently with the NEPA process will be environmental review and consultation as required by sections 401 and 404 of the Clean Water Act, as amended (33 U.S.C. 1341 and 1344); section 307(c) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456(c)); the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*); the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*); the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq.*); and any other statutes or regulations as may be required.

5. All affected federal, state and local agencies, and other interested private organizations and parties are invited to participate in the scoping process. A scoping meeting, open to all, will be held early in 1985. Notification of the time and location of that meeting will be provided to all affected agencies and to the public as soon as the date is established.

6. It is estimated that the DEIS/Feasibility Report will be released to the public in June 1985.

7. Questions regarding the scoping process or preparation of the report may be referred to Barney Option, Plan Formulation Branch, San Francisco District, U.S. Army Corps of Engineers, 211 Main Street, San Francisco, California 94105–1905. The telephone number is (415) 974–0376 FTS 454–0376).

Dated: December 17, 1984.

Andrew M. Perkins, Jr., LTC, CE,

District Engineer.

[FR Doc. 84–33417 Filed 12–24–84; 8:45 am]

BILLING CODE 3710-FS-M

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Naval Research Advisory Committee will meet on January 15–16, 1985, at the Atlantic Undersea Test and

Evaluation Center, Andros Island, Bahamas and the West Palm Beach, Florida Detachment. The first session will commence at 7:30 a.m. and terminate at 5:00 p.m. on January 15. The second and final session will commence at 8:00 a.m. and teminate at 12:30 p.m. on January 16. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to orient the Committee members with various undersea testing being conducted by the Department of the Navy in the Atlantic Ocean and discuss the status of ongoing NRAC studies and new topics to be undertaken. These matters constitute classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M.B. Kelley, U.S. Navy, Office of Navy Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217-5000, Telephone number (202) 696-4870.

Dated: December 20, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 84-33436 File 12-24-84; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Naval Ocean Systems Center Review Team of the Naval Research Advisory Committee Panel on Laboratory Oversight will meet on January 10-11, 1985, at the Naval Ocean Systems Center, San Diego, California. The first session will commence at 8:00 a.m. and terminate at 5:15 p.m. on January 10. The second and final session will commence at 8:00 a.m. and terminate at 5:00 p.m. on January 11. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to examine the scientific, technical and engineering health of NOSC. The entire meeting will consist of classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 522(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M.B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217-5000, Telephone number (202) 696-4870.

Dated: December 20, 1984.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve; Federal Register Liaison Officer.

[FR Doc. 84-33435 Filed 12-24-84; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Business and International Education Program; Application Notice for New Awards for Fiscal Year 1985

Applications are invited for new awards under the Business and International Education Program.

Authority for this program is contained in sections 611, 612, and 613 of Part B of Title VI of the Higher Education Act (HEA) of 1965, as amended.

(20 U.S.C. 1130-1130b)

The Secretary is authorized to make matching grants under this program to qualified institutions of higher education.

The purposes of the awards are as follows:

(1) To increase and promote the Nation's capacity for international understanding and economic enterprise through the provision of suitable international education and training for business personnel in various stages of professional development.

(2) To promote institutional and noninstitutional educational and training activities that will contribute to the ability of United States business to prosper in an international economy.

Closing date for transmittal of applications: An application for a grant award must be mailed or hand delivered by March 5, 1985.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.153 (Business and International Education Program), 400 Maryland Ave., SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: Under the Business and International Education Program, the Secretary is authorized to make grants to institutions of higher education to pay up to 50 percent of the cost of projects designed to promote linkages between institutions and American businesses engaged in international economic activities.

The purpose of each grant is both to enhance the international academic programs of institutions of higher education and to provide appropriate services to the business community to

enable it to expand its capacity to engage in commerce abroad.

Under Title VI, section 612(b) of the HEA, eligible activities which the Secretary may support include, but are not limited to, the following:

(1) Innovation and improvement in international education curricula to serve the needs of the business community, including development of new programs for nontraditional, midcareer, or part-time students.

(2) Development of programs to inform the public of increasing international economic interdependence and the role of American business within the international economic system.

(3) Internationalization of curricula at the junior and community college level, and at undergraduate and graduate schools of business.

(4) Development of area studies programs and interdisciplinary international programs.

(5) Establishment of export education programs through cooperative arrangements with regional and world trade centers and councils, and with bilateral and multilateral trade associations.

(6) Research for and development of specialized teaching materials, including language materials, and facilities appropriate to business-oriented students.

(7) Establishment of student and faculty fellowships and internships for training and education in international business activities.

(8) Development of opportunities for junior business and other professional school faculty to acquire or strengthen international business activities.

(9) Development of research programs on issues of common interest to institutions of higher education and private sector organizations and associations engaged in or promoting international economic activity.

Title VI, section 612(c) of the HEA requires that an institutional grantee enter into an agreement with a business enterprise, trade organization, or association engaged in international economic activity, or a combination or consortium of such enterprises, organizations, or associations, for the purpose of establishing, developing, improving, or expanding activities eligible for assistance under this program. Section 612(c) further requires each institutional application for a grant to be accompanied by a copy of such an agreement.

Because of the planning time required to develop and implement curricula designed to both enhance the international academic programs of institutions of higher education and to provide appropriate services to the business community to enable it to expand its capacity to engage in commerce abroad, the Secretary of Education is accepting applications for new projects of up to two years' duration. Further, the Secretary strongly encourages applicants to select those authorized activities which are most useful in developing, enhancing, or promoting excellence in export trade programs.

Available funds: The Department of Education 1985 Appropriation Act, Pub. L. 98–619, appropriated $26,550,000 for International Education and Foreign Language Studies. Of this total, $2,200,000 has been allocated to the Business and International Education Program. It is anticipated that about 40 new awards will be made in FY 1985. The average grant would be approximately $55,000 per year, with awards ranging from $15,000 to $120,000 per year. These estimates are provided for planning purposes and do not bind the Department of Education to a specific number of grants or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by January 8, 1985. They may be obtained by writing to Susanna C. Easton, International Studies Branch, Center for International Education, U.S. Department of Education, (Room 3916, Regional Office Building 3), 400 Maryland Avenue, SW., Washington D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary suggests that the narrative portion of an application not exceed 20 pages in length. The Secretary further urges that an applicant not submit information that is not requested.

The program information package is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competition. The program forms are approved under the Paperwork Reduction Act of 1980. (Approved by the Office of Management and Budget under Control Number 1840–0068).

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Business and International Education Program, 34 CFR Part 661, published in the **Federal Register** on June 12, 1984.

(49 FR 24362–24364)

(b) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78.

Further information: For further information, contact Susanna C. Easton, International Studies Branch, Center for International Education, U.S. Department of Education, (Room 3916, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–2794.

(20 U.S.C. 1130–1130b)

(Catalog of Federal Domestic Assistance Number: 84.153–Business and International Education Program)

Dated: December 19, 1984.

Gary L. Jones

Acting Secretary of Education.

[FR Doc. 84–33469 Filed 12–24–84; 8:45 am]

BILLING CODE 4000–01–M

Availability of the 1984–85 National Defense and Direct Student Loan Programs Directory of Designated Low-Income Schools for Teacher Cancellation Benefits

AGENCY: Department of Education.

ACTION: Notice of availability of the 1984–85 *National Defense and Direct Student Loan Programs Directory of Designated Low-Income Schools for Teacher Cancellation Benefits.*

SUMMARY: Institutions and borrowers participating in the National Defense and Direct Student Loan (NDSL) Programs and other interested persons are advised that they may obtain information regarding the *1984–85 National Defense and Direct Student Loan Program Directory of Designated Low-Income Schools for Teacher Cancellation Benefits (Directory).* Under each program, borrowers may receive cancellation for full-time teaching in a school having a high concentration of students from low-income families. The Secretary has designated the schools for the 1984–85 academic year and they are listed in the *Directory.*

DATE: The *Directory* is available on or before December 26, 1984.

ADDRESS: Information concerning specific schools listed in the *Directory* may be obtained from Ronald W. Allen, Campus-Based Programs Branch, Division of Program Operations, Office of Student Financial Assistance, U.S.

Department of Education, 400 Maryland Avenue, SW. [Room 4613, ROB-3] Washington, D.C. 20202, Telephone (202) 245-9640.

FOR FURTHER INFORMATION CONTACT: Directories are available in: (1) Each of the participating institutions of higher education, (2) each of the fifty-seven (57) State and Trust Territory Departments of Education, (3) each of the major billing services, and (4) each of the ten (10) regional offices of the U.S. Department of Education (see Appendix to this notice for the addresses of the regional offices).

SUPPLEMENTARY INFORMATION: The procedures for selecting schools for cancellation benefits are described in the NDSL program regulations (34 CFR 674.53, 675.54). The Secretary has determined that for the 1984-85 academic year, full-time teaching in the schools set forth in the *Directory* qualifies for cancellation.

The Secretary is providing the *Directory* to each institution participating in the National Defense and Direct Student Loan Programs. Borrowers and other interested parties may check with their lending institution, the appropriate State Department of Education, regional offices of the Department of Education, or the Office of Student Financial Assistance of the Department of Education concerning the identity of qualifying schools for the 1984-85 academic year.

The Office of Student Financial Assistance will retain, on a permanent basis, copies of past, current, and future *Directories*.

(Catalog of Federal Domestic Assistance Number 84.037; National Defense/Direct Student Loan Cancellations)

Dated: December 19, 1984.

Edward M. Elmendorf,

Assistant Secretary for Postsecondary Education.

Appendix to Notice of Availability of 1984-85 National Defense and Direct Student Loan Programs Directory of Designated Low Income Schools for Teacher Cancellation Benefits

U.S. Department of Education Regional Offices

Mr. Thomas J. O'Hare, Deputy Regional Administrator, Region I: OSFA/ED—T&D Section, J. W. McCormack Federal Building, Post Office and Court House, Room 510, Boston, Massachusetts 02109, (617) 223-6895. FTS: 223-6895

Sister Bernadine Hayes, Training and Technical Assistance Specialists, Region II: OSFA/ED, 26 Federal Plaza, New York, New York 10278, (212) 264-4426. FTS: 264-4426

Mr. Harry Sweeney, Chief, Training and Technical Assistance Unit, Region III: OSFA/ED P.O. Box 13716 (3535 Market Street), Philadelphia, Pennsylvania 19104, (215) 596-0143. FTS: 596-0143

Ms. Judith Brantley, Assistant Regional Administrator for Training and Dissemination, Region IV: OSFA/ED, 101 Marietta Tower, Third Floor, Atlanta, Georgia 30323, (404) 221-4171. FTS: 242-4171

Mr. Morris Osburn, Assistant Regional Administrator for Training and Dissemination, Region V: OSFA/ED, 300 South Wacker Drive, Chicago, Illinois 60606, (312) 353-8102. FTS: 353-8103

Mr. Lyndon Lee, Assistant Regional Administrator for Training and Dissemination, Region VI: OSFA/ED, 1200 Main Tower Building, Room 1645, Dallas, Texas 75202, (214) 767-3569. FTS: 729-3569

Mr. Jerry W. Craft, Chief, Technical Assistance and Training Branch, Region VII: OSFA/ED, 324 East 11th Street, 18th Floor, Kansas City, Missouri 64106, (816) 374-3136. FTS: 758-3136

Mr. Paul Tone, Training and Dissemination Officer, Region VII: OSFA/ED, 1961 Stout Streets, 3rd Floor, FOB, Denver, Colorado 80294, (303) 844-3676. FTS: 564-3676

Mr. Robert Dressel, Assistant Regional Administrator for Training and Dissemination, Region IX: OSFA/ED, P.O. Box 337, San Francisco, California 94101, (415) 556-0137. FTS: 556-0137

Ms. Tammy Doherty, Chief, Technical Assistance and Training Branch, Region X: OSFA/ED, Third and Broad Avenue, Mail Stop 102, 2901 Third Avenue, Seattle, Washington 98121, (206) 442-4027. FTS: 399-4027

[FR Doc. 84-33470 Filed 12-24-84; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Fuel Economy of Motor Vehicles; Availability of the 1985 Gas Mileage Guide

The Department of Energy (DOE) hereby gives notice of the availability of the 1985 *Gas Mileage Guide*. The Environmental Protection Agency (EPA) has issued regulations on Fuel Economy, Testing, Labelling and Information Disclosure Procedures and Requirements (40 CFR Part 600) which, among other things, contain requirements for dealers of 1981 and later model year automobiles and light trucks to have copies of a booklet, the *Gas Mileage Guide*, available and on display in their showrooms and to keep an adequate stock on hand to meet public demand. In the booklet, prospective purchasers will be able to find the fuel economies of the various model vehicles certified as of August 31, 1984 for sale in the United States. DOE is required by section 506(b)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), as added by section 301 of the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.), to publish and distribute this booklet. Section 606.405-77 of the EPA regulations states that dealers will be expected to make these booklets available as soon as they are received by them, but in no case later than 15 working days after notification is given of booklet availability. The publication today of this notice constitutes such notification.

The 1985 *Mileage Guide* is available for display and distribution by dealers in their showrooms. Any dealer who has not already received *Guides* from DOE or requires additional copies should request copies in writing to the following address, specifying the quantity desired for the 49-State and/or the California version:

Write: Fuel Economy Distribution, Technical Information Center, Department of Energy, P.O. Box 62, Oak Ridge, Tennessee 37830.

Issued in Washington, D.C., November 21, 1984.

Pat Collins,

Acting Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 84-33457 Filed 12-24-84; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Request for Comments on the Industrial Energy Conservation Program Reporting Forms, CE-189P, C, and S

AGENCY: Energy Information Administration, DOE.

ACTION: Notice.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Department of Energy (DOE), through its Energy Information Administration (EIA) conducts a consultation program to provide the general public with an opportunity to comment on proposed and continuing reporting forms. This program helps ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

At this time, EIA requests comments on the Industrial Energy Conservation Program Reporting forms. The forms are described in the Supplementary Information Section of this Notice. Interested persons are asked to review the form and its instructions and provide

comments to the information contact described below.

EFFECTIVE DATE: Written comments must be submitted on or before 30 days from the date of publication in the Federal Register.

ADDRESS: Comments should be sent to Tyler E. Williams, Jr., Integrated Energy System Branch, Division of Improved Energy Productivity, Conservation and Renewable Energy, Room 5G–063, 1000 Indpedence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Edna Jones, Integrated Energy Systems Branch, Division of Improved Energy Productivity, Conservation and Renewable Energy, Room 5G–063, 1000 Indpendence Avenue, SW., Washington, D.C. 20585. (202) 252–2455.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Comment Procedures.

I. Background

DOE issued regulations in 10 CFR Part 445 (45 FR 10194, February 14, 1980) which set forth the requirements of DOE's Industrial Energy Conservation Program, as established by Part E of Title III of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94–163), as amended by the National Energy Conservation Policy Act (NECPA) (Pub. L. 95–619). These regulations, in part, require certain industrial corporations to file reports on energy consumption and conservation and, if appropriate, recovered materials utilization directly with DOE or, if exempted, with sponsors of DOE-approved adequate reporting programs.

Forms CE–189P, CE–189C, and CE–189S were implemented for the collection of plant, corporate, and sponsor data, respectively, on industrial energy efficiency and utilization of energy-savings recovered materials under DOE's Industrial Energy Conservation Program. These forms are for (1) Plant reporting to corporations required to report under the program (identified corporations); (2) aggregated corporate reporting by identified corporations to DOE or DOE-approved third-party sponsors; and (3) third-party sponsor reporting to DOE. These forms have remained unchanged since inception, with the most recent Office of Management and Budget approval to expire in March 1985.

II. Comment Procedures

EIA invites the public to provide comments on the forms within 30 days of the date of publication of this notice. The following general guideliens are provided to assist in the preparation of responses.

As a potential data provider:

A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?

B. Can the data be submitted using the definitions included in the instructions?

C. Can the data be submitted in accordance with the reponse time specified in the instructions?

D. How many hours, including time for computation, preparation, and administrative review, will it take your firm to complete and submit the forms—including time to design and implement ADP processing programs?

E. What is the estimated cost of completing these forms, including direct and indirect costs associated with the data collections? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.

F. How can the forms be improved?

G. Do you know of other Federal, State, or local agencies that collect similar data?

As a potential data user:

A. Can your company analysis use data at the levels of detail indicated on the forms?

B. For what purposes would you use these data? (Be specific)

C. How could the forms be imporved meet you specified data needs?

D. Are there alternative sources of data and do you now use them? What are their deficiencies?

EIA is also interested in receiving comments from persons as to their views on the need for the collection of this information at all.

Comments submitted in repsonse to this Notice will be included in the request for Office of Management and Budget approval of this data collection and will become a matter of public record.

Issued in Washington, D.C., December 19, 1984.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 84–33422 Filed 12–24–84; 8:45 am]

BILLING CODE 6450–01–M

[Proposed Form EIA–747]

Petroleum Facility Operator Identification Survey

AGENCY: Energy Information Administration, DOE.

ACTION: Request for comment on proposed Form EIA–747, "Petroleum Facility Operator Identification Survey".

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) is proposing Form EIA–747 to facilitate update of the statistical survey frames of its monthly petroleum supply data reporting system.

Form EIA–747 will be filed by potential new respondents to EIA's monthly surveys. Respondents to Form EIA–747 will include firms that are not presently reporting petroleum supply data to the EIA but which are engaged in the operation of oil wells, crude oil and petroleum product bulk storage terminals, pipelines, tankers and barges, petroleum refineries, and natural gas processing plants.

The Form EIA–747 will seek information that will enable the EIA to determine whether each potential new respondent uncovered through literature research qualifies as an eligible respondent to any of six separate statistical data surveys conducted by the EIA each month.

DATES: Written comments must be received by the EIA on or before January 25, 1985.

ADDRESSES: Comments should be sent to Mr. Herbert L. Franklin at the address listed below.

FOR FURTHER INFORMATION CONTACT: To obtain additional information or copies of the proposed Form EIA–747, contact: Herbert Franklin, Office of Oil and Gas, Energy Information Administration, Department of Energy, MS: 2H–058, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–5199.

SUPPLEMENTARY INFORMATION: .

I. Background
II. Current Information
III. Request for Comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. 93–275), and the Department of Energy Organization Act (Pub. L. 95–91), the Department of Energy (DOE) is obliged to publish, and otherwise make available to the public, high-quality statistical data that reflects national petroleum supply activity as accurately as possible. To meet this obligation, as well as internal DOE requirements that are dependent on accurate data, the EIA has developed statistical surveys that encompass each significant primary petroleum supply activity in the U.S. Each survey is linked to a frame which identifies all known petroleum supply entities of significance to the survey.

Because the petroleum industry is a very dynamic economic sector, new

firms are continually emerging as old firms are discontinuing operations. Consequently, a constant effort is necessary to maintain survey frames that can provide a basis for high-quality national level statistics.

Information obtained from respondents to Form EIA–747 will be used to determine whether the respective EIA–747 respondents should be added to pertinent EIA survey frames.

II. Current Action

The Form EIA–747, "Petroleum Facility Operator Identification Survey", is designed to collect information about potential respondents to ongoing EIA petroleum supply data surveys. It is an important tool to be used to assure completeness of EIA monthly data surveys. The form is comprised of the following five schedules, each of which is aimed at a specific segment of U.S. petroleum supply activity. Respondents will be asked to complete only the schedule(s) which relate(s) to their particular type of petroleum supplies activity(ies).

Schedule A—Terminal Operator Identification Survey (will be used to update survey frames of the Forms EIA–811 and EIA–813)

Schedule B—Pipeline Operator Identification Survey (will be used to update survey frames of the Forms EIA–812 and EIA–813)

Schedule C—Tanker and Barge Operator Identification Survey (will be used to update survey frames of the Form EIA–817)

Schedule D—Oil Well Operator Identification Survey (will be used to update survey frames of the Form EIA–813)

Schedule E—Processing Facility Operator Identification Survey (will be used to update survey frames of the Forms EIA–810 and EIA–816).

A copy of Form EIA–747 is reproduced following this notice.

III. Request for Comments

EIA invites the public to comment on the new form within 30 days of the publication of this notice. The following general guidelines are provided to assist in the preparation of responses (as a potential respondent):

A. Are the instructions and definitions clear and sufficient?

B. Can the data be submitted using the definitions included in the instructions?

C. Can the data be submitted within the response time specified in the instructions?

D. How may hours, including time for preparation and administrative review, will your firm require to complete and submit a form?

E. What is the estimated cost of completing this form, including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.

F. How can the form be improved?

G. Do you know of other Federal, State, or local agencies that collect similar data? If you do, specify the agency and the means of collection.

H. Would your company collect and organize the data required in the proposed form if the form were not required?

EIA is also interested in receiving comments from other persons regarding their views on the need for the collection of this information.

Comments submitted in response to this notice will be included in the request for Office of Management and Budget approval of this data collection and will become a matter of public record.

Issued in Washington, D.C. December 19, 1984.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

U.S. DEPARTMENT OF ENERGY

Energy Information Administration

[Form Approved OMB No.————(Expires 7–31–85)]

Petroleum Facility Operator Identification Survey

Form EIA–747

GENERAL INFORMATION

I. *Purpose*

Form EIA–747 is a one time survey designed to obtain information on operators of petroleum supply facilities. The information will aid in determining whether such operators are eligible respondents to Energy Information Administration monthly data surveys.

II. *Who Must Submit*

Every firm that receives Form EIA–747 must fill out pertinent schedules and submit them to the Department of Energy (DOE).

III. *When to Submit*

Submit this form within fourteen days of receipt.

IV. *Where to Submit*

Send the completed form to: U.S. Department of Energy, Energy Information Administration, Mail Station: BG–094 Forrestal, Washington, D.C. 20585.

If you have any questions concerning this survey, please contact Mr. Herbert L. Franklin at (202) 252–5199.

V. *Sanctions*

Response to this survey is required by the Federal Energy Administration Act of 1974 as amended (Pub. L. 93–275). Failure to respond may result in criminal fines, civil penalties, and other sanctions as provided by law.

VI. *Provisions for Confidentiality of Information*

Information on this form is collected for respondent identification purposes, and will not be published by the DOE in individually identifiable form. However, upon receipt of a request for individually identifiable information, the DOE will follow the procedures listed below:

1. The information contained in this form will be kept confidential to the extent that it satisfies the criteria set forth in the Freedom of Information Act (FOIA) exemption for trade secrets and confidential commercial information and DOE regulations implementing the FOIA, and is prohibited from public release by the Trade Secrets Act, 18 U.S.C. 1905.

Upon receipt of a request for disclosure of this information under the FOIA, the DOE shall, in accordance with the procedures and criteria provided in 10 CFR 1004.11, make a final determination whether the information is exempt from disclosure. To assist us in this determination, respondents should demonstrate to the DOE that their information constitutes trade secrets or commercial or financial information whose release would be likely to cause substantial harm to their company's competitive position. A letter accompanying the submission that explains (on an element-by-element basis, if possible) the reasons why the information would be likely to cause the respondent substantial competitive harm if released to the public would aid in this determination. A new justification does not need to be provided each time information is submitted on the form, if the company has previously submitted a justification for that information and the justification has not changed.

2. Requests from other Federal agencies for information from this form shall be evaluated in accordance with the DOE Policy on the Disclosure of Individually Identifiable Energy Information in the Possession of the EIA [45 FR 59812 (1980)]. Respondents should be aware that the information is also subject to release to State agencies for

limited purposes and when the State can assure protection of the information from any further release.

3. Except as otherwise provided by law, the information will also be made available in response to an order of a Court of competent jurisdiction, or upon written request, to the Congress, any Committee of Congress, the General Accounting Office, or other Congressional agencies authorized by law to receive such information

INSTRUCTIONS

Item and Instruction

All—Refer to the form. Questions are self-explanatory. If more space is required for your answer to a specific item, continue on an attached sheet.

U.S. DEPARTMENT OF ENERGY

Energy Information Administration

[Form Approved OMB No. (Expires 7–31–85)]

Terminal Operator Identification Survey

This report is mandatory under Pub. L. 93–275. Failure to comply may result in criminal fines, civil penalties and other sanctions as provided by law. For the provisions concerning the confidentiality of information submitted on this form, see Section VI of the instructions.

1a. Does your firm or any parent or subsidiary of your firm operate storage facilities with total capacity in excess of 1,000 barrels dedicated to crude oil storage in the 50 states or the District of Columbia?

—— Yes . . . Answer 1b
—— No . . . Skip to 3

1b. Does your firm or any other firm presently report the stocks held at these storage facilities on the EIA–813 survey "Monthly Crude Oil Report"? (Mark "X" in the appropriate space)

——All operated facilities are reported for by own firm.
——All operated facilities are reported for by another firm(s) (Provide the name and address of the reporting firm(s) and its relation to your firm in the space provided below).
——Some operated facilities are reported for by own firm (Indicate in the space provided below which facilities are reported for, by type and location. Also provide a list of any facilities (by type and location) for which data are not reported).
——Some operated facilities are reported for by another firm(s) Indicate in the space provided below which facilities are reported for by type and location, and provide the name and address of the reporting firm. Also provide a list of any facilities, by type and location, for which data are not reported).
——Data are not reported for operated facilities.

2a. Enter the volume of total crude oil stocks held at terminal facilities operated by your firm on January 31, 1984.

———— barrels

2b. Enter the volume of total crude oil storage capacity at facilities operated by your firm on January 31, 1984.

———— barrels

3a. DEFINITION.

Bulk terminals means a *facility* which is primarily used for storage and/or marketing of petroleum products (excluding storage facilities required by end-users of these products), and which (1) has a total bulk storage capacity of 50,000 barrels or more, *or* (2) receives its petroleum products by tanker, barge or pipeline, regardless of terminal size. Bulk terminal facilities associated with product pipelines are included.

Does your firm or a parent or subsidiary of your firm operate any bulk terminals in the 50 states, the District of Columbia, Puerto Rico, or the Virgin Islands according to the above definition of "bulk terminal"?

—— Yes . . . Answer 3b
—— No . . . Skip to 5

3b Does your firm or any other firm presently report the stocks held in these terminals on the EIA–811 survey, "Monthly Bulk Terminal Report"? (Mark "X" in the appropriate box).

——All operated facilities are reported for by own firm.
——All operated facilities are reported for by another firm(s) (Provide the name and address of the reporting firm(s) in the space provided below).
——Some operated facilities are reported for by own firm (Indicate in the space provided below which facilities are reported, by type and location. Also provide a list of any facilities (by type and location) for which data are not reported).
——Some operated facilities are reported for by another firm(s) (Indicate in the space provided below which facilities are reported for, by type and location, and provide the name and address of the reporting firm(s). Also provide a list of any facilities, by type and location, for which data are not reported).
——No operated facilities are reported.

4. Enter the volume of total petroleum product storage capacity at bulk terminal facilities operated by your firm on January 31, 1984.

———— barrels

5a. Does your firm conduct any kind of blending operation at, or in conjunction with, bulk terminals?

—— Yes . . . Answer 5b
—— No . . . Skip to 6

5b. What type of blending operations does your firm perform?

—— On-site blending.
—— In-transit blending.
—— Remote blending at retail site.
—— Other. . . (Elaborate in the space provided below).

6. Complete Name of Your Firm

7. Complete Address of Your Firm

8. Name of Contact Person for Additional Information about Your Firm

9. Telephone No. (Include area code)

If you would be filing any required EIA reports for related firms, or if a related firm may be filing for you, answer 10, 11, or 12 below, as applicable. Otherwise, skip to certification and signature blocks.

10. If your firm is the parent of other firms operating crude oil or petroleum product pipelines, provide the names, addresses, and telephone numbers of these subsidiaries. Indicate if the parent firm (P) or subsidiary firm (S) would file any required reports. Indicate if the subsidiary operates crude oil (C) or petroleum products (P) storage facilities.

Subsidiary name	Address	Telephone No. (include area code)	Who will report? (P or S)	Type of storage facility (C or P)
(1)				
(2)				
(3)				
(4)				
(5)				

11. If your firm is a subsidiary company and would not be filing any required reports for itself, provide the name, address, and telephone number of the

parent company that would file required reports.

Name ——————————

Telephone No. (Include area code) ——————

Address ——————————

12. If your firm would be reporting for any other company holdings, provide their names, address, and telephone numbers.

Firm name	Address	Telephone No. (include area code)
(1)		
(2)		
(3)		

CERTIFICATION: I certify that the information provided herein and appended hereto is true and accurate to the best of my knowledge.

Typed or Printed Name of Person Filling Out Form

Title ——————————

Signature ——————————

Date (Month, Date, Year) ——————

Title 18, U.S.C. 1001 makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

U.S. DEPARTMENT OF ENERGY

Energy Information Administration

Form Approved OMB No.————(Expires 7-31-85

Pipeline Operator Identification Survey

This report is mandatory under Pub. L 93-275. Failure to comply may result in criminal fines, civil penalties, and other sanctions as provided by law. For the provision concerning the confidentiality of information submitted on this form see Section VI of the instructions.

1. Does your firm or a parent or subsidiary of your firm operate a pipeline or pipelines moving crude oil and/or petroleum products (including NGLs) in the 50 states and the District of Columbia? (Mark "X" in the appropriate space)

——Yes, crude oil Pipeline(s) only (Answer 2, then skip to 5 and answer all pertinent questions).

——Yes, petroleum products pipeline(s) only (Skip to 3 and answer all pertinent questions).

——Yes, both crude oil and petroleum products pipeline(s) (Answer 2 and all other pertinent questions).

——No (Skip to 5 and answer all pertinent questions).

2. Does your firm or any other firm presently report the crude oil stocks held in the operated pipeline(s), working tanks, tank farms, and terminals on the EIA-813 survey "Monthly Crude Oil Report"? (Mark "X" in the appropriate space)

——All operated facilities are reported for by our firm.

——All operated facilities are reported for by another firm(s) (Provide the name and address of the reporting firm(s) and its relation to your firm in the space provided below).

——Same operated facilities are reported for by own firm (Indicate in the space provided below which facilities are reported for, by type and location. Also provide a list of any facilities (by type and location) for which data are not reported).

——Some operated facilities are reported for by another firm(s) (Indicate in the space provided below which facilities are reported for, by type and location, and provide the name and address of the reporting firm(s). Also provide a list of any facilities, by type and location, for which data are not reported).

——Data are not reported for operated facilities.

3. Does your firm or any other firm presently report the petroleum products stocks held in the operated products pipeline(s) and its (their) working tanks on the EIA-812 survey: "Monthly Product Pipeline Report" (Mark "X" in the appropriate space)

——Reported by own firm.

——Reported by another firm (Provide the name and address of the reporting firm and its relation to your firm in the space provided below).

——Data are not reported for operated facilities.

4a. DEFINITION

Bulk terminal means a *facility* which is primarily used for storage and/or marketing of petroleum products (excluding storage facilities required by end-users of these products), and which (1) has a total bulk storage capacity of 50,000 barrels or more, *or* (2) receives its petroleum products by tanker, barge or pipeline, regardless of terminal size. Bulk terminal facilities associated with product pipelines are included.

Does your firm or a parent or subsidiary of your firm operate any bulk terminals in the 50 states, the District of Columbia, Puerto Rico, or the Virgin Islands according the above definition of "bulk terminal"?

——Yes . . . Answer 4b

——No . . . Skip to 5.

4b. Does your firm or any other firm presently report the stocks held in these terminals on the EIA-811 survey, "Monthly Bulk Terminal Report"? (Mark "X" in the appropriate space)

——All operated facilities are reported by own firm.

——All operated facilities are reported for by another firm(s) (Provide the name and address of the reporting firm in the space provided below).

——Some operated facilities are reported by own firm (Indicate in the space provided below which facilities are reported for, by type and location. Also provide a list of any facilities (by type and location) for which data are not reported).

——Some operated facilities are reported by another firm(s) (Indicate in the space provided below which facilities are reported for, by type and location, and provide the name and address of the reporting firm. Also provide a list of any facilities, by type and location, for which data are not reported).

——Data are not reported for operated facilities.

4c. Enter the volume of total petroleum product storage capacity at bulk terminal facilities operated by your firm on January 31, 1984.

———— barrels

5. Complete Name of Your Firm

6. Complete Address of Your Firm

7. Name of Contact Person for Additional Information about Your Firm

8. Telephone No. (Include area code)

If you would be filing any required EIA reports for related firms, or if a related firm may be filing for you, answer 9, 10, or 11 below, as applicable. Otherwise, skip to certification and signature blocks.

9. If your firm is the parent of other firms operating crude oil or petroleum product pipelines, provide the names, addresses, and telephone numbers of these subsidiaries. Indicate if the parent firm (P) or subsidiary firm (S) would file any required reports. Indicate if the subsidiary operates crude oil (C) or petroleum products (P) storage facilities.

Subsidiary name	Address	Telephone No. (include area code)	Who will report? (P or S)	Type of storage facility (C or P)
(1)				
(2)				
(3)				
(4)				
(5)				

10. If your firm is a subsidiary company and would not be filing any required reports for itself, provide the name, address, and telephone number of the parent company that would file required reports.

Name ———
Telephone No. (Include area code) ———
Address ———

11. If your firm would be reporting for any other company holdings, provide their names, address, and telephone numbers.

Firm name	Address	Telephone No. (include area code)
(1)		
(2)		
(3)		

CERTIFICATION: I certify that the information provided herein and appended hereto is true and accurate to the best of my knowledge.

Typed or Printed Name of Person Filling Out Form
Title ———
Signature ———
Date (Month, Date, Year) ———

Title 18, U.S.C. 1001 makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

U.S. DEPARTMENT OF ENERGY

Energy Information Administration

[Form Approved OMB No. ——— (Expires 7-31-85)

Tanker and Barge Operator Identification Survey

This report is mandatory under Pub. L. 93-275. Failure to comply may result in criminal fines, civil penalties, and other sanctions as provided by law. For the provisions concerning the confidentiality of information submitted on this form see Section VI of the instructions.

1. Does your firm or any parent or subsidiary firm have custody of crude oil or petroleum products (including NGLs) transported domestically, transported from the U.S. to the Panama Canal Zone, or domestically-originating petroleum transported from the Panama Canal Zone to the U.S. by tanker or barge? (Custody of crude oil or petroleum products is considered to rest with the firm owning the tanker or barge, except in the case of a chartered or leased vessel operated by the lessee, in which case the lessee is considered to have custody. For example, in the case of a bareboat charter or lease, the lessee would be considered to have custody of the petroleum.)

——Yes . . . Answer 2
——No . . . Skip to 3

2. Does your firm or any other firm presently report any movements of crude oil and petroleum products on the EIA-817 survey "Monthly Tanker and Barge Movement Report"? (Mark "X" in the appropriate space)

——Not reported.
——Reported by own firm.
——Reported by own firm.
——Reported by another firm (Provide the name of the firm and its relation to your firm in the space provided below).

———
———

3. Does (do) and firm(s) currently operate tankers or tank barges leased or chartered from your firm that are suitable for moving crude oil or petroleum products?

——Yes . . . (Provide the names and addresses of such firms in the space below).
——No

Firm name	Address
(1)	
(2)	
(3)	
(4)	
(5)	

4. Complete Name of Your Firm

5. Complete Address of Your Firm

6. Name of Contact Person for Additional Information about Your Firm

7. Telephone No. (Include area code)

If you would be filing any required EIA reports for related firms, or if a related firm may be filing for you, answer 8, 9, or 10 below, as applicable. Otherwise, skip to certification and signature blocks.

8. If your firm is the parent of other firms operating crude oil or petroleum product pipelines, provide the names, addresses, and telephone numbers of these subsidiaries. Indicate if the parent firm (P) or subsidiary firm (S) would file any required reports. Indicate if the subsidiary operates crude oil (C) or petroleum products (P) storage facilities.

Subsidiary name	Address	Telephone No. (include area code)	Who will report? (P or S)	Type of storage facility (C or P)
(1)				
(2)				
(3)				
(4)				
(5)				

9. If your firm is a subsidiary company and would not be filing any required reports for itself, provide the name, address, and telephone number of the parent company that would file required reports.

Name ———
Tehephone No. (Include area code) ———
Address ———

10. If your firm would be reporting for any other company holdings, provide their names, address, and telephone numbers.

Firm name	Address	Telephone No. (include area code)
(1)		
(2)		
(3)		

CERTIFICATION: I certify that the information provided herein and appended hereto is true and accurate to the best of my knowledge.

Typed or Printed Name of Person Filling Out Form
Title ———

Signature ———————————
Date (Month, Date, Year) ———————————

Title 18, U.S.C. 1001 makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious or fraudulent statements as to any matter within its jurisdiction.

U.S. DEPARTMENT OF ENERGY

Energy Information Administration

[Form Approved OMB No. ——— Expires 7-31-85]

Crude Oil Well Operator's Storage Identification Survey

This report is mandatory under Pub. L. 93-275. Failure to comply may result in criminal fines, civil penalties, and other sanctions as provided by law. For the provisions concerning the confidentiality of information submitted on this form see Section VI of the instructions.

1. Does your firm or any parent or subsidiary of your firm operate crude oil storage facilities with total capacity in excess of 1,000 barrels in the 50 states or the District of Columbia.

——Yes . . . Answer 2a
——No . . . Skip to 3

2a. Does your firm or any other firm presently report the stocks held at these storage facilities on the EIA-813 survey "Monthly Crude Oil Report"? (Mark "X" in the appropriate space)

——All operated facilities are reported for by own firm.
——All operated facilities are reported for by another form(s) (Provide the name and address of the reporting firm(s) and its relation to your firm in the space provided below).
——Some operated facilities are reported for by own firm (Indicate in the space provided below which facilities are reported for, by type and location. Also provide a list of any facilities (by type and location) for which data are not reported).
——Some operated facilities are reported for by another firm(s) (Indicate in space provided below which facilities are reported for, by type and location, and provide the name and address of the reporting firm(s). Also provide a list of any facilities, by type and location, for which data are not reported.
——Data are not reported for operated facilities.

2b. Enter crude oil stock levels held at facilities operated by your firm on January 31, 1984.

——— barrels
(lease stocks)

——— barrels
(pipeline/tank farm stocks)

2c. Enter the total capacity of crude oil storage at facilities operated by your firm on January 31, 1984.

——— barrels

3. Complete Name of Your Firm

4. Complete Address of Your Firm

5. Name of Contact Person for Additional Information about Your Firm

6. Telephone No. (Include area code)

If you would be filling any required EIA reports for related firms, or if a related firm may be filing for you, answer 7, 8, or 9 below, as applicable. Otherwise, skip to certification and signature blocks.

7. If your firm is the parent of other firms operating crude oil or petroleum product pipelines, provide the names, addresses, and telephone numbers of these subsidiaries. Indicate if the parent firm (P) or subsidiary firm (S) would file any required reports. Indicate if the subsidiary operates crude oil (C) or petroleum products (P) storage facilities.

Subsidiary name	Address	Telephone No. (include area code)	Who will report? (P or S)	Type of storage facility (C or P)
(1)				
(2)				
(3)				
(4)				
(5)				

8. If your firm is a subsidiary company and would not be filing any required reports for itself, provide the name, address, and telephone number of the parent company that would file required reports.

Name ———————————
Telephone No. (Include area code) ———
Address ———————————

9. If your firm would be reporting for any other company holdings, provide their names, address, and telephone numbers.

Firm name	Address	Telephone No. (include area code)
(1)		
(2)		
(3)		

CERTIFICATION: I certify that the information provided herein and appended hereto is true and accurate to the best of my knowledge.

Typed or Printed name of Person Filling Out Form
Title ———————————
Signature ———————————
Date (Month, Date, Year) ———————————

Title 18, U.S.C. 1001 makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious, or fraudulent statements as to any matter within its jurisdiction.

U.S. Department of Energy

Energy Information Administration

[Form Approved OMB No.———Expires 7-31-85]

Processing Facility Operator Identification Survey

This report is mandatory under Pub. L. 93-275. Failure to comply may result in criminal fines, civil penalties, and other sanctions as provided by law. For the provisions concerning the confidentiality of information submitted on this form see Section VI of the instructions.

1a. Does your firm or any parent or subsidiary of your firm operate petroleum refining facilities and/or petroleum blending plants located in the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Hawaiian Foreign Trade Zone, and Guam?

——Yes . . . Answer 1b
——No . . . Skip to 2

1b Does your firm or any firm presently report data on the petroleum supply operations taking place at these processing facilities on the EIA-810 survey "Monthly Refining Report"? (Mark "X" in the appropriate space)

——All operated facilities are reported for by own firm.
——All operated facilities are reported for by another firm(s) (Provide the name and address of the reporting firm(s) and its relation to your firm in the space provided below).
——Some operated facilities are reported for by own firm (Indicate in the space provided below which facilities are reported for, by type and location. Also provide a list of any facilities (by type and location) for which data are not reported).

—Some operated facilities are reported for by another firm(s) (Indicate in the space provided below which facilities are reported for, by type and location, and provide the name and address of the reporting firm(s). Also provide a list of any facilities, by type and location, for which data are not reported).
—Data are not reported for operated facilities.

2a. Does your firm or a parent or subsidiary of your firm operate facilities that extract liquid hydrocarbons from a natural gas stream (natural gas processing plant) and/or separate a liquid hydrocarbon stream into its component products (fractionation) that is located in the 50 States, District of Columbia, Puerto Rico, the Virgin Islands, Hawaiian Foreign Trade Zone, and Guam?

—Yes . . . Answer 2b
—No . . . Skip to 3

2b Does your firm or any firm presently report data on the extraction or separation activities taking place at these facilities on the EIA–816 survey "Monthly Natural Gas Liquids Report"? (Mark "X" in the appropriate space)

—All operated facilities are reported for by own firm.
—All operated facilities are reported for by another firm(s) (Provide the name and address of the reporting firm in the space provided below).
—Some operated facilities are reported for by own firm (Indicate in the space provided below which facilities are reported for, by type and location. Also provide a list of any facilities (by type and location) for which data are not reported).
—Some operated facilities are reported for by another firm(s) (Indicate in the space provided below which facilities are reported for, by type and location, and provide the name and address of the reporting firm. Also provide a list of any facilities, by type and location, for which data are not reported).
—Data are not reported for operated facilities.

3. Complete Name of Your Firm

4. Complete Address of Your Firm

5. Name of Contact Person for Additional Information About Your Firm

6. Telephone No. (Include area code)

If you would be filing any required EIA reports for related firms, or if a related firm may be filing for you, answer 7, 8, or 9 below, as applicable. Otherwise, skip to certification and signature block.

7. If your firm is the parent of other firms operating crude oil or petroleum product pipelines, provide the names, addresses, and telephone numbers of these subsidiaries. Indicate if the parent firm (P) or subsidiary firm (S) would file any required reports. Indicate if the subsidiary operates crude oil (C) or petroleum products (P) storage facilities.

Subsidiary name	Address	Telephone No. (include area code)	Who will report? (P or S)	Type of storage facility (C or P)
(1)				
(2)				
(3)				
(4)				
(5)				

8. If your firm is a subsidiary company and would not be filing any required reports for itself, provide the name, address, and telephone number of the parent company that would file required reports.

Name
Telephone No. (Include area code)
Address

9. If your firm would be reporting for any other company holdings, provide their names, address, and telephone numbers.

Firm name	Address	Telephone No. (include area code)
(1)		
(2)		
(3)		

CERTIFICATION: I certify that the information provided herein and appended hereto is true and accurate to the best of my knowledge.

Typed or Printed Name of Person Filling Out Form
Title
Signature
Date (Month, Date, Year)

Title 18, U.S.C. 1001 makes it a crime for any person knowingly and willingly to make to any Agency or Department of the United States any false, fictitious, or fraudulent statements as to any matter within its jurisdiction.

[FR Doc. 85–33421 Filed 12–24–85; 8:45 am]
BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CP82–542–010]

ANR Pipeline Co.; Petition To Amend

December 19, 1984.

Take notice that on December 11, 1984, ANR Pipeline Company (Petitioner), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP82–542–010 a petition to amend the order issued October 31, 1984, in Docket No. CP82–542–009 pursuant to section 7(c) of the Natural Gas Act so as to authorize the extension of the term of said order from January 31, 1985, to October 31, 1985, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by the order of October 31, 1984, the Commission extended, by three months, the shorter term which it had authorized in the Commission order dated August 21, 1984. Petitioner states that it began sales under Rate Schedule DF–1 in October 1984 and thus has had two months of experience: October and November 1984. Petitioner states that it has filed its report of operations of October 1984 and would file its report for November 1984 in the near future. It is stated that the October report shows that Rate Schedule DF–1 sales were 809,738 dt equivalent of gas in that month. It is stated that those sales could not have been made under Petitioner's "regular" rate schedules so that the existence of Rate Schedule DF–1 was vital to the distributors which needed to utilize it. It is further stated that those sales resulted in credits to Account No. 191—for the benefit of all of Petitioner's customers—of $433,521.08 in October alone.

Petitioner asserts that the substantial direct credit for customers is in addition to the reduction in take or pay carrying costs which were produced by those sales: Each dt sold saved carrying costs on a dt of take or pay prepayments. It is asserted that this carrying cost saving is about 60 cents per dt or almost another $500,000 of customer benefit for October alone. It is further asserted that because of the take or pay "tracking" provision

in Petitioner's currently effective rate settlement the benefit of that lesser amount of carrying costs is fully and promptly realized by all of Petitioner's customers.

Petitioner states that during the period November 1, 1982, through April 30, 1983, when Petitioner was permitted to operate pursuant to temporary authority under a version of Rate Schedule DF–1, Petitioner made sales of 13,600,000 Mcf of gas. It is asserted that those were also sales which would not have been made had Petitioner been unable to offer the discount rate allowed to its customers. Petitioner states that this was also attested to by the study of the markets by Petitioner and its distributor customers and by the affidavits of the end users.

Petitioner states that it is motivated to be sure that no end user would receive a discount rate if that user would purchase gas which the distributor buys from Petitioner under its other rate schedules because Petitioner loses margin which it needs to cover its fixed costs. However, it is stated, when the sale would not be made in the absence of a discount rate then retaining such sale under the standards of Rate Schedule DF–1 helps the distributor (by contributing its own margin) and helps all distributors and consumers served by Petitioner (by absorbing fixed costs of Petitioner which would not otherwise be absorbed reducing Petitioner's take or pay carrying costs, and by assisting Petitioner in its make-up of take or pay prepayments so none would be forfeited). Thus, it is argued, it is important that Rate Schedule DF–1 remain in effect.

It is asserted that even though Petitioner was required to utilize a single fixed rate to make the sales noted above under Rate Schedule DF–1 in the six-month 1982–83 temporary period, substantial sales of gas were made which would not otherwise have been made, substantial margin dollars were credited to Account No. 191, and the take or pay situation was greatly helped. It is stated that when that temporary period expired one of Petitioner's customers—Michigan Consolidated Gas Company (Mich Con)—stepped in and made sales at somewhat above its variable cost of gas from Petitioner to other customers of Petitioner for "DF–1 type end users". It is stated that those sales began about May 1, 1983, and amounted to over 25,000,000 Mcf in the year ending April 30, 1984 that such sales continued to September 30, 1984, and that Petitioner's DF–1 sales resumed in October. Therefore, it is asserted that the need for a Rate Schedule DF–1 type of discount rate continues to exist to a significant degree. Petitioner states that the commitment of Mich Con to sell such gas to Petitioner's other customers has expired and Mich Con has ceased such sales. Accordingly, it is asserted that extension of Petitioner's authorization to make sales under Rate Schedule DF–1 beyond January 31, 1985, is the only way that Petitioner's customers can continue to receive the service they need. It is stated such service has the effect of reducing costs to all consumers served by Petitioner's gas by retaining as gas consumers those end users which would only buy gas if Rate Schedule DF–1 is available.

Petitioner states that the order of August 21, 1984, describes benefits of Rate Schedule DF–1 sales and that order appropriately authorized service under that rate schedule. It is further stated that the reasons why such service was authorized also apply to extension of the service beyond January 31, 1985, including:

(1) Gas sales would be reclaimed from other fuels for Petitioner and its customers, and sales which otherwise be lost would be retained.

(2) The margin realized on the sales by Petitioner, over its variable costs caused by the sales, would reduce the gas costs of all Petitioner's customers and the consumers they serve by absorbing fixed costs of Petitioner which such customers and consumers would otherwise pay.

(3) At the distribution company level, Petitioner's customers would similarly derive margins which can serve to offset their fixed costs which consumers would otherwise pay.

(4) The costs of Petitioner, its distributors, and all consumers would be reduced by decreasing take or pay prepayments, and/or allowing faster makeup, both of which would reduce carrying costs which Petitioners now tracks or otherwise recovers pursuant to settlement. Greater sales also help negate the possibility of loss through failure to be able to make-up prepayments and through damages because of undertakes. Petitioner states it still has significant balance of take or pay prepayments outstanding and would until the late 1980's at least.

(5) No customers of Petitioner, or consumers served by such customers, can be hurt because only sales which would not otherwise be made are eligible for Rate Schedule DF–1.

Petitioner asserts that it is extremely important that its customers be able to inform their large volume customers who would buy gas under Rate Schedule DF–1, or not at all, that the rate schedule would be available to those who qualify for a reasonably extended period of time. It is stated that approvals for two months and three months are simply too short to confer maximum benefits to all customers and there is no valid reason for continuing such short term approvals.

Petitioner states it has sought approval through October 31, 1985—for a period of nine months—because it is aware that authorization of "special marketing programs" by the Commission expires at that date, and the Commission has been, apparently, keeping the termination of various "marketing" programs equivalent.

Petitioner states it has been and continues to be engaged in efforts to reduce its own costs and its cost of gas. It is stated that negotiations with producers continue and have been most effective where higher levels of takes can be used to secure reduced rates. Thus, Petitioner states it needs to be able to maximize sales to the greatest extent possible, for that reason, as well as to achieve the other goals described above. However, Petitioner states its authorized commodity charge is not low enough to compete against other fuels in all instances. Thus, it is asserted, Rate Schedule DF–1 is essential, if Petitioner's customers are to avoid the extra carrying costs, and gain the credits to Account No. 191 and other benefits which DF–1 sales produce. It is also stated that it is vital that end users not be driven to other fuels, and thus be lost by the gas market, possibly for an extended period. Therefore, Petitioner requests approval of service be extended to October 31, 1985.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 8, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to

intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 33406 Filed 12-24-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER80-344-000; ER81-538-000]

Carolina Power and Light Co.; Termination

December 18, 1984.

Take notice that on December 7, 1984, Carolina Power and Light Company (CP&L) submitted for filing a request for termination of Docket No. ER80-344-000 and ER81-538-000.

CP&L states that the issues of spent nuclear fuel costs and tax normalization have been resolved and do not require any additional refunds by the company and that no additional issues related to the settlement in these dockets remain.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 3, 1985. 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. 84-33407 Filed 12-24-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7671-002]

County of Davie, NC; Surrender of Preliminary Permit

December 18, 1984.

Take notice that the County of Davie, North Carolina, Permittee for the proposed Cooleemee Dam Project No. 7671, requested by letter dated November 15, 1984, that its preliminary permit be terminated. The preliminary permit was issued on July 24, 1984, and would have expired on December 31, 1985. The project would have been located on the Yadkin River in Davie County, North Carolina.

The Permittee filed the request on November 16, 1984, and the preliminary permit for Project No. 7671 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33408 Filed 12-24-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-173-000]

Gulf States Utilities Co.; Filing

December 18, 1984.

The filing Company submits the following:

Take notice that on December 10, 1984, Gulf States Utilities Company ("Gulf States") tendered for filing a Power Interconnection Agreement between it and the City of Lafayette, Louisiana. Gulf States indicates that the Agreement provides for services at the parties' standard rates and terms for such services.

According to Gulf States, a copy of the filing was served upon the Public Utility Commission of Texas, the Louisiana Public Service Commission, and the City of Lafayette, Louisiana.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 3, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33409 Filed 12-24-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-134-000]

Ozark Gas Transmission System; Application

December 19, 1984.

Take notice that on November 28, 1984, Ozark Gas Transmission System (Ozark), First City Center, 1700 Pacific Avenue, Dallas, Texas 75201, filed in Docket No. CP85-134-000 an application pursuant to section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction and abandonment of facilities and the transportation of gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Ozark states the requested authorization would enable Ozark to receive natural gas which would be purchased by Ozark's shippers from producers or similar sellers and transported by Ozark for such shippers, to transport gas on an interruptible basis for third parties and to construct and abandon facilities. Ozark also indicates it does not seek authorization to make any sales or to provide storage service pursuant to §§ 157.210 and 157.213, respectively, of the Commission's Regulations. Ozark also indicates it would negotiate individual transportation charges but in no case would those charges be less than the commodity rate contained in the then-effective Sheet Number 5 of Ozark's FERC Gas Tariff, Original Volume No. 1.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 8, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval

for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Ozark to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33410 Filed 12-24-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL85-15-000]

Public Service Co. of New Hampshire; Petition for Declaratory Order

December 18, 1984.

Take notice that on December 11, 1984, the Public Service Company of New Hampshire (PSNH) submitted for filing a petition for a declaratory order pursuant to Rule 207 of the Commission's Rules of Practice and Procedure.

PSNH requests that the Commission issue an order declaring that the proposed September 30, 1986 termination of service proposed by Exter and Hampton Electric Company and Concord Electric Company is unjust, unreasonable and contrary to the public interest.

PSNH further requests that the proposal be declared a nullity and that a new date for termination be established consistent with sections 1 and 2 of the contract and sections 205 and 206 of the Federal Power Act.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Sstreet, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 14, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33411 Filed 12-24-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-429-000]

Texas Eastern Transmission Corp.; Informal Settlement Conference

December 18, 1984.

Take notice that on January 3, 1985, at 10:00 a.m., an informal settlement conference will be convened in the above-captioned matters. The conference will be held at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426.

All interested parties and Commission Staff are invited to attend; however, attendance at the conference will not confer party status. Any person wishing to become a party to these proceedings must file a Motion to Intervene in accordance with Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214).

For further information contact Demetrios G. Pulas, Jr., Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, (202) 357-8274.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33412 Filed 12-24-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT85-5-001]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

December 19, 1984.

Take notice on December 11, 1984, ANR Pipeline Company ("ANR") tendered for filing Substitute Original Sheet No. 1, Original Sheet Nos. 43 through 45 and a tariff sheet reserving Sheet Nos. 46 through 53 for future use to its F.E.R.C. Gas Tariff, Original Volume No. 1.

ANR states that on November 21, 1984, ANR filed with the Federal Energy Regulatory Commission ("Commission") Original Sheet Nos. 1 through 115 to its F.E.R.C. Gas Tariff, Original Volume No. 1 to be effective November 1, 1984. The sole purpose of the said filing was to reflect ANR's new corporate name in lieu of its former name, Michigan Wisconsin Pipe Line Company, as approved by the Commission's Notice Redesignation issued May 16, 1984 at Docket No. G-669-000 *et al.*

ANR further states that the November 21, 1984 filing did not include Rate Schedule AIC-1 for inclusion in the tariff because ANR had established representative levels of short-term transportation revenues in Docket No. RP82-80 *et al.*, approved by the Commission on January 10, 1984, and therefore is not eligible to retain an Additional Incentive Charge (AIC). However, the Commission Staff advised ANR that Rate Schedule AIC-1 should be included in ANR's Original Volume No. 1 F.E.R.C. Gas Tariff and ANR now recognizes its omission by this filing.

ANR further states that copies of this filing were served upon its jurisdiction customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol, NE., Washington, D.C. 20426, in accordance with Rule 211 or Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding 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. 84-334-83 Filed 12-24-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-46-000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 19, 1984.

Take notice that Columbia Gas Transmission Corporation (Columbia) on December 10, 1984 tendered for filing Third Revised Sheet No. 65 to the General Terms and Conditions of its FERC Gas Tariff, Original Volume No.1.

Columbia states that the foregoing tariff sheet is being filed pursuant to Ordering Paragraph (C) of the Commission's Opinion No. 226 in Docket No. RP84-85-000, which requires that the collections of the GRI Funding Unit be remitted to GRI within fifteen days of the receipt thereof. The subject tariff provision previously provided for such remittance to take place within 30 days of receipt by Columbia. In addition, Columbia proposes a further revision to this tariff sheet to include the applicability of the GRI Funding Unit to Rate Schedules TS-1 and TS-2.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 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 motions of protests should be filed on or before December 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33484 Filed 12-24-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA85-9-000]

D.R. Lauck Oil Co., Inc. Petition for Adjustment

December 20, 1984.

On December 10, 1984, D.R. Lauck Oil Company, Inc., filed with the Federal Energy Regulatory Commission a petition for an adjustment under Rule 1103 of the Commission's Rules of Practice and Procedure[1] to exempt its Julian No. 1 Well, Edwards County, Kansas, from the provisions of § 271.805(b) of the Commissions regulations.[2] Lauck asserts that absent an adjustment, it may be required to make substantial refunds to Northern Natural Gas Company with would result in severe econmic consequences to it. Additionally, states Lauck, unless it is permitted to charge a section 108, Natural Gas Policy Act, stripper well gas price, the well will have to be plugged and abandoned.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure.

Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33485 Filed 12-24-84; 8:45 am]

BILLING CODE 6717-01-M

[1] 18 CFR 385.1103.

[2] 18 CFR 271.805(b).

[Docket No. SA85-10-000]

D.R. Lauck Oil Co., Inc.; Petition for Adjustment

December 20, 1984.

On December 10, 1984, D. R. Lauck Oil Company, Inc., filed with the Federal Energy Regulatory Commission a petition for an adjustment under Rule 1103 of the Commission's Rules of Practice and Procedure[1] to exempt its Smith D Well, Edwards County, Kansas, from the provisions of § 271.805(b) of the Commission's regulations.[2] Lauck asserts that absent an adjustment, it may be required to make substantial refunds to Northern Natural Gas Company which would result in severe economic consequences to it. Additionally, states Lauck, unless it is permitted to charge a section 108, Natural Gas Policy Act, stripper well gas price, the well will have to be plugged and abandoned.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure.

Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of such Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33486 Filed 12-24-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-47-000]

East Tennessee Natural Gas Co.; Tariff Filing

December 19, 1984.

Take notice that on December 11, 1984, East Tennessee Natural Gas Company (East Tennessee) tendered for filing the following tariff sheets to Original Volume No. 1 to its FERC Gas Tariff, to be effective January 10, 1985:

Substitute Tenth Revised Sheet No. 4
First Revised Sheet No. 119
Second Revised Sheet Nos. 121 and 124
Third Revised Sheet No. 122

East Tennessee states that that the purpose of the revised tariff sheets is to revise East Tennessee's rates under Rate Schedule AOS, and its PGA clause, to remove demand costs from the AOS rate.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before December 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons 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. 84-33487 Filed 12-24-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC85-6-000]

Gulf States Utilities Co.; Filing

December 21, 1984

The filing Company submits the following:

Take notice that on December 12, 1984, Gulf States Utilities Company (Gulf States or GSU) filed an Application seeking an order pursuant to section 303 of the Federal Power Act authorizing the sale of certain transmission facilities by Gulf States to Cajun Electric Power Cooperative, Inc. (CEPCO) and pursuant to a Power Interconnection Agreement between the parties on file at this Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 17, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

[1] 18 CFR 385.1103.

[2] 18 CFR 271.805(b).

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33488 Filed 12-24-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7951-001]

Idaho Natural Energy, Inc.; Surrender of Preliminary Permit

December 21, 1984.

Take notice that Idaho Natural Energy, Inc., Permittee for South Fork Clearwater River Project No. 7951, has requested that its Preliminary Permit be terminated. The Preliminary Permit was issued on July 9, 1984, and would have expired on June 30, 1986. The project would have been located on South Fork Clearwater River, near Golden, within the Nez Perce National Forest, in Idaho County, Idaho.

The Permittee filed the request on December 7, 1984, and the preliminary permit for Project No. 7951 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be fied on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33489 Filed 12-24-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8248-001]

James W. Roberts; Surrender of Preliminary Permit

December 21, 1984.

Take notice that James W. Roberts, Permittee for the proposed Mill Brook Project No. 8248, requested by letter dated November 8, 1984, that his preliminary permit be terminated. Permittee has been unable to obtain the necessary easements to develop the project. The preliminary permit was issued September 11, 1984, and would have expired on February 28, 1986. The project would have been located on Mill Brook in Essex County, Vermont.

The preliminary permit for Project No. 8248 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33490 Filed 12-24-84; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7924-001]

Mount Hood Hydro; Surrender of Preliminary Permit

December 21, 1984.

Take notice that Mount Hood Hydro, Permittee for Diver's Creek Hydroelectric Project No. 7924, has requested that its Preliminary Permit be terminated. The Preliminary Permit was issued on June 7, 1984, and would have expired on November 30, 1985. The project would have been located on Diver's Creek, near Parkdale, within the Mount Hood National Forest, in Hood River County, Oregon.

The Permittee filed the request on December 3, 1984, and the preliminary permit for Project No. 7924 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33491 Filed 12-24-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-180-000]

Portland General Electric Co.; Filing

December 20, 1984.

Take notice that on December 10,1984, Portland General Electric Company (PGE) tendered for filing a Peak Sale—Energy Exchange agreement and rate schedule under which PGE has agreed to supply City of Seattle, City Light Department (Seattle), at Seattle's request, 100 megawatts of firm peaking capacity not to exceed 8,400 megawatt hours during any seven-day period. The term of the agreement is from December 1, 1984 to February 28, 1985. Seattle shall pay PGE $600,000 in installments of $200,000 per month for firm peaking capacity plus an amount equal to $1.10 times each kilowatt of capacity scheduled. Energy delivered to Seattle shall be returned within seven days and Seattle shall be obligated to schedule such returns at a time within seven days of delivery when PGE's decremental cost savings equal or exceed PGE's incremental cost for the energy delivered. PGE will deliver at PGE's interconnection points with Bonneville Power Administration.

PGE requests an effective date of December 1, 1984, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon City of Seattle.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 FR 385.211, 385.214). All such motions or protests should be filed on or before January 4, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33492 Filed 12-24-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-50-000]

Texas Gas Pipe Line Corp.; Filing

December 19, 1984.

Take notice that on December 14, 1984, Texas Gas Pipe Line Corporation (Texas Gas) tendered for filing an updated Thirteenth Revised Sheet No. 4a to its FERC Gas Tariff, Second Revised Volume No. 1 in accordance with the Director's letter (Office of Pipeline and Producer Regulation) dated November 20, 1984. Texas Gas states that the revised sheet separately states purchased gas costs from other charges.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before December 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33493 Filed 12-24-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP85-48-000]

Trunkline Gas Co.; Change in Tariff

December 19, 1984.

Take notice that Trunkline Gas Company (Trunkline), on December 10, 1984 tendered for filing the following proposed change in its FERC Gas Tariff, Original Volume No. 1, to be effective January 1, 1985:

Seventh Revised Sheet No. 5
Eleventh Revised Sheet No. 5-A
Second Revised Sheet No. 9-E
Twelfth Revised Sheet No. 9-F

Trunkline states that this filing is being made pursuant to Ordering Paragraph (A) of the Commission's Order Dismissing Complaints issued November 7, 1984 in Docket Nos. RP84-56-000 and RP84-69-000 which requires Trunkline Gas Company (Trunkline) to file new tariff sheets in Compliance with § 154.111 of the Commission's Regulations separately stating all purchased gas costs.

Trunkline's currently effective Sheet No. 3-A (First Substitute Forty-Sixth Revised Sheet No. 3-A) states purchased gas costs separately from other charges as required by 18 CFR 154.111(a)(3)(i)(A). Since Trunkline's currently effective tariff sheet No. 3-A already identifies the gas cost component in each affected rate schedule, a revised tariff sheet is not required. This tariff sheet reflects Trunkline's PGA filing in Docket No. TA84-2-30-003 (PGA 84-2a) which was made effective September 1, 1984, subject to conditions, by Commission Order dated November 21, 1984.

Further, Trunkline states that this filing herein is without prejudice to its court review of Order Nos. 380 and 380-A in Docket No. RM83-71 which is pending before the United States Court of Appeals for the District of Columbia in No. 84-1434.

Copies of the filing were served on the Company's jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before December 26, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33494 Filed 12-24-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-179-000]

Tucson Electric Power Co.; Filing

December 20, 1984.

The filing Company submits the following:

Take notice that on December 11, 1984, Tucson Electric Power Company (Tucson) tendered for filing "Amendment No. 2 to the Interconnection Agreement between San Diego Gas & Electric Company and Tucson." The primary purpose of this Amendment No. 2 is to set forth the present understanding of the parties concerning the delivery of emergency firm system power by Tucson to San Diego Gas & Electric Company at the Palo Verde 500 kV switchyard for a period of time as may be requested by San Diego running through and including December 31, 1984.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33495 Filed 12-24-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2144-000]

William S. Lee; Application

December 20, 1984

The filing Company submits the following:

Take notice that on December 11, 1984, William S. Lee filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Chairman of the Board of Directors and Chief Executive Officer, Duke Power Company
Director, Morgan Guaranty Trust Company of New York
Director, J.P. Morgan & Co.; Incorporated

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 7, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33496 Filed 12-24-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-654-001]

Yankee Atomic Electric Co.; Filing

December 20, 1984.

Take notice that on December 11, 1984, Yankee Atomic Electric Company (Yankee Atomic) tendered for filing information and materials requested by the Commission in a letter dated October 23, 1984.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 4, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-33497 Filed 12-24-84; 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 has adopted the appropriate procedures to be followed in refunding $29,381,630.53 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings brought by the Economic Regulatory Administration of the Department of Energy involving the 15 natural gas processing firms set forth below. The DOE indicated that refund claims with respect to these funds may now be filed.

DATE AND ADDRESS: Applications for refund must be filed within 90 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 numbers HEF-0266, *et al.*

FOR FURTHER INFORMATION CONTACT: Virginia A. Lipton, Assistant Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2400.

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 Decision and Order set out below. The Decision and Order relates to consent orders entered into by the DOE and the 15 natural gas processing firms set out in the Appendix below.

The Decision and Order sets forth the procedures and standards that the DOE has formulated to distribute the contents of escrow accounts funded by these natural gas processing firms pursuant to the consent orders. The DOE has decided that Applications for Refund should be accepted from firms and individuals that were direct or indirect purchasers of natural gas liquids (NGLs) and natural gas liquid products (NGLPs) sold by any of the 15 named firms during the relevant consent order period set forth in the Appendix. This Decision and Order provides that in order to receive a portion of the settlement funds, a purchaser must furnish the DOE with evidence that it was injured by the allegedly unlawful prices for NGLs or NGLPs charged by the relevant gas processing firm. This evidence should include specific documentation concerning the date, place, price, and volume of product purchased, indicate whether the increased costs were absorbed by the claimant or passed through to other purchasers, and state the extent of any injury alleged to have been suffered. However, the Decision indicates that no separate, detailed showing of injury will be required of end-users of the relevant product, or of firms which file refund claims amounting to $5,000 or less. According to the Decision and Order, the amount of the refund will generally be a pro rata share of the funds made available by the relevant natural gas processing firm, plus a pro rata share of any interest accrued on those funds. The DOE further indicated that it would determine at a future date the proper disposition of any funds remaining after all meritorious claims of purchasers have been paid.

Applications for refund must be filed within 90 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. Refund applicants should file two copies of their submission. All applications 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: December 11, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

December 11, 1984.

Decision and Order of the Department of Energy

Special Refund Procedures

Names of Cases: Peoples Energy Corporation, *et al.*

Date of Filing: October 13, 1983.

Case Numbers: HEF-0266, *et al.*

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals formulate and implement special procedures to make refunds, in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V.

In accordance with these regulatory provisions, the ERA filed Petitions for the Implementation of Special Refund Proceedings in connection with consent orders entered into with the 15 natural gas processing firms set forth in the exhibits to the Appendix to this Decision. Audits of the records of those firms revealed possible pricing violations with respect to their sales of natural gas liquids (NGLs) and natural gas liquid products (NGLPs) during the periods indicated in the exhibits.[1] In order to settle all claims and disputes with the DOE regarding their sales of NGLs and NGLPs during their respective audit periods, the firms entered into consent orders. The amount of funds made available by those firms that is subject to distribution in this proceeding is $29,381,630.53.

Jurisdiction and Authority to Fashion Refund Procedures

The procedural regulations of the DOE set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to readily identify persons who may have been injured as a result of alleged regulatory violations resolved by a DOE consent order or remedial order or where the DOE is unable to readily ascertain the amount of each person's injuries. For a more detailed discussion of Subpart V and the authority of the Office of Hearings and Appeals to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

On May 23, 1984, the Office of Hearings and Appeals issued a Proposed Decision and Order in which we tentatively concluded that the implementation of Subpart V proceedings was appropriate with

[1] NGLPs include propane, butane, ethane and natural gasoline. In some instances a gas plant operator may have sold small quantities of other products, such as condensate. Those volumes are indicated in the exhibits to the attached Appendix. We will also consider Applications for Refund filed by purchasers of these others products.

respect to the 15 consent order firms referred to in the exhibits to the Appendix to this Decision. *Peoples Energy Corp.*, No. HEF–0266 (May 23, 1984) (proposed decision). We found that there was a considerable degree of difficulty in locating most of the persons who were injured by the alleged overcharges. We have received no comments challenging our authority to fashion special refund procedures with respect to the funds provided by the 15 consent order firms. Accordingly, the ERA Petitions will be granted.

Proposed Refund Procedures

In the May 23 Proposed Decision we stated that in so far as possible the available funds should be distributed to direct or indirect purchasers of product sold by the 15 consent order firms. We tentatively determined that successful refund applicants would generally be entitled to a pro rata share of the refund pool. We indicated that we would multiply the number of gallons of product purchased by a successful applicant by a factor using the total amount of the consent order fund provided by the individual gas plant operator as the numerator and using the total sales in gallons of all products covered by the relevant consent order as the denominator (the volumetric amount).

We further indicated that all successful applicants must establish that they have experienced some economic harm as a result of the alleged overcharges. However, we suggested in the Proposed Order that a separate, detailed showing of injury would not be necessary with respect to applicants who were ultimate consumers of the relevant product. We stated that these applicants would be required to demonstrate that they purchased a specific volume of product sold by a named gas plant operator during the relevant time period. We also stated that a detailed showing of injury would not be necessary for reseller applicants claiming refunds based on relatively small purchases of product, i.e., less than 600,000 gallons per year. We have successfully utilized a small claim threshold of this type in many other cases. *E.g., Office of Enforcement*, 10 DOE ¶ 85,056 (1983); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981). Its use is based on our concern that the cost to the applicant in preparing and submitting information demonstrating injury not be out of proportion to the benefit obtained.

We sent a copy of our Proposed Order to each purchaser identified in ERA audit files whose address we were able to ascertain. We informed these purchasers that they could request adjustments in the refund mechanism. We further published a notice in the **Federal Register** announcing that we were seeking comments regarding the proposed refund mechanism. 49 FR 23228 (June 5, 1984). We provided a 30 day period in which comments could be submitted. That period has now elapsed.

The purpose of this Decision is to address the comments received regarding the May 23 Proposed Order and to establish procedures to be used for filing and processing claims in the first stage of the refund process relating to the consent order firms listed in the Appendix. The Decision sets forth the information that a purchaser must submit in order to establish eligibility for a portion of the available funds.

Analysis of Comments and Adjustments to Refund Plan

We have received comments from Warren Oil Company (Warren) and E. T. Small d/b/a Delta Propane Company and Small's Propane Company (Small) regarding our proposed refund mechanism. Further, several states filed comments regarding the May 23 Proposed Order.[2]

In its comments, Warren asks that we make several modifications in the proposed refund mechanism. First, the firm claims that it will be difficult for refund applicants to provide specific information concerning the date, price, purchase volumes, gas plant locations, and extent of injury experienced. Instead, Warren asserts that we should calculate refunds due based on information contained in DOE audit files. We agree that it may well be difficult for applicants to establish from which gas plant particular NGL purchases originated. In this regard, the purpose of listing gas plants in our Proposed Order was to aid potential applicants in determining whether they may have made purchases from a consent order firm. Accordingly, an applicant that satisfactorily explains why it is unable to determine the source of the product it purchased from a consent order firm will not be expected to adhere to this requirement.

However, we will adhere to our original determination that refund applicants shall provide documentation corroborating volumes, and dates of purchases. Most larger firms, such as Warren, a subsidiary of Gulf Oil Corporation, have sophisticated data retrieval systems. Further, since we have no independent volume data concerning sales by these consent order firms, this type of information will be crucial to our reaching a determination with respect to a refund application. It will conclusively establish that an applicant was in the chain of distribution of covered products sold by one of these consent order firms. Without this confirmation, we will have no basis for granting an applicant any refund whatsoever.

Moreover, we fail to see how an applicant could develop volume data without at the same time retrieving information regarding dates of purchases. Nevertheless, we may be willing to accept an applicant's certification that it purchased a specific volume of product, even if it is unable to substantiate this claim with dates of purchases. In this case, an applicant shall submit a convincing explanation of why it is unable to retrieve date of purchase information. Further, as we discuss below, information regarding prices paid by the applicant for NGLs or NGLPs will, with certain exceptions, be necessary in connection with a showing of injury. In sum, if an applicant is able to retrieve volume data, but unable to develop date of purchase information, it shall explain why it is able to develop one type of information but not the other.

Warren also suggests that in instances in which a consent order fund, when divided by the number of identified purchasers, is $25,000 or less, the fund should automatically be distributed on a proportionate volumetric basis to those purchasers, unless challenged by an applicant. We do not find such a system to be practical. As we indicated above, in no instance in this proceeding have we been able to ascertain independently information regarding purchase volumes of individual purchasers. Therefore, we would have no basis for any reasonable proportionate division of the available funds, as suggested by Warren. Further, as discussed below, a separate, detailed showing of injury will be required in most instances. In view of these considerations, we must reject this Warren suggestion.

Warren also claims that a purchaser should not be required to develop volume information if it was the only purchaser identified with respect to a particular consent order firm. According to Warren, in this situation there would be no need to apportion refunds among applicants. We must also reject this suggestion, since there may well be

[2] The states which filed comments are Delaware, Iowa, Louisiana, North Dakota, Kansas, West Virginia, Rhode Island, New York, North Carolina, Arkansas and Texas. Further, Mr. Paul Mogensen of Raleigh, North Carolina filed comments regarding the Proposed Order. Mr. Mogensen did not indicate that he was a purchaser of any product involved in this proceeding.

other unidentified purchasers of that consent order firm which are entitled to refunds. There is no basis for presuming that all purchases were made by a single, identified firm. Moreover, even in the event that no purchaser other than a single, identified purchaser applied for refunds with respect to a particular consent order, we do not believe it would be equitable to automatically grant that purchaser a refund in the total amount of the consent order fund. *Cf. National Helium Corp./Farmland Industries,* 11 DOE ¶ 85,257 (1984). Such an approach could very well provide that single applicant with a windfall. Warren's suggestion is therefore not reasonable or practicable.

In the May 23 Proposed Decision and Order, we found that applicants that were refiners or resellers of NGLs or NGLPs would be required to demonstrate that they experienced injury as a result of the alleged overcharges. We wish to set forth more specific information as to what type of data will be required for the injury showing. We have decided to generally adopt the approach used in several prior Subpart V proceedings involving consent order funds related to NGLs. *National Helium Corp./Farmland Industries, Inc.*, 11 DOE ¶ 85,257 (1984); *Aluminum Co. of America/Tenneco Oil Co.*, 11 DOE ¶ 85,253 (1984); *Palo Pinto Oil & Gas/Gulf Oil Corp.*, 10 DOE ¶ 85,049 (1983). In these cases we used a three-step competitive disadvantage analysis, in which we first examined whether the applicant was charged prices by the consent order firm which were above prices paid by the applicant's competitors. If so, we inferred that the applicant was at a competitive disadvantage with respect to those purchases and was therefore injured. In order to enable us to perform this type of analysis, refund applicants in the present proceedings should submit quarterly prices and purchase locations for the entire period for each product for which a refund is claimed. In addition, as we stated in our Proposed Order, refund applicants will be expected to demonstrate that they maintained a bank of unrecovered costs, in order to establish that the alleged overcharges were not subsequently recovered through price increases.

As we stated above, in our Proposed Order, we suggested that a separate, detailed showing of injury would not be required of refund applicants who were ultimate customers of the product involved. However, crude oil refiners that purchased NGLs or NGLPs consumed as fuel or as raw material in a refining process will not be considered as "consumers" for this purpose. Rather, the exception for the requirement of a separate, detailed showing of injury for end-users or ultimate customers will be limited to those whose business operations were unrelated to the petroleum industry and whos prices were therefore not subject to the DOE regulatory scheme. The fuel costs of this group are only one, indistinguishable component of their prices for goods and services. Further, this group was generally not subject to price controls during the consent order periods. Therefore, an analysis of the impact of the increased cost of petroleum products on the final prices of non-petroleum products and services would be beyond the scope of a refund proceeding. *Marion Corp.*, 12 DOE ¶ 85,014 (1984); *Ada Resources, Inc./Rapid Transit Lines, Inc.* 11 DOE ¶ 85,047 (1983). On the other hand, a refund applicant that was subject to the DOE regulatory program will be required to provide a detailed demonstration of injury with respect to the purchase of NGLs and NGLPs of which it was an end-user, with the exception for small claims discussed below.

As indicated above, we also suggested in our Proposed Order that a separate, detailed showing of injury would not be necessary for any firm claiming a refund based on purchases of 50,000 gallons of NGLs or any single NGLP per month or based on average annual purchases of up to 600,000 gallons of NGLs or any single NGLP. The State of Texas and New York filed comments objecting to our decision to establish this threshold level, below which a separate, detailed showing of injury would not be required.

In its comments Texas contends that the Office of Hearings and Appeals has no authority to adopt the threshold level below which no separate, detailed showing of injury will be required. In this regard, Texas states that this "presumption of injury" is not the type of presumption permitted pursuant to 10 CFR 205.282(e). Texas contends that the presumptions referred to in that Section are permitted only after an applicant has successfully proven injury. Texas asserts that the presumptions which that Section permits involve only the establishment of "standards and procedures to be employed in order that the amount of refund may be ascertained * * * " but not the establishment of injury. We cannot agree with Texas' analysis. Section 205.282(e) is as follows:

> In establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

Contrary to Texas' assertion, the Office of Hearings and Appeals is not limited in its use of presumptions to the establishment of standards and procedures regarding the amount of the refund. *See Office of Enforcement,* 10 DOE ¶ 85,056 (1983). There is no basis for the State's claim that presumptions may not be used in connection with the establishment of injury. Rather, as explicitly stated in § 205.282(e), in order to effect refunds in the most efficient manner possible, "the standards for evaluation of individual claims may be based upon appropriate presumptions." This is precisely the goal of the threshold level presumption of injury. Further, based on our considerable experience in evaluating refund applications, we remain convinced that the threshold presumption itself significantly promotes that goal.

In its comments the State of New York also objects to the threshold approach. The State contends that most of the identified customers are large firms with sophisticated accounting capabilities that should have no difficulty retrieving the information necessary to establish injury. New York further asserts that smaller firms should be dealt with on an individual basis. It suggests that the threshold approach is unwarranted because it might provide windfall refunds. We are not persuaded by this position. Even though larger firms may have more sophisticated data retrieval capabilities, there may nevertheless be considerable expenses involved in gathering appropriate data. As those expenses approach the value of the refund claimed, all firms, including large ones, will be discouraged from applying for refunds. We find that establishing a reasonable threshold refund level should provide adequate incentive for firms to apply for relatively small refunds, minimize data retrieval burdens, especially for smaller firms, and promote efficient consideration of these types of applications by the Office of Hearings and Appeals.[3]

[3] Similar objections have been raised by Mr. Mogensen. It is his belief that records exist which would permit all claimants to demonstrate injury and that no threshold presumption is warranted. It may be true that in some cases such records exist. However, a possible lack of records is not the sole reason that we have adopted the threshold presumption. As we stated, when small refunds are involved, the cost of retrieving such records may

Continued

On the other hand, Warren claims that the threshold level established in the Proposed Order should be reevaluated, because it is too low. Warren states that in some instances the maximum refund under the presumption of injury method could lead to only a *de minimus* reimbursement. For example, the firm points out that the maximum threshold-type refund from the Consolidated Gas Supply Company consent order fund would amount to only approximately $190. *See* Exhibit 13. There is considerable merit to this position.

As we stated above, and in our Proposed Order, we established the threshold approach in order to facilitate the refund process for firms claiming relatively small refunds. We believe that in such cases, a complex refund process might discourage such firms from applying for refunds, because the amount of the refund they could expect to receive might be less than the cost of preparing a complex and detailed submission supporting their claims of injury. Thus, the benefits of the refund would be outweighed by the cost of preparing the application. These considerations are present with respect to the instant cases. As Warren points out, it appears that using the volumetric threshold, as described in the Proposed Order, may not enable us to best effectuate our goal of facilitating disbursements to applicants applying for relatively small refunds. Consequently, we have decided that an adjustment in that approach is warranted. We have determined that it would best promote the above-stated goal and achieve consistency of treatment in this proceeding to base the threshold level for a detailed demonstration of injury on a dollar amount, rather than on a volumetric amount. In *Marion Corp.*, 12 DOE ¶ 85,014 (1984), and *Texas Oil and Gas Corp.*, 12 DOE ¶ 85,069 (1984) we adopted this approach and established a threshold level of $5,000. We find that in the instant cases, our goals of providing adequate incentives for firms to apply for smaller refunds and of promoting effecient consideration of those applications will be more readily achieved if we adopt the threshold approach taken in these two cases. Therefore, applicants who are claiming a refund of $5,000 or less from any single consent order fund will not be required to provide a separate, detailed showing that they were injured by the alleged overcharges. They must, of course, still provide detailed documentation regarding purchase volumes and dates of purchase.

Warren also claims that we should not require a detailed showing of injury in instances in which the size of the relevant consent order fund is a relatively small fraction of the alleged overcharges. The firm claims that in such cases it is likely that the purchasers suffered injury "at least to the extent of the consent order fund." We see absolutely no basis for Warren's conclusion. The proportion that the consent order fund bears to the overcharges alleged in audit file documents simply bears no logical relationship to whether a purchaser was able to escape injury by passing through any alleged overcharges.

As an additional matter, E.T. Small, the owner of Small's Propane Company and Delta Propane Company, has filed comments regarding the MAPCO consent order. *See* Exhibit 6. Under the terms of that consent order, Thermogas, a MAPCO subsidiary, was to make refunds of $22,500,000 to its propane customers through price reductions. Small states that although it purchased propane during the consent order period from Thermogas, Thermogas has refused to sell any propane to it at reduced prices pursuant to the terms of the consent order. Small asks that it be considered eligible to apply for refunds in this proceeding, and also requests that it be permitted to establish alleged overcharges at a level greater than the volumetric level.

We will consider Small's refund application and similar applications of other Thermogas customers in this proceeding. We make no judgment, however, as to the validity of Small's claim regarding the failure of Thermogas to comply with the terms of the consent order. This type of inquiry would be beyond the scope of a refund proceeding. Small should refer this claim to the DOE Office of Special Counsel for possible investigation.

With regard to Small's request that it be permitted to establish an alleged overcharge at a level other than the volumetric level, it has been our consistent position that refund applicants are not limited to a refund based on the presumption that overcharges and alleged overcharges were distributed on a pro rata basis over all gallons of covered products sold, i.e., volumetrically, in instances in which there is a reasonable basis for establishing alleged overcharges at a greater level. *E.g., Pennzoil Co./Gulf Oil Corp.*, 12 DOE ¶ 85,057 (1984); *Standard Oil Co. (Indiana) /Army & Air Force Exchange Service*, 12 DOE ¶ 85,015 (1984). Accordingly, Small and other Thermogas customers may submit information establishing alleged overcharges in an amount greater than the volumetric level. These applicants will, of course, be required to establish injury in accordance with the principles discussed above.

We will also establish a minimum amount of $15 for first stage refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds of less than $15 are sought outweighs the modest 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). Successful applicants will also receive a pro rata portion of any interest accrued on the relevant consent order fund.

Application for Refund Procedures

After having considered all the comments received concerning the first-stage procedures tentatively adopted in our May 23 Proposed Decision, we have concluded that applications for refunds should now be accepted from parties that purchased petroleum products sold to them either directly or indirectly by any named consent order firm during the relevant consent order period. Applications must be filed within 90 days after publicaton of this Decision and Order in the **Federal Register.** *See* 10 CFR 205.286. An application must be in writing, signed by the applicant, and specify the name and case number of the consent order firm to which it pertains.

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, Room 1E-234, 1000 Independence Avenue, SW., 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 information which the applicant claims is confidential has been deleted, together with a statement specifying why any such information is privileged or confidential. Each application must indicate whether the

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exceed the value of the potential refund. Pursuant to § 205.282(e), in establishing standards and procedures for effecting refunds, the Office of Hearings and Appeals shall take into account the desirability of distributing refunds in an efficient and effective manner. The use of the threshold approach permits the Office of Hearings and Appeals to consider these smaller claims more quickly, and thus use its limited resources more efficiently. *Warren Oil Co.*, 12 DOE ¶ 85,110 (1984). Mr. Mogensen has not suggested any other measure which will equally facilitate the efficient processing of applications and expedite disbursement of refund monies.

applicant or any person acting on its instructions has filed or intends to file any other application or claim of whatever nature regarding the matters at issue in the underlying enforcement proceeding. 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, title and telephone number of a person who may be contacted by the OHA for additional information concerning the application. All applications should be sent to: Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585. All applications for refund received within the time limit specified will be processed pursuant to 10 CFR 205.284 and the procedures set forth in this Decision and Order.

Claimants applying for refunds from more than one consent order fund involved in this proceeding shall submit a separate application for each fund from which they are requesting a refund. In order to assist applicants in establishing eligibility for a portion of the consent order funds, the following subjects should be covered in each application:

A. Each applicant should provide data establishing the volumes of product that it purchased which were sold by a named consent order firm. The applicant should also indicate dates of purchases and gas plant from which the product originated. However, if this latter data is unavailable, the applicant shall explain why it is unable to retrieve this information. If the product was not purchased directly from a consent order firm the applicant should state the manner in which it determined that the product originated from a consent order firm.

B. Each applicant should specify how it used the products—e.g., whether it was a reseller, a refiner using the products in its own operations, or an ultimate consumer.

C. If the applicant is a reseller or refiner that wishes to claim a refund in excess of $5,000 from a single consent order fund, it must also:

(i) State whether it maintained banks of unrecouped product cost increases from the date of the alleged violation until the product was decontrolled, and if so, furnish OHA with quarterly bank calculations;

(ii) Provide sufficient corporate information to identify the parent corporation, the corporation selling or processing the product, and the corporation actually purchasing the product, and describe their corporate relationship;

(iii) State whether it or any of its affiliates filed any other applications for refund in which it has referred to its banks to demonstrate injury; and

(iv) Submit evidence of the quarterly prices it paid during the applicable periods for the products for which it is claiming a refund and locations of such purchases.

D. The applicant should report whether it is or has been involved as a party in any DOE or private section 210 enforcement actions. If these actions have terminated, the applicant should furnish a copy of any final order issued in the matter. If the action is ongoing, the applicant should briefly describe the action and its current status. Of course, the applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of its application for refund. *See* 10 CFR 205.9(d).

Second Stage Refund Procedures

As a final matter, in the Proposed Order we stated that we would consider at a future date the appropriate disposition of any funds remaining after refunds to all successful purchasers have been effected. The states that filed comments regarding the Proposed Order have suggested methods for distributing any funds remaining after refunds to identifiable purchasers have been completed. These comments generally advocate that state governments, rather than the United States Treasury, are the appropriate recipients of these funds. We have in several refund proceedings adopted just such an approach. *E.g., Belridge Oil Co.*, 11 DOE ¶ 85,197 (1983); *Palo Pinto Oil & Gas*, 11 DOE ¶ 85,034 (1983). However, it is the DOE's position currently that legislative guidance should be sought from the Congress on the question of ultimate disposition of second-stage consent order funds, provided the impact of the alleged overcharges was national rather than local or regional in scope. In any case, it would be premature at this time to reach a determination regarding disbursement of second stage refund monies, since we cannot foresee the size of the pool available for refund after all meritorious refund claims of purchasers have been satisfied. Consequently, we will not adopt the states' suggestion at this time.

It is therefore ordered that:

(1) Applications for refunds from the funds remitted to the Department of Energy by the consent order firms listed in the Appendix to this Decision and Order may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the Federal Register.

Dated: December 11, 1984.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order Peoples Energy Corporation

Appendix

Case Names

Firm and Case No.

Peoples Energy Corporation; HEF-0266
Kansas-Nebraska Natural Gas Company, Inc.; HEF-0256
Mesa Petroleum Company; HEF-0259
Hunt Petroleum Corporation; HEF-0254
Arapaho Petroleum, Inc.; HEF-0231
MAPCO, Inc.; HEF-0258
Texas Pacific Oil Company, Inc.; HEF-0276
Hamilton Brothers Petroleum Corporation; HEF-0249
Mountain Fuel Supply Company; HEF-0263
Grimes Gasoline Company, Otha H. Grimes, *et al.*, and Otha H. Grimes, Inc.; HEF-0247
Hunt Industries; HEF-0253
Eagle Petroleum Company and Regal Petroleum Corporation; HEF-0243
Consolidated Gas Supply Corporation; HEF-0238
Belridge Oil Company; HEF-0234
The Parade Company; HEF-0493

Index to Exhibits

Exhibit and Firm

1—Peoples Energy Corporation
2—Kansas-Nebraska Natural Gas Company, Inc.
3—Mesa Petroleum Company
4—Hunt Petroleum Corporation
5—Arapaho Petroleum, Inc.
6—MAPCO, Inc.
7—Texas Pacific Oil Company, Inc.
8—Hamilton Brothers Petroleum Corporation
9—Mountain Fuel Supply Company
10—Grimes Gasoline Company, Otha H. Grimes, *et al.*, and Otha H. Grimes, Inc.
11—Hunt Industries
12—Eagle Petroleum Company and Regal Petroleum Corporation
13—Consolidated Gas Supply Corporation
14—Belridge Oil Company
15—The Parade Company

Exhibit 1

Name of Consent Order Firm: Peoples Energy Corporation.

Consent Order Case Numbers:

ERA: 733V02006
OHA: HEF-0266

Consent Order Period: September 1, 1973–October 31, 1980.

Consent Order Fund: $750,000.

Names of Plants:

1. Plant No. 161
2. Plant No. 162
3. Enid Plant
4. Ames Plant
5. East Edmond Plant

Alleged Overcharges by Plant:

Plant Nos. 161 and 162	$1,468,049.71
Enid Plant	176,091.57
Ames Plant	506,383.63
East Edmond Plant	260,304.24
Total	2,410,829.15

Gallons Sold by Plant:

Plant Nos. 161 and 162	136,498,254
Enid Plant	11,005,678
Ames Plant	22,090,390
East Edmond Plant	8,514,000
Total	178,108,322

Per Gallon Refund Amount: $.004211.
Identified Purchaser: Phillips Petroleum Company.

Exhibit 2

Name of Consent Order Firm: Kansas-Nebraska Natural Gas Company, Inc.
Consent Order Case Numbers:

ERA: 730V01216
OHA: HEF-0256

Consent Order Period: September 1, 1973-Decembr 31, 1979.
Consent Order Fund: $12,901,418.53.
Names of Plants:

1. Scott City Plant
2. Sunflower Helium Plant
3. Yenter Plant
4. Tyrone Plant
5. Myrtle Springs Plant
6. Hobart Ranch Plant
7. Flat Top Plant
8. Casper Plant

Alleged Overcharges by Plant:

Scott City/Sunflower Helium	$9,246,891.32
Yenter	262,738.82
Tyrone	7,680,216.68
Hobart Ranch	619,000.44
Flat Top	801,578.12
Casper	4,347,308.29
Western Gas	*754,070.51
Total	23,911,804.18

*Western Gas Corporation is a subsidiary involved in purchase and resale of NGLs.

Gallons Sold:

Annual Sales Estimate	114,117,777
Consent Order Period Estimate	722,365,528

Per Gallon Refund Amount: $.017860.
Identified Purchasers:

1. California Liquid Gas Corp.
2. Mobil Oil Corporation
3. Eastern Petroleum Company
4. Western Gas Corporation
5. Union Oil Company
6. Cities Service Oil Company
7. Koch Oil Company
8. Little America Refining Co.

Exhibit 3

Name of Consent Order Firm: Mesa Petroleum Company.
Consent Order Case Numbers:

ERA: 740V01248
OHA: HEF-0259

Consent Order Period: September 1, 1973-July 31, 1979.
Consent Order Fund: $3,000,000.
Names and Locations of Plants and Percentage of Ownership:

1. Ulysses Gas Plant Ulysses, KS; 100%
2. Hobart Ranch Plant Hemphill County, TX; 9-20%
3. Sea Robin Plant Frath, LA; 1.814%
4. Seiling Plant Dewey County, OK; 1.26908%
5. Putnam-Oswego Plant Dewey County, OK; .38%
6. Toca Gas Plant Plaquemines Parish, LA; .03%
7. Mooreland Plant, (OK); .11690%
8. Mineola Plant, (KS)
9. Cameron Plant, Cameron Parish, LA
10. Denton Gas Plant, (NM)
11. Patrick Draw Plant, (WY)
12. Hartzog Draw Plant, (WY)
13. Sterling Plant, (TX)

Alleged Overcharges by Plant:

Ulysses	$6,331,488.90
Hobart Ranch	5,472.29
Sea Robin	1,840.70
Seiling	69,385.95
Cameron	28,498.72
Total	6,436,686.56

Gallons Sold:

Annual Sales Estimate	48,326,218
Consent Order Period Estimate	287,607,940

Per Gallon Refund Amount: $.010431.
Identified Purchasers:

1. Koch Industries
2. Getty Oil Company
3. Champlin Oil Company
4. Dorchester Gas Company

Exhibit 4

Name of Consent Order Firm: Hunt Petroleum Corporation.
Consent Order Case Numbers:

ERA: 710V03007
OHA: HEF-0254

Consent Order Period: September 1, 1973-July 31, 1975.
Consent Order Fund: $180.000.
Names and Locations of Plants and Percentage of Ownership:

1. Kinder Plant Allen Parish, LA; 100%
2. Grand Chenier Plant; .075%
3. Calumet Plant, Calumet, LA
4. Fairway Plant; .0959154%

Alleged Overcharges: $299,829.
Gallons Sold: 8,390,034.

Per Gallon Refund Amount: $.021454.
Identified Purchasers:

1. Wanda Petroleum Company, P.O. Box 53120, Houston, TX 77052
2. Placid Refining, Inc., 1600 First National Bank Bldg., Dallas, TX 75202
3. Texas Petroleum
4. South Hampton

Exhibit 5

Name of Consent Order Firm: Arapaho Petroleum, Inc.
Consent Order Case Numbers:

ERA: 710V03019
OHA: HEF-0231

Consent Order Period: September 1, 1973-January 28, 1981.
Consent Order Fund: $199,000.
Name and Location of Plant: Seminole Plant, Seminole County, OK.
Alleged Overcharges:

Propane	$166,164.45
Butane	86,852.40
Natural Gasoline	183,294.63
Iso-Butane	32,696.79
Total	469,008.27

Gallons Sold:*

Propane	5,839,112
Butane	3,260,337
Natural Gasoline	4,727,057
Total	13,826,506

Per Gallon Refund Amount: $.014393.
Identified Purchaser: Warren Petroleum Company, 1350 S. Boulder Avenue, Tulsa, OK 74102.
Comments: *The Arapaho audit file that we examined did not set forth the number of gallons of iso-butane sold by the firm, although the file did allege overcharges with respect to this product.

Exhibit 6

Name of Consent Order Firm: MAPCO, Inc.
Consent Order Case Numbers:

ERA: 740VO1246
OHA: HEF-0258

Consent Order Period: September 1, 1973-October 31, 1980.
Consent Order Fund: $9,000,000*.
Names of Plants:

1. Westpan Plant
2. Tyrone Plant
3. Altonah Plant
4. S.W. Davis Plant
5. Conway Plant

Alleged Overcharges:

Propane	$41,992,608.80
Butane	5,509,842.76
Natural Gasoline	18,444,634.06

Mixed Stream	3,609,374.50
Total	69,556,460.12

Gallons Sold:

	Consent order period estimate	Annual sales estimate
Propane	2,626,945,906	425,991,232
Butane	641,696,180	104,058,834
Natural Gasoline	858,341,318	139,190,478
Mixed Stream	872,423,666	141,474,102
Total	4,999,407,070	810,714,646

Per Gallon Refund Amount: $.001800.
Identified Purchasers:

1. Koch Industries, Inc., P.O. Box 2256, Wichita, KS 67201
2. Williams Energy Company
3. Northern Gas Products Company
4. National Coop. Refining Assoc.
5. Northwest Refining Company
6. Skelly Oil Company

Comments: *Beginning on the first day of the first month after the effective date of the Consent Order and continuing until such refund was completed, the firm agreed to make refunds in the amount of $22,500,000 through price reductions to the purchasers of propane from Thermogas, Inc., a wholly-owned subsidiary of MAPCO, Inc. Accordingly, of the total consent order fund of $31,500,000, MAPCO, Inc. refunded only $9,000,000 directly to the DOE and it is this $9,000,000 that is subject to the present refund proceeding.

Exhibit 7

Name of Consent Order Firm: Texas Pacific Oil Company, Inc.
Consent Order Case Numbers:

ERA: 740V01403
OHA: HEF-0276

Consent Order Period: September 1, 1973-August 31, 1980.
Consent Order Fund: $72,500.
Names and Locations of Plants:

1. Lacassane Plant, Cameron, LA
2. Adena Plant, Morgan, CO
3. Dover Hennessey Plant, Kingfisher, OK
4. Enville Plant, Love, OK
5. Hamlin Plant, Fisher, TX
6. La Verne Plant, Harper, OK
7. Mooreland Plant, Woodward, OK
8. O'Keene Plant, Blaine, OK
9. South Fullerton Plant, Andrews, TX
10. Star Lacy Plant, Blaine, OK
11. Wellman Plant, Terry & Gaines, TX
12. Lake Como Plant (location unknown)

Alleged Overcharges:

Propane	$450,183.76
Butane	184,208.34
Natural Gasoline	186,456.73
Butane In Mix	150.73
Natural Gasoline In Mix	168.17
Butane-Natural Gasoline In Mix	14,579.11
Total	835,736.84

Gasoline Sold:

	Consent order period estimate	Annual sales estimate
Propane	14,362,920	2,398,139
Butane	8,517,384	1,419,567
Natural Gasoline	5,861,808	976,963
Butane-Natural Gasoline Mix	8,064	1,338
Total	28,750,176	4,796,007

Per Gallon Refund Amount: $.002522.
Identified Purchasers: Unidentified.

Exhibit 8

Name of Consent Order Firm: Hamilton Brothers Petroleum Corp.
Consent Order Case Numbers:

ERA: 710V03026
OHA: HEF-0249

Consent Order Period: September 1, 1973-March 31, 1975.
Consent Order Fund: $320,000.
Names and Locations of Plants:

1. Calumet Plant, Patterson, LA
2. Sea Robin Plant
3. Patterson II Plant

Alleged Overcharges:

Propane	$349,349.61
Butane	269,696.58
Natural Gasoline	280,087.22
Total	899,133.41

Gallons Sold:

Propane	$3,836,786
Butane	2,404,797
Natural Gasoline	2,375,662
Total	8,617,245

Per Gallon Refund Amount: $.037135.
Identified Purchasers:

1. Wanda Petroleum Company, P.O. Box 53120, Houston, TX 77052
2. International Petroleum Trading Co.

Exhibit 9

Name of Consent Order Firm: Mountain Fuel Supply Company.
Consent Order Case Numbers:

ERA: 710V03003
OHA: HEF-0263

Consent Order Period: November 1, 1975-January 28, 1981.
Consent Order Fund: $1,200,000.
Name and Location of Plant: Brady Plant, Sweetwater County, WY.
Alleged Overcharges:

Propane	$1,174,945.98
Butane	2,341,644.41
Total	3,516,590.39

Gallons Sold:

Propane	$13,153,266
Butane	22,617,063
Total	35,770,329

Per Gallon Refund Amount: $.033547.
Identified Purchasers:

1. I.T. Enterprise, Tulsa, OK
2. Cowboy Oil Co., Box L, Pocatello, ID 83201
3. Petrolane, Inc., Houston, TX
4. Huntsman Chemical & Oil Corp., Englewood, CO

Exhibit 10

Name of Consent Order Firm:

Grimes Gasoline Company, Otha H. Grimes, *et al.*, and Otha H. Grimes, Inc.

Consent Order Case Numbers:

ERA: 710V03005
OHA: HEF-0247

Consent Order Period: September 1, 1973-December 31, 1978.
Consent Order Fund: $316,000.
Names and Locations of Plants and Percentage of Ownership:

1. Okemah Plant, Offuskee County, OK; 100%
2. North Dora Plant, Nolen County, OK; 75%

Alleged Overcharges:

Propane	$710,955.11
Butane	270,373.98
Natural Gasoline	495,570.12
Total	1,476,899.21

Gallons Sold:

Propane	25,135,976
Butane	18,263,282
Natural Gasoline	10,929,271
Total	54,328,529

Per Gallon Refund Amount: $.005816.
Identified Purchasers:

1. Sun Company, Inc., 1608 Walnut Street, Philadelphia, PA 19103
2. Sid Richardson Carbon & Gasoline Co., 3100 Fort Worth Nat'l Bank Bldg., Fort Worth, TX 76102
3. Cosden Oil Company
4. Burmah L. P. Gas Company
5. W. N. Carter

Exhibit 11

Name of Consent Order Firm: Hunt Industries.

Consent Order Case Numbers:

ERA: 710V03006
OHA: HEF-0253

Consent Order Period: September 1, 1973–July 31, 1975.

Consent Order Fund: $70,000.

Names and Locations of Plants and Percentage of Ownership:

1. North Tioga Plant, Burke County, ND
2. Calumet Plant, Calumet, LA
3. Zoller Plant, Refugio County, TX; 48.3943%

Alleged Overcharges:

Propane	$54,040.68
Butane	4,970.36
Natural Gasoline	53,107.23
Condensate	4,297.71
Total	116,415.98

Gallon Sold:

Propane	6,200,505
Butane	4,536,904
Natural Gasoline	3,607,890
Condensate	97,490
Total	14,442,789

Per Gallon Refund Amount: $.004847.

Identified Purchasers:

1. Amoco Oil Company, 200 East Randolph Drive, Chicago, IL 60601
2. Wanda Petroleum Company, P.O. Box 53120, Houston, TX 77052
3. Tenneco Oil Company, P.O. Box 2511, Houston, TX 77001
4. Texas Petro Gas Company
5. Solar Gas, Inc.

Exhibt 12

Name of Consent Order Firm: Eagle Petroleum Company and Regal Petroleum Corporation.

Consent Order Case Numbers:

ERA: 710V03025
OHA: HEF-0243

Consent Order Period: September 1, 1973–January 28, 1981.

Consent Order Fund: $119,500.

Name and Locations of Plants and Percentage of Ownership: KMA Plant, Wichita County, TX; 100%.

Alleged Overcharges:

Propane/Butane Mix	$139,709
Natural Gasoline	210,906
Total	350,615

Gallons Sold:

Propane/Butane Mix	3,846,997
Butane/Natural Gasoline Mix	3,556,399
Natural Gasoline	4,103,407
Total	11,506,803

Per Gallon Refund Amount: $.010385.

Identified Purchasers:

1. Warren Petroleum Company, 1350 S. Boulder Avenue, Tulsa, OK 74102
2. TLOK Marketing Corporation, 6350 LBJ Freeway, Suite 1, Dallas, TX 75240
3. Cosden Oil and Chemical Co.

Exhibit 13

Name of Consent Order Firm: Consolidated Gas Supply Corporation.

Consent Order Case Numbers:

ERA: 342V00353
OHA: HEF-0238

Consent Order Period: September 1, 1973–July 31, 1976.

Consent Order Fund: $28,212*.

Names and Locations of Plants and Percentage of Ownership: Hastings Plant, Hastings, WV; 100%.

Alleged Overcharges:

Propane	$6,235,575.21
Butane	1,873,627.89
Natural Gasoline	975,151.10
Propane-Butane Mix	108,819.12
Total	9,193,173.32

Gallons Sold: 251,074,000.

Per Gallon Refund Amount: $.000112.

Identified Purchasers:

1. Agway, Inc.
2. American Propane Company
3. Blue Flame Gas Company
4. Braxton Oil Company
5. Commonwealth Propane
6. Country Gas
7. H. H. Cupp
8. C. M. Dining
9. Gas, Inc. (Petrolane)
10. General LP Gas
11. Home Gas
12. D. & D. Gas (Kelgas)
13. Lewiston Bottled Gas Company
14. L.P. Gas Company
15. Maine Gas & Appliances
16. Northern Propane Gas Company
17. Parco Distributor
18. Pargas, Inc.
19. Pyrofax Gas Corporation
20. Quaker State
21. Robinson LP Gas
22. Steinhauser Bottled Gas
23. Stevens Gas Service (Ashland)
24. Suburban Propane
25. Southern States Co-op.
26. Ugite (Amerigas)
27. Union Texas Petroleum
28. Utilgas
29. Wanda Petroleum Corporation
30. Wanstreet Supply
31. Daugherty Propane (Buckeye)
32. Sterling Chemical Company

Comments: *The consent order entered into by Consolidated Gas Supply Corporation and the DOE required the firm to refund $5,025,000 to its customers by reducing its sales prices to amounts less than its maximum lawful selling price. Consolidated refunded a total of $4,996,788 to its customers through this price reduction. Accordingly, of the total consent order fund of $5,025,000, Consolidated refunded only $28,212 directly to the DOE and it is this $28,212 that is subject to the present refund proceeding.

Exhibit 14

Nane of Consent Order Firm: Belridge Oil Company.

Consent Order Case Numbers:

ERA: 940V00121
OHA: HEF-0234

Consent Order Period: August 19, 1973–July 31, 1975.

Consent Order Fund: $225,000*.

Name of Plant: Belridge Gasoline Plant.

Alleged Overcharges: $437,243.03.

Gallons Sold:

Propane	3,653,374
Iso-Butane	330,358
Natural Gasoline	5,732,688
Total	9,716,420

Per Gallon Refund Amount: $.023157.

Identified Purchasers:

1. Coast Gas, Inc.
2. Standard Oil Co. of California, 555 Market Street, 39th Fl., San Francisco, CA 94105.

Comments: *In addition to this amount, a direct payment of $12,914.25 was made by Belridge Oil Company to Belridge Farms on or before June 30, 1979, for the express purpose of refunding amounts which Belridge believed it had overcharged.

Exhibit 15

Nane of Consent Order Firm: The Parade Company.

Consent Order Case Numbers:

ERA: 733V02035
OHA: HEF-0493

Consent Order Period: February 1, 1975–January 28, 1981.

Consent Order Fund: $1,000,000.

Names and Locations of Plants and Percentage of Ownership: Giles Gas Plant, Rusk County, TX; 100%.

Alleged Overcharges:

Propane	$146,335.92
Butane/Pentane Mix	1,570,129.33
Total	1,716,465.25

Gallons Sold:

	Consent order period estimate	Annual sales estimate
Propane	79,200,000	13,200,000
Butane/Pentane Mix	34,800,000	5,800,000
Total	114,000,000	19,000,000

Per Gallon Refund Amount: $.008772.
Identified Purchasers:

1. Wanda Petroleum Company
2. Morgan Petroleum Company
3. Aero Energy, Inc.
4. Exxon Company, U.S.A.
5. Gulf States Oil Company

[FR Doc. 84-33414 Filed 12-24-84; 8:45 am]
BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implemenation of special refund procedures and solicitation of comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding $16,520,152.24 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings brought by the Economic Regulatory Administration of the Department of Energy involving the 26 firms named below. The business operations of these firms included production of crude oil, processing of natural gas, and resale of covered petroleum products.

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, S.W., Washington, D.C. 20508. All comments should conspicuously display a reference to case numbers HEF-0221, *et al.*

FOR FURTHER INFORMATION CONTACT: Virginia A. Lipton, Assistant Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2400.

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 and Order relates to consent orders entered into by the DOE and the 26 firms set out in the Appendix below.

The Proposed Decision and Order sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of escrow accounts funded by these firms pursuant to the consent orders. The DOE has tentatively decided that Applications for Refund should be accepted from firms and individuals that purchased covered products from any of the 26 named firms during the relevant consent order period set forth in the Appendix. The Proposed Decision and Order provides that in order to receive a portion of the settlement funds, a purchaser must furnish the DOE with evidence that it was injured by the allegedly unlawful prices for covered products charged by the relevant consent order firm. This evidence should include specific documentation concerning the date, place, price, and volume of product purchased, indicate whether the increased costs were absorbed by the claimant or passed through to other purchasers, and state the extent of any injury alleged to have been suffered. However, the Proposed Decision indicates that no separate, detailed showing of injury will be required of end users of the relevant product, or of firms which file refund claims in amounts of $5,000 or less from any single consent order fund. According to the Proposed Decision and Order, the amount of the refund will generally be a pro rata share of the fund made available by the consent order firm.

Until a final Decision and Order is issued, no claims for refund can be accepted. Applications for Refund therefore should not be filed at this time. Appropraite public notice, including notice published in the **Federal Register**, will be given when the submission of claims is authorized. The deadline for filing such claims will be no less than 90 days from publication of such notice in the **Federal Register**.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties should 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: December 17, 1984.

George B. Breznay,
Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

December 17, 1984.

Names of Cases: Seminole Refining, Inc., *et al.*

Date of Filing: October 13, 1983.

Case Numbers: HEF-0221, *et al.*

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals formulate and implement special procedures to make refunds, in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V.

In accordance with these regulatory provisions, the ERA filed a Petition for the Implementation of Special Refund Proceedings in connection with consent orders entered into with the 26 firms set forth in the exhibits to the Appendix to this Proposed Decision. An audit of the records of those firms revealed possible pricing violations with respect to their sales of natural gas liquids (NGLs), natural gas liquid products (NGLPs), crude oil and refined petroleum products during the periods indicated in the exhibits.[1] In order to settle all claims and disputes with the DOE regarding their sales of these products during their respective audit periods, the firms entered into consent orders. The exhibits to the Appendix indicate the amount of money provided to the DOE by each firm. The total amount of funds made available by those firms that is subject to distribution in this proceeding is $16,520,152.24.

I. Jurisdiction and Authority to Fashion Refund Procedures

The procedural regulations of the DOE set forth general guidelines by which the Office of Hearings and Appeals may

[1] NGLPs include propane, butane, ethane and natural gasoline. In some instances a gas plant operator may have sold small quantities of other products, such as condensate.

formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to readily identify persons who may have been injured as a result of alleged regulatory violations resolved by a DOE consent order or remedial order or where the DOE is unable to readily ascertain the amount of each person's injuries. For a more detailed discussion of Subpart V and the authority of the Office of Hearings and Appeals to fashion procedures to distribute refunds obtained as part of settlement agreements, *See Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

After reviewing the records developed in the instant cases, we have concluded that a Subpart V proceeding is an appropriate mechanism for distributing the available funds, because there is a significant degree of difficulty in identifying and locating the persons who were injured by the alleged overcharges. Further, as a result of decontrol of petroleum products, price rollbacks are no longer an effective means of refunding money to purchasers who were overcharged in the past. *See* Exec. Order No. 12287, 46 FR 9909 (January 30, 1981).

II. Proposed Refund Procedures

In sofar as possible the $16,520,152.24 in consent order funds should be distributed to direct and indirect customers of the consent order firms named in the exhibits.

As shown in the exhibits to the Appendix, the operations of the 26 consent order firms involved in this proceeding included producing and selling crude oil and condensate, as well as refining, reselling and retailing of petroleum products, NGLs and NGLPs. Therefore, it is likely that customers of these firms, and thus the potential refund applicants in this proceeding, will themselves be engaged in a variety of business operations. For example, potential refund applicants might be refiners, resellers, retailers, end-users engaged in businesses unrelated to the petroleum industry, or ultimate consumers that purchased petroleum products for personal use. In view of the wide variety of potential refund claimants from which we may expect to receive applications in this proceeding, we are unable to describe at this time the precise showing that each type of applicant will be expected to make. However, some general principles are set forth below.

As an initial matter, we wish to discuss the proper approach in considering refund applications filed by purchasers of crude oil and condensate. In *A. Johnson & Co.*, 12 DOE ¶ 85, 102 (1984) (*Johnson*); Office of Enforcement, 9 DOE ¶ 82, 521 (1982) (*Alkek*); and *Office of Enforcement*, 9 DOE ¶ 82,553 (1982) (*Adams*), we discussed in detail the considerations involved in evaluation of refund claims involving crude oil purchases. Further, under DOE regulations, condensate was generally treated as crude oil. 10 CFR 212.31. Accordingly, refund applications based on claims of crude oil or condensate purchases will be considered based on the standards enunciated in the *Johnson*, *Alkek* and *Adams* cases. In this regard, any person who filed a refund application in the *Johnson*, *Adams*, or *Alkek* proceedings that is pending as of the date of this determination, and which is based on claims of injury experienced as a result of participation in the Entitlements Program, will be deemed to have filed a similar application in this proceeding. *Johnson*, 12 DOE at 88,302. Thus, these claimants need not file this type of application in the present proceeding. This approach will simplify and expedite our consideration of these entitlements claims.

We shall next consider the standards and procedures to be applied to applications filed in connection with other products covered by the relevant consent orders.

A. Calculation of Allocable Shares

We must first determine the proper method for allocating the consent order funds provided by each firm among refund applicants. With respect to applications based on claims of alleged overcharges, it may be difficult for claimants to measure precisely the extent of an alleged overcharge. In those cases in which an applicant is unable to reasonably quantify the amount by which it was allegedly overcharged, we have decided to generally follow a volumetric approach to determine the allocable share to which it will be entitled. *Office of Special Counsel*, 9 DOE ¶ 82,545 (1982). Such an approach will permit a claimant to be eligible to receive a pro rata share of the individual consent order fund made available by the relevant consent order firm listed in the Appendix. We propose that the refund pool made available by each consent order firm therefore be divided as follows. We will multiply the number of gallons of product purchased by a qualified applicant by a factor using the total amount of the fund provided by the relevant consent order firm as the numerator and using the relevant total sales in gallons of all products covered by the relevant consent order as the denominator. Successful claimants will also receive a pro rata share of any interest accrued on the consent order funds made available by the relevant consent order firm. This volumetric approach will enable us to arrive at an appropriate allocable share for most individual refund applicants.

It is also possible that some purchasers of the consent order firms may wish to file a refund application based on claims of alleged violations of the DOE's allocation regulations, rather than on claims of alleged overcharges. In this type of application, a claimant might allege, for example, that a consent order firm failed to supply it with the amount of allocated product to which the claimant was entitled under DOE regulations. In order to evaluate this type of claim, and determine whether an applicant experienced injury, we propose to refer to standards such as those set forth in *OKC Corp./Town & County Markets, Inc.*, 12 DOE ¶ 85,094 (1984), and *Aztex Energy Co.*, 12 DOE ¶ 85,116 (1984).

B. Proof of Injury.

In order to be eligible to receive all or a portion of its allocable share, an applicant claiming alleged overcharges will generally be required to establish that it was injured as a result of its purchases from the consent order firm.

While there are a variety of ways in which a showing of injury may be made, applicants that are resellers or refiners will generally be expected to show not only that they had banks of unrecovered costs, but also to provide evidence that they did not pass through to their own customers the additional costs associated with the alleged overcharges by showing, for example, that due to market conditions they could not pass throught the additional costs. *Office of Enforcement*, 10 DOE ¶ 85,056 (1983); *Office of Enforcement*, 10 DOE ¶ 85,029 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981).

We believe that a detailed showing of injury should not be necessary for applicants that are ultimate consumers. However, with respect to consumer claimants, the opportunity to make this less-detailed showing will be limited to those applicants that purchased product for their own personal use and to those whose business operations were not subject to DOE regulation. It is evident that applicants that purchased product for their own use would have had no opportunity to pass through additional costs associated with alleged

overcharges. With respect to applicants that were consumers of covered product in connection with a business which was not subject to DOE regulation, we have indicated on several occasions that it would be beyond the scope of a Subpart V proceeding to analyze the impact of increased costs of petroleum products on the final prices of these types of businesses. *E.g., Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984). Therefore, these types of consumer applicants need only demonstrate that they purchased a specific quantity of product that was sold by one or more of the 26 identified consent order firms during the relevant time period.

On the other hand, refund applicants whose business operations were subject to the DOE regulatory program and which purchased petroleum products consumed as fuel or as raw material will not be considered as consumers for purposes of the showing of injury. Since we are better able to analyze the impact of increased costs of petroleum products on their operations, these applicants will be expected to establish injury in accordance with the principles we have proposed in this Decision.

Further, a separate, detailed showing of injury may be complicated and burdensome for firms, such as refiners and resellers, which purchased relatively small amounts of covered product, and which are therefore claiming smaller refunds. For example, such firms may have limited accounting and data-retrieval capabilities and may therefore be unable to produce the records necessary to prove the existence of banks of unrecovered costs, or that they did not pass on the alleged overcharges to their own customers. Further, with respect to smaller refund claims, we believe that the costs incident to applications setting forth a detailed demonstration of injury may outweigh the benefits which might be obtained by receiving this additional, detailed data. For example, the high cost of retrieving detailed data demonstrating injury might totally deter firms from filing smaller refund claims. Moreover, the small claims procedure permits the Office of Hearings and Appeals to use its own resources more efficiently. *Peoples Energy Corp.*, 12 DOE ¶———, No HEF-0266 (December 11, 1984). Therefore, we propose that any applicant claiming a refund of $5,000 or less from any single consent order firm identified in the exhibits to the Appendix need not make a separate, detailed showing of injury in order to be eligible to receive a refund. Such an applicant will only be required to submit proof of the amount of product purchased during the consent order period.

A number of the audit files developed with respect to the consent order firms involved in this proceeding specifically identified customers of those firms. Where possible, these identified customers will be served with copies of this Proposed Decision and Order.

Refund applications should not be filed until issuance of a final Decision and Order establishing procedures in this matter. Applicants will be asked to provide all relevant information necessary to establish a claim, including specific documentation concerning the date, place, price, and volume of product purchased, the retention of increased costs, and the extent of any injury alleged. Detailed procedures for filing applications will be provided in the final Decision and Order. Before disbursing any of the funds received as a result of the consent orders set out below, we intend to publicize the distribution process in the **Federal Register** and to provide an opportunity for any affected party to file a claim. Comments regarding the tentative distribution process set forth in this Proposed Order should be filed with the Office of Hearings and Appeals within 30 days of publication of this Proposed Order in the **Federal Register**. We will consider at a future date the appropriate disposition of any funds remaining after all successful claims of purchasers have been paid.

It is therefore ordered that:

The refund amounts remitted to the Department of Energy by the consent order firms set forth in the exhibits to the attached Appendix will be distributed in accordance with the foregoing decision.

Proposed Decision and Order; Seminole Refining, Inc.

Appendix

Case Names

Firm and Case No.

Seminole Refining, Inc.; HEF-0221
Roberts Oil Company, Inc.; HEF-0167
Internorth, Inc.; HEF-0255
Swifty Oil Company, Inc.; HEF-0175
Lakeside Refining Company and Crystal Refining Company; HEF-0214
Sanesco Oil Company; HEF-0170
Truckstops Corporation of America; HEF-0183
Warrior Asphalt Company of Alabama, Inc.; HEF-0226
Franks Petroleum, Inc.; HEF-0208
Northwest Pipeline Corporation; HEF-0264
Kansas-Nebraska Natural Gas Co., Inc.; HEF-0257
Rookwood Oil Terminals, Inc.; HEF-0168
Schroeder Oil Company; HEF-0171
Speedway Petroleum Company, Inc.; HEF-0173
JOC Oil, Inc.; HEF-0176
A. Tarricone, Inc.; HEF-0177
R.V. Whitmer Thermogas Co.; HEF-0178
Ropet Incorporated; HEF-0169
Tippins Oil and Gas Co., Inc.; HEF-0181
Daniel J. Turco d/b/a Turco's 129 Exxon and Turco's Shell; HEF-0184
U.S. Oil Company, Inc.; HEF-0185
United Petroleum, Inc., HEF-0187
Little America Refining Company; HEF-0215
Witco Chemical Corporation; HEF-0227
Aminoil U.S.A., Inc.; HEF-0229
Stinnes Interoil, Inc.; HEF-0174

Index to Exhibits

Exhibit and Firm

1—Seminole Refining, Inc.
2—Roberts Oil Company, Inc.
3—Internorth, Inc.
4—Swifty Oil Company, Inc.
5—Lakeside Refining Company and Crystal Refining Company
6—Sanesco Oil Company
7—Truckstops Corporation of America
8—Warrior Asphalt Company of Alabama, Inc.
9—Franks Petroleum, Inc.
10—Northwest Pipeline Corporation
11—Kansas-Nebraska Natural Gas Co., Inc.
12—Rookwood Oil Terminals, Inc.
13—Schroeder Oil Company
14—Speedway Petroleum Company, Inc.
15—JOC Oil, Inc.
16—A. Tarricone, Inc.
17—R. V. Whitmer Thermogas Co.
18—Ropet Incorporated
19—Tippins Oil and Gas Co., Inc.
20—Daniel J. Turco d/b/a Turco's 129 Exxon and Turco's Shell
21—U.S. Oil Company, Inc.
22—United Petroleum, Inc.
23—Little America Refining Company
24—Witco Chemical Corporation
25—Aminoil U.S.A., Inc.
26—Stinnes Interoil, Inc.

Exhibit 1

Name of Consent Order Firm: Seminole Refining, Inc., St. Marks, FL.

Type of Operation: Refiner of covered products.

Consent Order Case Numbers:

ERA: 411S00023; N00S90119; N00S90131
OHA: HEF-0221

Consent Order Period: December 1, 1973—August 13, 1980.

Consent Order Fund: $1,900,000*.

Alleged Overcharges:

No. 2 Fuel Oil	$259,363.00
No. 5 Fuel Oil	166,752.49
Jet Fuel	212,552.75
Tractor Fuel	19,192.34
P-9 Oil	14,093.00
Subtotal	671,953.58
Entitlements Program	1,330,000.00
Total	2,001,953.58

Gallons Sold:

No. 2 Fuel Oil	26,817,951
No. 5 Fuel Oil	31,198,961
Jet Fuel	27,699,860
Tractor Fuel	1,746,415
P-9 Oil	3,586,168
Total	91,049,355

Per Gallon Refund Amount: $.006260.
Identified Purchasers:

No. 2 Fuel Oil (Resellers/End-Users):

1. Couch Construction
2. McKenzie Construction
3. Oxford Construction
4. Milwhite Company
5. Coleman Evans
6. Wright Construction
7. Southern Terminal
8. Three Country Petroleum
9. Autry Petroleum
10. Big Bend
11. Dixie Oil
12. Couch Asphalt
13. W. J. Holland
14. Summer Construction
15. Waverly Minerals
16. Industrial Service
17. Colonial Oil
18. Haugabook Oil
19. Murphy Oil
20. Clyde Smith
21. Tallahassee Memorial
22. St. Joe Paper
23. Temko Oil
24. Geophysical Services
25. Frank Lawhorn
26. Manor Timber
27. Williams Services
28. Mileage Oil
29. O'Neal Construction Co.
30. Georgia Medicaid
31. E. W. Patterson
32. Sullivan
33. Griffin Farms
34. A. J. Singletary
35. Baily & Whitaker
36. Turner Oil Co.

No. 5 Fuel Oil (Resellers/End-Users):

1. Columbia Paving
2. Dowes Silica
3. Englehard Minerals
4. Graceville Oil
5. Oil Dri
6. Rocky Creek Mineral
7. Hammons Asphialt
8. Moody Construction
9. Florida A & M
10. Cape Rendering
11. Southeastern Asphalt
12. Flint River Mills
13. Americus Wood
14. Henry Country Line
15. Baxter Asphalt
16. Amoco Oil Company
17. Sing Oil Company
18. Jasper Laundry
19. White Construction
20. National Line Service
21. Houdaille D-W
22. Dotham Oil Mill

Jet Fuel (Resellers/End-Users):

1. Moody Air Force Base
2. Grumman
3. Michael Avimo

Tractor Fuel (Resellers):

1. R. P. Williams
2. Union 76
3. Waldron
4. Pickins
5. T. J. Campbell
6. M. C. Sullivan
7. Morris Adams

P-9 Oil (End-Users):

1. Sanford Chemicals
2. Vulcan Asphalt
3. McCrannie Bros.

Comments:

*Of the total Seminole consent order fund, $1,330,000 was related to the firm's alleged crude oil pricing violations. In *A. Johnson & Co.*, 12 DOE ¶ 85,102 (1984), we provided that applications for refund from the Seminole fund filed in connection with alleged crude oil pricing violations, would be considered based on the procedures set forth in *Office of Enforcement*, 9 DOE ¶ 82,521 (1982) and *Office of Enforcement*, 9 DOE ¶ 82,553 (1982). Therefore, the standards enunciated in the presented Proposed Order are applicable only to Seminole's sales of the refined products listed in the exhibit. Accordingly, the per gallon (volumetric) refund amount set forth in this exhibit is based only on alleged overcharges related to refined products.

Exhibit 2

Name of Consent Order Firm: Roberts Oil Company, Inc., Albuquerque, NM 87108.

Type of Operation: Reseller/retailers of refined petroleum products.

Consent Order Case Numbers:

ERA: 400 H 00215 (RE: 673H00321)
OHA: HEF-0167

Consent Order Period: April 1, 1979–August 31, 1979.

Consent Order Fund: $14,393.72.

Alleged Overcharges: $37,878.21.

Gallons sold: Gasoline (Regular, Unleaded and Premium).

Per Gallon refund amount: $.001759.

Identified Purchasers:

1. Clark Oil Co., 10701 Menaul, N.E., Albuquerque, NM 87112
2. Simon Gonzales, 544 Main Street, N.W., Albuquerque, NM 87112
3. Art Wallace, 3001 Coors, S.W., Albuquerque, NM 87112
4. Ever Ready Oil Co., 101 Anderson, S.E., Albuquerque, NM 87112
5. Octopus, East Central, S.E., Albuquerque, NM 87109
6. State Oil Co., Raton, NM 87740
7. Felix Baca, Los Lunas, NM 87031
8. Bill Upchurch, Albuquerque, NM 87112
9. Horizon Oil Co.

Exhibit 3

Name of Consent Order Firm: Internorth, Inc., Omaha, NE.

Type of Operation: Producer of condensate.

Consent Order Case Numbers:

ERA: 730V02000
OHA: HEF-0255

Consent Order Period: September 1, 1973–January 28, 1981.

Consent Order Fund: $1,500,000.

Alleged Overcharges: Condensate: $2,919,329.73*

Gallons Sold:

	Consent order period estimate	*Annual sales estimate*
Condensate	177,391,774	23,917,992

Identified Purchasers:

1. Apco Oil Corporation, Oklahoma City, OK
2. Permian Corporation, P.O. Box 1183, Houston, TX 77001
3. Koch Industries, Inc., P.O. Box 2256, Wichita, KS 67201
4. Diamond Shamrock Corporation, P.O Box 631, Amarillo, TX 79173
5. Dorchester Gas Corporation, 5735 Pineland Drive, P.O. Box 31049, Dallas, TX 75231
6. Tesoro Petroleum Corporation, 8700 Tesoro Drive, San Antonio, TX 78288
7. Petro Sands, Inc., Enid, OK
8. General Petroleum, Inc., Hobbs, NM
9. Summit Gas Company, Houston, TX

Comments:

* Of the $3,275,415.91 in total alleged overcharges, Internorth, Inc. refunded $301,250.66 and $54,835.52 directly to Apco Oil Corporation and Diamond Shamrock Corporation, respectively, for the express purpose of refunding amounts which the firm had allegedly overcharged. Accordingly, the amount available for distribution in this proceeding is $2,919,329.73. As indicated in the above determination, refunds involving condensate sales will be considered based on the standards enunciated in *Alkek*, *Adams*, and *Johnson*.

Exhibit 4

Name of Consent Order Firm: Swifty Oil Company, Inc., Seymour, IN 47274.

Type of Operation: Reseller/retailer of motor gasoline.

Consent Order Case Numbers:

ERA: 550H00337
OHA: HEF-0175

Consent Order Period: August 1, 1979–April 30, 1980.

Consent Order Fund: $65,000.

Locations of Gasoline Stations Owned and/or Operated by Swifty Oil Company, Inc.:*

1. Service Station No. 4, Fort Wayne, IN

2. Service Station No. 5, Shelbyville, IN
3. Service Station No. 10, Henderson, KY
4. Service Station No. 11, Charlestown, IN
5. Service Station No. 16, Madison, IN
6. Service Station No. 18, North Vernon, IN
7. Service Station No. 19, Dayton, OH
8. Service Station No. 20, Covington, KY
9. Service Station No. 21, Columbus, IN
10. Service Station No. 22, Louisville, KY
11. Service Station No. 25, Fern Creek, KY
12. Service Station No. 26, Fairfield, OH
13. Service Station No. 27, Richmond, IN
14. Service Station No. 31, Owensboro, KY
15. Service Station No. 34, Nashville, TN
16. Service Station No. 37, Chattanooga, TN
17. Service Station No. 39, Carrollton, KY
18. Service Station No. 40, Bedford, IN
19. Service Station No. 41, Chillicothe, OH
20. Service Station No. 42, Columbus, OH
21. Service Station No. 44, Bloomington, IN
22. Service Station No. 45, Dayton, OH
23. Service Station No. 49, Columbus, OH
24. Service Station No. 101, Marion, OH
25. Service Station No. 102, Greenfield, IN
26. Service Station No. 103, Greensburg, IN
27. Service Station No. 104, Columbus, OH
28. Service Station No. 105, Lapaz, IN
29. Service Station No. 111, Clarksville, IN
30. Service Station No. 113, Roanoke, VA
31. Service Station No. 116, Huntsville, AL
32. Service Station No. 117, Tuscaloosa, AL
33. Service Station No. 123, Seymour, IN
34. Service Station No. 124, Lawrence, IN
35. Service Station No. 127, Lexington, KY
36. Service Station No. 130, Delphi, IN

Alleged Overcharges:

Regular Gasoline	$283,540.87
Unleaded Gasoline	248,558.24
Gasohol	50,681.57
Total	582,780.68

Gallons Sold:

Consent Order period estimate	Annual sales estimate
*30,000,000	40,000,000

Per Gallon Refund Amount: $.002166.
Identified Purchasers:
*Resellers-Retailers and/or Retailers***

1. Consumer's Petroleum, 610 Magaxine Street, Box 23309, Nashville, TN 37202
2. Orbit Oil Company, 1420 West 25th Street, Cleveland, TN 37311
3. R. W. Wogaman Oil Compnay, 71 North Main Street, West Alexandria, OH 45381
4. Wayne Burton, Driftwood Auto Center, Edinburg, IN
5. Excel Products, 3601 Hobson Road, Suite 110, Ft. Wayne, IN 46815
6. Gene Carey c/o Dowds Sunoco, Scottsburg, IN
7. Mid-State Oils, Inc., Post Office Box 379, Shelbyville, TN 37160
8. Rocket Oil Co., Inc., 1150 South Main Street, Madisonville, KY 42431
9. Little Champ Oil Company, Post Office Box 823, Columbus, IN 47201
10. Southern Pantry, Inc., 925 South Memorial Drive, Prattyville, AL 36067
11. Hume Oil & Gas Company, Post Office Box 397, Henderson, KY 42420
12. Yeager Petroleum, Inc., I-74 & State Road 267, Brownsburg, IN 46112
13. Harry E. Crocker, d/b/a/ Markland Station, Clarksville, TN 37040

Comments:
*During the consent order period, Swifty Oil Company, Inc. owned and/or operated 36 retail outlets in six states (Indiana, Ohio, Tennessee, Alabama, Kentucky and Virginia). The sales through these outlets comprised 98.5% of the sales volume of the firm.
**All sales, other than those made through the retail outlets, represented direct shipments from Swifty's suppliers to Swifty's customers (reseller-retailers and/or retailers).

Exhibit 5

Name of Consent Order Firm: Lakeside Refining Company and Crystal Refining Company, Smithfield, MI.
Type of Operation: Refiner of covered products.
Consent Order Case Numbers:

ERA: 540S00276
OHA: HEF-0214

Consent Order Period: August 19, 1973–January 27, 1981.
Consent Order Fund: $200,000*.
Alleged Overcharges: Entitlements Program: $200,000.
Comments:
*The Lakeside/Crystal consent order required refunds totaling $675,000. The firms agreed to make direct refunds of $475,000 through credit memoranda and/or cash payments over a period of three years to eleven identified purchasers of refined petroleum products. The firms refunded $200,000 directly to the DOE, in full settlement of DOE's challenges to the amount of Lakeside/Crystal's purchases and sales of crude oil entitlements. It is this $200,000 that is subject to the present refund proceeding. Since the alleged violations involve the DOE Crude Oil Entitlements Program, refund claims in connection with this fund will be evaluated based on the standards set forth in *Alkek, Adams* and *Johnson.*

Exhibit 6

Name of Consent Order Firm: Sanesco Oil Company, Escondido, CA 92025.
Type of Operation: Reseller/retailer of refined petroleum products.
Consent Order Case Numbers:

ERA: 930H00306
OHA: HEF-0170

Consent Order Period: April 1, 1979–June 30, 1979.
Consent Order Fund: $51,703.77.
Location of Gasoline Stations:
Company-Operated Stations:

1. 6839 Imperial Avenue, San Diego, CA 92114
2. 3911 University Avenue, San Diego, CA 92105
3. 3010 Market Street, San Diego, CA 92102
4. 5415 South Woodruff, Lakewood, CA 90714
5. 8510 East Rosecrams, Paramount, CA 90723
6. 3396 Atlantic Avenue, Long Beach, CA 90807

Dealer-Operated Stations:

1. 710 Second Street, El Cajon, CA 92020
2. 1202 South Main Street, Fallbrook, CA 92028
3. 555 West Grand Avenue, Escondido, CA
4. 470 N. Escondido Boulevard, Escondido, CA
5. 303 S. Escondido Boulevard, Escondido, CA
6. 1116 West Mission Avenue, Escondido, CA
7. 710 First Street, Encinitas, CA
8. 880 Elm Street, Carlsbad, CA
9. 2440 East Anaheim, Long Beach, CA
10. 2340 E. Pacific Coast Highway, Long Beach, CA
11. 3631 Santa Fe, Long Beach, CA
12. 12462 Poway Road, Poway, CA
13. 2413 Pacific Coast Highway, Lomita, CA
14. 1943 South Hill Street, Oceanside, CA
15. 2207 West 190th Street, Torrance, CA
16. 235 South 47th Street, San Diego, CA
17. 535 North Santa Fe, Vista, CA
18. 730 South Santa Fe, Vista, CA
19. 27406 Valley Center Road, Valley Center, CA

Alleged Overcharges: Motor Gasoline: $111,458.96.
Gallons Sold:

	Consent order period estimate	*Annual sales estimate*
Motor Gasoline	3,775,000	15,100,000

Per Gallon Refund Amount: $.013696.
Identified Purchasers:

1. Union Oil Co. of California, P.O. Box 7600, Los Angeles, CA 90051
2. Shell Oil Company, P.O. Box 2463, 1 Shell Plaza, Houston, TX 77001
3. Mobile Oil Corporation, 3225 Gallows Road, Fairfax, VA 22037
4. Atlantic Richfield Company, 515 South Flower Street, P.O. Box 2679–T.A. Los Angeles, CA 90071
5. Mohawk Petroleum Corporation, P.O. Box 1476, Bakersfield, CA 93302

Exhibit 7

Name of Consent Order Firm: Truckstops Corporation of America, Nashville, TN.
Type of Operation: Retailer of refined petroleum products.
Consent Order Case Numbers:

ERA: 430K00031
OHA: HEF-0183

Consent Order Period: November 1, 1973–June 30, 1976.

Consent Order Fund: $486,430.
Alleged Overcharges: $3,509,834.89.
Gallons Sold:* 388,360,692.
Per Gallon Refund Amount: $.001252.
Indentified Purchasers: Unidentified.
Comments:
*The specific products sold by Truckstops were not identified in the audit files we were able to examine. However, we believe it is likely that the products sold by the firm were motor gasoline and diesel fuel.

Exhibit 8

Name of Consent Order Firm: Warrior Asphalt Company of Alabama, Inc., Tuscaloosa, AL.
Type of Operation: Refiner of covered products.
Consent Order Case Numbers:

ERA: 420S00193
OHA: HEF-0226

Consent Order Period: August 19, 1973–June 30, 1976.
Consent Order Fund: $404,287*.
Location of Refinery: Tuscaloosa, AL.
Alleged Overcharges:

Diesel	$775,503
Other Covered Products	210,000
Total	985,503

Gallons Sold:

Average Runs to Stills: 2,000 BPD
Consent Order Period Estimate: 57,120,000

Per Gallon Refund Amount: $.007077.
Indentified Purchasers:

1. Alabama Feed Mills
2. AL. Oil of Etowah, Inc.
3. AL. Oil of Sheffield, Inc.
4. Allied Products Co.
5. Armstrong Oil Co.
6. Bains Oil Co.
7. Ballew & Roberts Const. Co.
8. Belcher Oil Co.
9. Chilton County
10. Cowart Oil Company
11. Druid Hills Oil Co.
12. Drummond Coal Co.
13. G&W Asphalt Co.
14. Guthrie Oil Co.
15. Hager Oil Co.
16. Hicks Oil Co.
17. J&J Oil Co.
18. Kuykendall & Powell
19. Lambert Materials Co.
20. Larkin Oil Co.
21. McCord Oil Co.
22. National Refining Co.
23. Osteen Oil Co.
24. Philrich, Inc.
25. Raines Lumber Co.
26. Rhodes & Mcleod.
27. Ross Neely Express
28. Rutland Oil Co.
29. Sentell Oil Co.
30. St. of AL. Inst. for Deaf
31. Stroup Oil Company
32. Sumter County
33. Taylor Oil Company
34. Charles Tenerson
35. Thompson & Swain
36. Vaughn Oil Co.
37. Williams Bros. Oil Co.
38. Windham Distrib.
39. Wright Truck Lines
40. Wyatt Oil Co.

Comments:
*Warrior agreed to make direct refunds of $26,713 by cash or credit memoranda to 16 end-users and it also agreed to pay a civil penalty of $25,000 to settle any and all other other civil liability relating to the period covered by this consent order. Accordingly, of the total consent order fund of $456,000, the firm refunded directly to the DOE the amount of $404,287. It is this $404,287 that is subject to the present refund proceeding.

Exhibit 9

Name of Consent Order Firm: Franks Petroleum, Inc., Shreveport, LA.
Type of Operation: Reseller of refined petroleum products.
Consent Order Case Numbers:

ERA: 641S00421
OHA: HEF-0208

Consent Order Period: January 1, 1973–January 27, 1981.
Consent Order Fund: $135,000.
Names of Plants:

1. Kerr-McGee Plant
Claiborne Plant

Alleged Overcharges:

Propane	$1,619,480
Butane	2,167,661
Premium Gasoline	156,200
Regular Gasoline	4,489,129
Gas Oil	93,842
Diesel	68,394
Condensate	53,267
Total	8,647,973

Gallons Sold:

Propane	18,447,215
Butane	13,510,693
Premium Gasoline	3,254,444
Regular Gasoline	25,723,374
Kerosene	742,196
Gas Oil	947,343
Diesel	703,970
Condensate	474,871
Total	63,804,106

Per Gallon Refund Amount: $.002115.
Identified Purchasers:

1. Aeropress
2. Kerr-McGee Corporation, Kerr-McGee Center, Oklahoma City, OK 73125
3. Tesoro Petroleum Corporation, 8700 Tesoro Drive, San Antonio, TX 78286
4. Wanda Petroleum Co., P.O. Box 53120, Houston, TX 77052
5. Hercules Petroleum Co.
6. Aero Energy
7. Claiborne Gasoline Company

Exhibit 10

Name of Consent Order Firm: Northwest Pipeline Corporation, Salt Lake City, UT.
Type of Operation:

Gas plant operator.
Producer of condensate.

Consent Order Case Numbers:

ERA: 710V03015
OHA: HEF-0264

Consent Order Period: February 1, 1974–January 28, 1981.
Consent Order Fund: $1,500,000.
Locations of Gas Plants Operated by Consent Order Firm:

1. Ignacio, CO
2. Opal, WY

Alleged Condensate Overcharges: $768,865.35*.
Gallons Sold: 6,021,763.
Per Gallon Refund Amount: $.121415**.
Identified Purchasers:

1. Delgado Oil Co.
2. Amoco Oil Company, 200 East Randolph Drive, Chicago, IL 60601

Comments:
*As we suggested in our determination, refund claims filed in connection with condensate sales will be considered pursuant to the standards set forth in the *Johnson, Alkek* and *Adams* cases. In the present case, the refund amount available for applicants that were condensate purchasers is $765,865.35. Accordingly, of the $1,500,000 consent order fund, $731,134.65 will be available for applicants whose refund claims are based on purchases of NGLs.
**This volumetric amount was derived by dividing the portion of the funds allocated to NGLs, $731,134.65, by the number of gallons of NGLs sold, 6,021,763.

Exhibit 11

Name of Consent Order Firm: Kansas-Nebraska Natural Gas Co., Inc., Hastings, NE 68901
Type of Operation: Producer of condensate*.
Consent Order Case Numbers:

ERA: 730V01244
OHA: HEF-0257

Consent Order Period: September 1, 1973–September 30, 1979.
Consent Order Fund: $406,578.25.
Alleged Overcharges by Installation:

Sabine Street Drip #18307	$462.35
Drip Tank #849	4,562.27
Danville Drip #19455	17,441.17
Tyrone Gas Plant	14,567.42
R. Lacy Estate #04437	369,545.04
Total	406,578.25

Condensate Barrels Sold: 218,571.
Identified Purchasers:

1. Scurlock
2. Permian Corporation, P.O. Box 1183, Houston, TX 77001

Comments:
*Refund claims will be considered based on the standards enunciated in *Johnson, Alkek* and *Adams.*

Exhibit 12

Nane of Consent Order Firm: Rookwood Oil Terminals, Inc., Cincinnati, OH.
Type of Operation: Reseller of refined petroleum products.
Consent Order Case Numbers:

ERA: 533H00008
OHA: HEF-0168

Consent Order Period: November 1, 1973–April 30, 1974.
Consent Order Fund: $156,862.75.
Alleged Overcharges: $628,128.29.
Gallons Sold:

Consent order period estimate	*Annual sales estimate*
150,000,000	300,000,000

Per Gallon Refund Amount: $.001045.
Identified Purchasers: Unidentified.
Comments: Rookwood Oil Terminals, Inc. (ROT) is a reseller of petroleum products, including gasoline, No. 2 fuel oil, No. 2 diesel fuel and kerosene. ROT operates terminal facilities on the Ohio River in Cincinnati, Ohio. They also have three wholly-owned subsidiaries as follows:
1. Oil Transit Inc.—This subsidiary accounts for the largest volume of sales of any part of ROT. The firm's sales territory is 12 midwestern and southern states.
2. Houston Oil Company—This subsidiary normally makes sales directory from one of five ARCO Terminal sites in North Carolina, South Carolina and Georgia.
3. Oil Transit of Colorado, Inc.—This subsidiary operates in Colorado and Wyoming. The principal product involved is gasoline.

Exhibit 13

Name of Consent Order Firm: Schroeder Oil Company Carroll, IA 51901.
Type of Operation: Reseller/retailer of refined petroleum products.
Consent Order Case Numbers:

ERA: 733H02025
OHA: HEF-0171

Consent Order Period: May 1, 1979-July 31, 1979.
Consent Order Fund: $16,351.40.
Alleged Overcharges: Motor Gasoline: $76,461.34.
Gallons Sold:

	Consent order period estimate	*Annual sales estimate*
Motor Gasoline	1,450,000	5,800,000

Per Gallon Refund Amount: $.011276.
Identified Purchases:

1. Al's Corner
2. Baker Petroleum
3. Ball Oil
4. Booth Oil
5. Bushy John's
6. Cal Bliss Enterprises
7. Dedham Oil
8. Don's DX
9. Doonan Oil Company
10. Eberle Brothers
11. Elite Ltd
12. Greteman Oil
13. Halbur Oil Company
14. Hunt Oil Company
15. Kelly Oil Company
16. Koren Garage
17. Manning Oil Company
18. Reise Mobil Service
19. Tjaden Oil Company
20. Tractor Service Company
21. Westside Oil Company
22. Casey's General Store
23. Robo Car Wash
24. Vail

Exhibit 14

Name of Consent Order Firm: Speedway Petroleum Company, Inc., Fitchburg, MA.
Type of Operation: Reseller/retailer of motor gasoline.
Consent Order Case Numbers:

ERA: 110H00289
OHA: HEF-0173

Consent Order Period: April 1, 1979-April 30, 1980.
Consent Order Fund: $50,000.
Names and Locations of Service Stations:
Twenty company-operated retail outlets located in Maine, New Hampshire and Massachusetts:

1. York
2. Kings Cornor
3. Kingston
4. Buzzard Bay
5. Baker
6. Rochester
7. Taunton
8. Bass River
9. No. Adams
10. Keene
11. Portsmouth
12. Ogunquit
13. Chelmsford
14. Clinton
15. Office
16. Hyannis #1
17. Towsend
18. Winchendon
19. Hyannis #2
20. Kittery #2

Service station operated on a consignment basis:

1. Athol, Massachusetts

Alleged Overcharges: Motor Gasoline: $107,632.29.
Gallons Sold:

	Consent order period estimate	*Annual sales estimate*
Motor Gasoline	13,000,000	12,000,000

Per Gallon Refund Amount: $.003846.
Identified Purchasers: Unidentified.

Exhibit 15

Name of Consent Order Firm: JOC Oil, Inc., New York, NY.
Type of Operation: Reseller/retailer of refined petroleum products.
Consent Order Case Numbers:

ERA: 240H00047
OHA: HEF-0176

Consent Order Period: November 1, 1973–June 30, 1974.
Consent Order Fund: $313,069*.
Alleged Overcharges:

No. 2 Heating Oil	$610,052
No. 6 Fuel Oil	338,068
Total	948,120

Gallons Sold:

No. 2 Heating Oil	5,529,720
No. 6 Fuel Oil	29,987,076
Total	35,516,796

Per Gallon Refund Amount: $.008814.
Identified Purchasers:

1. Kaiser Trading Co.
2. Commonwealth of Virginia
3. Queens Petroleum
4. Patchogue Oil Terminal
5. New England Electric
6. Howard Fuel Co.
7. Amerada Hess Corporation, 1185 Avenue of the Americas, New York, NY 10036
8. Getty Oil Company, P.O. Box 1650, Tulsa, OK 74102
9. Tenneco Oil Company, P.O. Box 2511, Houston, TX 77001

Comments:
*Beginning on the 15th day following the effective date of the Consent Order and continuing on the basis of 24 equal

monthly installments, the firm agreed to make refunds in the amount of $294,739 to an end-user customer, Commonwealth of Virginia. Accordingly, of the total consent order fund of $607,808, JOC Oil, Inc. refunded only $313,069 directly to the DOE and it is this $313,069 that is subject to the present refund proceeding.

Exhibit 16

Name of Consent Order Firm: A. Tarricone, Inc., Yonkers, NY 10710.

Type of Operation: Reseller/retailer of No. 2 heating oil.

Consent Order Case Numbers:

ERA: None
OHA: HEF-0177

Consent Order Period: November 1, 1973–December 31, 1974.

Consent Order Fund: $365,354*.

Alleged Overcharges: No. 2 Heating Oil: $1,126,287.

Gallons Sold:

	Consent order period estimate	*Annual sales estimate*
No. 2 Heating Oil.....	36,166,666	31,000,000

Per Gallon Refund Amount: $.010101.

Identified Purchasers: Tenneco Oil Company, P.O. Box 2511, Houston, TX 77001.

Comments:

*Beginning on August 1, 1979 and continuing until August 1, 1983, the firm agreed to refund or issue credit memoranda to seven classes of purchasers of No. 2 heating oil for the express purpose of refunding $34,646 which the firm had allegedly overcharged. Accordingly, of the total consent order fund of $400,000, A. Tarricone, Inc. refunded only $365,354 directly to the DOE and it is this $365,354 that is subject to the present proceeding.

Exhibit 17

Name of Consent Order Firm: R. V. Whitmer Thermogas Co., Wauseon, OH.

Type of Operation: Reseller/retailer of propane.

Consent Order Case Numbers:

ERA: 530E00176
OHA: HEF-0178

Consent Order Period: November 1, 1973–January 28, 1981.

Consent Order Fund: $60,000.

Alleged Overcharges: Propane: $79,844.05.

Gallons Sold:

	Consent order period estimate	*Annual sales estimate*
Propane.....	5,068,098	699,048

Per Gallon Refund Amount: $.011838.

Identified Purchasers:

1. M. Altman
2. J. Batdorf
3. E. Bates
4. Donald Belman
5. M. Callendar
6. Camp Palmer
7. C. Canfield
8. C. Carr
9. H. Cass
10. D. Colon
11. A. Creager
12. R. Daugherty
13. R. Deleon
14. C. Dennis
15. H. Dennis
16. C. Diaz
17. R. Derringer
18. W. Dunn
19. L. Durbin
20. E. Gerdeman
21. F. Grabanczyk
22. J. Green
23. J. Grim
24. L. Gunn
25. F. Haupright
26. C. Haven
27. Health Food Stand
28. M. Henry
29. R. Hildneth
30. C. Hile
31. N. Humbert
32. A. Hutchinson
33. E. Miller
34. C. Mock
35. D. Parchen
36. H. Pfund
37. Pike School
38. B. Rieneke
39. R. Roth
40. Dr. Rupp
41. W. Sager
42. B. Shaffer
43. G. Smith
44. R. Stunnard
45. A. Swanz
46. G. Taylor
47. M. T. Tipton
48. United Telephone

Exhibit 18

Name of Consent Order Firm: Ropet Incorporated, Corapolis, PA 15108.

Type of Operation: Reseller/retailer of refined petroleum products.

Consent Order Case Numbers:

ERA: 340H00262
OHA: HEF-0169

Consent Order Period: November 1, 1973–April 30, 1974.

Consent Order Fund: $99,025 *.

Alleged Overcharge

Propane.....	$ 60,000
No. 2 Oil.....	256,012
Motor Gasoline.....	89,462
Total.....	405,474

Gallons Sold:

Consent order period estimate	*Annual sales estimate*
9,504,828	19,009,656

Per Gallon Refund Amount: $.010418.

Identified Purchasers:

End Users:

1. Plumbers Equipment
2. Allied Chemical
3. U.S. Steel
4. Russel Burdsall
5. A & S Railroad
6. PPG Industries
7. Wheeling Pittsburg

Utility Firm:

Duquesne Light Company

Comments:

* The firm agreed to make refunds in the amount of $105,858 to seven end-users shown above. In the event that reasonable efforts by the consenting firm did not result in payments to those end-user customers, the amount owed to the customers was to be paid to the DOE. Accordingly, of the total consent order fund of $204,883, Ropet Incorporated refunded only $99,025 directly to the DOE and it is this $99,025 that is subject to the present refund proceeding.

Exhibit 19

Name of Consent Order Firm: Tippins Oil and Gas Co., Inc., Richmond, MO.

Type of Operation: Reseller/retailer of motor gasoline.

Consent Order Case Numbers:

ERA: 710H02502
OHA: HEF-0181

Consent Order Period: March 1, 1979–December 31, 1979.

Consent Order Fund: $12,000.

Alleged Overcharges: Motor Gasoline: $90,948.82.

Gallons Sold:

	Consent order period estimate	*Annual sales estimate*
Motor Gasoline.....	7,350,426	8,767,665

Per Gallon Refund Amount: $.001632.

Identified Purchasers: Unidentified.

Exhibit 20

Name of Consent Decree Firm: Daniel J. Turco d/b/a Turco's 129 Exxon, Route 129, Billerica, MA; and Turco's Shell, Nashua Road, North Billerica, MA.

Type of Operation: Retailer of motor gasoline.

Consent Decree Case Numbers:

Civil Action No.: 80-1311-N
OHA: HEF-0184

Consent Decree Period: August 1, 1979–January 27, 1981.

Consent Decree Fund: $510.46 (Includes Interest of $54.69).

Alleged Overcharges: Motor Gasoline: $455.77.

Gallons Sold:

	Consent order period estimate	*Annual sales estimate*
Motor Gasoline:	1,749,505	1,171,687

Per Gallon Refund Amount: $.000291.

Identified Purchasers: Unidentified.

Exhibit 21

Name of Consent Order Firm: U.S. Oil Company, Inc., Combined Locks, WI 54113.

Type of Operation: Reseller/retailed of refined petroleum products.

Consent Order Case Numbers:

ERA: 570H00207
OHA: HEF-0185

Consent Order Period: March 1, 1979-August 31, 1979.

Consent Order Fund: $50,776.89.

Alleged Overcharges:

Regular Gasoline	$63,246.32
Unleaded Gasoline	188,658.69
Premium Gasoline	3,730.15
Total	255,635.16

Gallons Sold:

	Consent order period estimate	*Annual sales estimate*
Motor Gasoline	35,000,000	70,000,000

Per Gallon Refund Amount: $.001450.

Identified Purchasers: Unidentified.

Exhibit 22

Name of Consent Order Firm: United Petroleum, Inc., Tampa, FL 33610.

Type of Operation: Reseller/retailer of refined petroleum products.

Consent Order Case Numbers:

ERA: 420H00277
OHA: HEF-0187

Consent Order Period: October 1, 1979–December 31, 1979.

Consent Order Fund: $22,375.

Alleged Overcharges: No. 4 Oil: $87,681.

Gallons Sold:

	Consent order period estimate	*Annual sales estimate*
No. 4 Oil	1,152,997	4,611,987

Per Gallon Refund Amount: $.019405.

Identified Purchasers:

1. St. Catharine's Church
2. Chandler Engineering
3. ARC Builders
4. ADCO Chemicals
5. Wakefern Foods
6. Rollins Terminal
7. Addressograph
8. Sheridan Gardens
9. Julyet Gardens
10. EDC
11. Swan Cleaners
12. Ever Ready Label
13. Lampert Dairy Farms
14. Estate of Krininger
15. Robert Schwarz
16. Walnut Assoc.
17. Mary Seidman
18. G. Moskowitz
19. Hunt Ltd.
20. Davanne Realty
21. First Raritan Gardens
22. Ivory Dry Cleaners
23. Plymouth Invest
24. G & F Holding
25. Red Hill Assoc.
26. Diplomat Assoc.
27. Parker Wholesale Florist
28. Apex Rendezvous
29. Greenfield Gardens

Exhibit 23

Name of Consent Order Firm: Little America Refining Company, Salt Lake City, UT 84131.

Type of Operation: Refiner of covered products.

Consent Order Case Numbers:

ERA: 830S00012
OHA: HEF-0215

Consent Order Period: August 19, 1973—January 27, 1981.

Consent Order Fund: $2,175,000.

Alleged Overcharges:

No. 2 Oils	$1,949,524
Aviation Fuels	66,382
Motor Gasoline	5,140,012
General Refinery Products	46,212
Total	7,202,130

Gallons Sold:

Consent order period estimate	*Annual sales estimate*
647,976,631	86,772,900

Per Gallon Refund Amount: $.003356.

Identified Purchasers:

1. Al Park Dist. Inc., P.O. Box 728, Elko, NV 89801
2. A & A Oil Co., Box 1325, Cheyenne, WY 82001
3. Aire Flow Heating, P.O. Box 15508, Salt Lake City, UT 84115
4. American Linen Supply, 33 East 6th South, Salt Lake City, UT 84111
5. Arrow Service, Box 425, Upton, WY 82730
6. Atlas Electric Co., 4995 S. 3rd W., Murray, UT 84107
7. Automotive Safety 2695 S. 9th E., Salt Lake City, UT 84106
8. Auto-Tron, Box 866, La Junta, CO 81050
9. Bangerter, J. C., 1265 N. Main Street Bountiful, UT 84010
10. Bate, R. H., 88 West Main, American Fork, UT 84003
11. Beehive Clothing, 1665 Bennett Road, Salt Lake City, UT 84104
12. Bennett Leasing, P.O. Box 126, Salt Lake City, UT 84110
13. Big 8 Full Tire Serv., 1820 Aultman, Ely, NV 89301
14. Big Verns Service, 345 No. Main, Clearfield, UT 84015
15. Beal Service Stations, Interstate 80, Brule, NE 69127
16. Big D Oil Co., P.O. Box 1378, Rapid City, SD 57701
17. Birch Construction, Lyman, WY 82937
18. Blaze Oil Co., P.O. Box 2571, Casper, WY 82601
19. Blue & White Transport, 914 Royal Blvd., Boise, ID 83706
20. Boise Cascade, 205 N. 3rd W., P.O. Box 1530 Salt Lake City, UT 84103
21. Bosen Distributing, Preston, ID 83263
22. Brice, Cliff, 300 Moffat Ave., Pueblo, CO 81003
23. Bronco Oil Co., Box 1592, Jackson, WY 83001
24. Brown Floral Co., 5th So. & 10th West, Salt Lake City, UT 84104
25. Buehner Block Co., 2800 S. West Temple, Salt Lake City, UT 84115
26. Burton Oil Co., 7709 Redwood Rd., West Jordan, UT 84084
27. Cache Valley Dairy, Logan, UT 84321
28. Calder Bros., P.O. Box 1903, Provo, UT 84601
29. Century Petroleum, Box 6192 Cherry Cr. Sta., Denver, CO 80206
30. Chipman Oil Co., P.O. Box 1363, Salt Lake City, UT 84110
31. Collier Motors, Mel, 555 S. Wolcott, Casper, WY 82601
32. Colorado Petro. Prods., 4080 Globeville Rd., Denver, CO 80216
33. Continental Baking Co., Box 108, Ogden, UT 84402
34. Consolidated Frtwys, P.O. Box 3197, Portland OR 97208
35. Contractors Supply, Box 550, Newcastle, WY 82701
36. Cook Construction Co., P.O. Box 16146 Salt Lake City, UT 84116
37. Cottonwood Mortuary, 4670 Highland Drive, Salt Lake City, UT 84117
38. Crown Stations c/o Ed Wright 2384 Camino Way, Salt Lake City, UT 84121
39. Crude Company, The P.O. Box 1968, Casper, WY 82602

40. Cy Car Wash, 2839 Cy Ave. Casper, WY 82601
41. D & G, Hay Springs, NE 69347
42. Davis Bros. Service, 358 6th Ave., Midvale, UT 84147
43. Delta Fire Sprinkler 1507 Pioneer Rd., Salt Lake City, UT 84104
44. Desert Oil Co., P.O. Box 1259, Rock Springs, WY 82901
45. Detlefsen Oil Co., P.O. Box 728, North Platte, NE 69101
46. Diesel Service, 4235 So. 500 West, Salt Lake City, UT 84107
47. Direct Sales Inc., 9251 E. 104th Ave., Henderson, CO 80640
48. Dixon Bros., P.O. Drawer 8, Newcastle, WY 82701
49. Eager Beaver c/o Don Bentz, 701 W. Collins Dr., Casper, WY 82601
50. Eaton Metal Products, 844 Chestnut St., Salt Lake City, UT 84104
51. Economy Builders, 3232 So. 4th East, Salt Lake City, UT 84115
52. Eldredges Pioneer Ser., 3925 Riverdale Road So., Ogden, UT 84401
53. Evans Supply Co., P.O. Box 16005, Salt Lake City, UT84116
54. Fearless Farris Whlse., P.O. Box 7627, Boise, ID 83707
55. Fire Engineering, 3389 S. 700 West, Salt Lake City, UT 84119
56. Flash Oil Co., 775 Carondelet, St. Louis, MO 63105
57. Food Machinery Corp., Box 872, Garden River, WY 82935
58. Forrest Concrete Pump, 1630 Beck St., Salt Lake City, UT 84116
59. Fox Valley Leather, 633 W. Center St., No. Salt Lake, UT 84054
60. Fulkerson Oil Co., P.O. Box 808, Gillette, WY 82716
61. Fur Breeders Co-op, 8400 S. Main, Midvale, UT 84047
62. Gearys Conoco, Coalville, UT 84017
63. Gem Grocery & Meat, 702 Third Ave., Salt Lake City, UT 84103
64. Gordon Refining Co., Box 118, Denver, CO 80201
65. Grandmas Tires, 49 E. 9th South, Salt Lake City, UT 84111
66. Greer Oil Co., Heber City, UT 84032
67. Haddocks Inc., 1704 Elk St., Rock Springs, WY 82901
68. Hall Process Co., AMF Box 43, Salt Lake City, UT 84101
69. Hansen Service Inc., c/o L. Ray Hansen, 206 North 200 West, Salt Lake City, UT 84103
70. Harmony Floors, 2245 So. Redwood Rd., Salt Lake City, UT 84119
71. Harpel Oil Co., Box 16686 Stockyard, Denver, CO 80216
72. Harrington & Co., P.O. Box 25723, Salt Lake City, UT 84125
73. Highland Petroleum, 1601 S. Federal Blvd., Denver, CO 80219
74. Hill Oil Co., 2380 S. Hancock Exprswy., Colorado Springs, CO 80910
75. Holdings Litter Amer. Cheyenne, Box 1529, Cheyenne, WY 82001
76. Horman, Charles Const., 1760 S. State St., Salt Lake City, UT 84115
77. Horman Const. Co., 1760 S. State St., Salt Lake City, UT 84115
78. Huber & Rowland Const., P.O. Box 16001, Salt Lake City, UT 84116
79. Imperial Wholsale Spl., P.O. Box 25605, Salt Lake City, UT 84125
80. Industrial Communicatn., 1171 South West Temple, Salt Lake City, UT 84101
81. Intermtn. Spec. Const. Co., 3075 South Main, Salt Lake City, UT 84115
82. Intermountain Farmers, P.O. Box 27168, Salt Lake City, UT 84125
83. Jansco, Div. of Scott Oil Co., Inc., P.O. Box 842, North Platte, NE 69101
84. Johnson, Marcus Plumb., 222 E. 4050 South, Salt Lake City, UT 84107
85. Johnson Service, Laketown, UT 84038
86. Johnstons Fuel Lines, Box 100, Newcastle, WY 82701
87. K & M Specialities, 1605 Chicago St., Salt Lake City, UT 84116
88. Kairab Industries, Attn: Debbie Larimer, P.O. Box 20506, Phoenix, AZ 85036
89. Keil, Martin, 6092 S. 1700 West, Murray, UT 84107
90. Kirby Co., P.O. Box 15426, Salt Lake City, UT 84115
91. Kleins Tri-Cove, 1030 S. 700 West, Salt Lake City, UT 84104
92. L & M Sales, Box 445 Cheyenne, WY 82001
93. LAC Oil, c/o Charles Chesarek, Drawer 428, Evansville, WY 82636
94. Larson Oil Co., P.O. Box 128, Brule, NE 69127
95. Leatham Bros., P.O. Box 16026, Salt Lake City, UT 84116
96. Lemco Corp., 5201 S. 3rd West, Salt Lake City, UT 84107
97. Leonard Paving, 737 So. 10th, Douglas, WY 82633
98. Leonard Paving, Box 860, Douglas, WY 82633
99. Little America Flagstaff, P.O. Box 850, Flagstaff, AZ 86001
100. Little America Salt Lake, P.O. Box 206, Salt Lake City, UT 84111
101. Little America West, P.O. Box 1, Little America, WY 82929
102. Lockhart Gas & Milk, c/o S. Dan Lockhart, 1292 N. Redwood Rd., Salt Lake City, UT 84116
103. Lyman County, Box 93, Kennebec, SD 57544
104. Lynch Oil Co., P.O. Box 790, Burley, ID 83318
105. MacKay & Sons, A. J., 3435 W. 900 South, Salt Lake City, UT 84104
106. Mac Oil Inc., 5655 Gray St., Arvada, CO 80002
107. Mansco Inc., P.O. Box 1186, Laramie, WY 82070
108. Marshall, A. W., 437 N. 500 West, P.O. Box 16127, Salt Lake City, UT 84116
109. McGarvin & Moberly, Box 1166, Worland, WY 82401
110. McGarvin-Moberly Construction Co., P.O. Box 1166, Worland, WY 82401
111. Metro Oil Products Inc., 2021 N. Redwood Rd., Salt Lake City, UT 84116
112. Metropolitan Laundry, 2253 S. 5th East, Salt Lake City, UT 84106
113. Miles Bay Service, P.O. Box 528, Fleming, CO 80728
114. Milford Store, Rte. 61, Box 260, Lander, WY 82520
115. Miller Bros. Co., Inc., Hyrum, UT 84319
116. Minit Market, 2314 Highland Dr., Salt Lake City, UT 84105
117. Morgan Co., 495 Bramwell, Green River, WY 82935
118. Morton Salt Co., Saltaire Plant, AMF Box 22054, AMF Salt Lake City, UT 84122
119. Moyle Petroleum Co., Box 2860, Rapid City, SD 57701
120. Murray Laundry, 4200 S. State St., Murray, UT 84107
121. Nebraska Pub. Pwr. Dist., Box 241, Scottsbluff, NE 69361
122. Neuman Transit Co., Inc., P.O. Box 38, Rawlins, WY 82301
123. Nichols, Art, 1656 Mill Creek Way, Salt Lake City, UT 84106
124. Nielson & Sons Co., Box 20826, Billings, MT 59104
125. Noble, Glen, P.O. Box 294, Pleasant Grove, UT 84062
126. Northwest Motor Welding, 5300 West 9200 South, West Jordan, UT 84084
127. O K Servie, Payson, UT 84651
128. Oil City Service, P.O. Box 1017, Price, UT 84501
129. Okland Construction Co., P.O. Box 15448, Salt Lake City, UT 84115
130. Ora Lee Milk & Gas, 2983 W. 3500 South, Salt Lake City, UT 84119
131. P & B Oil Co,. Div. Bailely Enterprises P.O. Box 1326 Riverton, WY 82501
132. P & C Petroleum Inc.,Box 887, North Platte, NE 69101
133. P T E, Bulk Commodities Div., 701 Center St., N. Salt Lake, UT 84054
134. Pacific Fruit & Produce Co., 1855 So. 2nd West, Salt Lake City, UT 84115
135. Paraco, a Division of Max Nielsen & Sons Co. 2525 W. Main, Suite 203 Rapid City, SD 57701
136. Pearce Equipment Co., 1225 Beck St., Salt Lake City, UT 84118
137. Peerless Laundry, 1184 E. 21st South, Salt Lake City, UT 84105
138. Pester Colorado Corp. P.O. Box 10006, Des Moines, IA 50306
139. Petco, 7627 Dahlia Commerce City, CO 80037
140. Pioneer Petroleum Inc., 1025 East 334th, South, Salt Lake City, UT 84106
141. Pitcher's Inc., 435 So. Main, Smithfield, UT 84335
142. Pitts, Bob, P.O. Box 1733, Greeley, CO 80631
143. Plains Inc., Box 215, Wauneta, NE 69045
144. Premium Oil Co., 2005 South 300 West, Salt lake City, UT 84115
145. Rapps Inc., 811 S. Main, Brighton, CO 80601
146. Ray & Tobys Service, 11999 So. 1700 West, Riverton, UT 84065
147. Raymond Int'l Builders, P.O. Box 736, Shawnee Mission, KS 66201
148. Redwood Self Service, 1332 Devonshire Dr., Salt Lake City, UT 84108
149. Rio Vista Oil Ltd., 808 East South Temple, Salt Lake City, UT 84102.
150. Richins, John, Echo Junction, UT 84024
151. Rissler & McMurray Co., P.O. Box 2499, Casper, WY 82602
152. Rogers Ford Co., P.O Box 149W, Douglas, WY 82633
153. Rolands Service, P.O. Box 5, Paradise, UT 84328
154. Safeway Stores Inc., P.O. Box 1680, Salt Lake City, UT 84110
155. St. Theresa Catholic, c/o Evelyn Sanchez, 1654 W. 7525 S., West Jordan, UT 84084

156. Salt Lake Sanitation, P.O. Box 1231, Salt Lake City, UT 84110
157. Salt Lake Suburban Sanitary District, 3844 S. 11th East, Salt Lake City, UT 84106
158. Sav-O-Mat, Box 9006, Denver, CO 80209
159. Scholl Oil & Trans., P.O. Box 148, Holyoke, CO 80734
160. Self Service, c/o Tony Herman, P.O. Box 665, Broomfield, CO 80020
161. Seven Up Bottling Co., 959 South 800 West, Salt Lake City, UT 84104
162. Shoppers Service, P.O. Box 26828, Salt Lake City, UT 84125
163. Silco Oil Co., P.O. Box 16528, Denver, CO 80216
164. Skyline Self Service, 1332 Devonshire Dr., Salt Lake City, UT 84108
165. Smart, Ivan, 3725 E. Little. Cottonwood, Sandy, UT 84070
166. Smartline Dairy, Smart Bros., 8000 S. 1000 East, Sandy, UT 84070
167. Smiths Independent, 499 East 27th South, Salt Lake City, UT 84115
168. Solo Oil Co., P.O. Box 2853, Casper, WY 82602
169. Space Oil Co., 105 S. Cherokee St., Denver, CO 80223
170. Specialty Supply Co., 1358 Indiana Ave., Salt Lake City, UT 84104
171. Spruce Oil Co., P.O. Box 5568 TA, Denver, CO 80217
172. Star Service & Petro., 800 No. Skinker Blvd., St. Louis, MO 63130
173. Sterling Gas & Oil, P.O. Box 989, Sterling, CO 80751
174. Sugar House Park Auth., 1330 E. 21st South, Salt Lake City, UT 84106
175. Super G Oil Co., P.O. Box 2860, Rapid City, SD 57701
176. Taggart Service, Morgan, UT 84050
177. Taylor & Bullock, P.O. Box 315, Mountain View, WY 82939
178. Telum Inc., P.O. Box 449, Provo, UT 84601
179. Terrace Garage, P.O. Box 2213, Salt Lake City, UT 84110
180. Towne Pump Stations, 2892 Highland Dr., Salt Lake City, UT 84106
181. Transcon, 101 Continental Blvd., El Segundo, CA 90245
182. Triangle Oil Co., 598 W. 2600 South, Bountiful, UT 84010
183. Triangle Refining Co., P.O. Box 3367, Houston, TX 77001
184. Triple C Trucking, c/o Roy Cassity, 777 E. 4500 South, Salt Lake City, UT 84107
185. Tri Valley Dist., E. Highway 40, Heber City, UT 84032
186. Utah, State of, State Office Building, Salt Lake City, UT 84114
187. Utah Package Express, 961 S. 1820 South, Salt Lake City, UT 84104
188. Utah Valley Transit, P.O. Box 1905, Provo, UT 84601
189. Ute Cab Co., 267 West 3rd South, Salt Lake City, UT 84101
190. Valley Feed & Coal, 197 West 39th South, Salt Lake City, UT 84107
191. Valley Oil Co., Inc., P.O. Box 229, Springfield, UT 84663
192. Valley Service, Box 148, La Barge, WY 83123
193. Victor Land and Livestock, Snowville, UT 84336
194. Ward Transport, Box 735, Pueblo, CO 80202
195. Warner Ford, 47 West 6th South, Salt Lake City, UT 84101
196. Wasatch Land, 3401 Highland Dr., Salt Lake City, UT 84106
197. Watson, Jess, Transfer, 230 S 4th West, Salt Lake City, UT 84101
198. Welling Ford Sales, P.O. Box 700, Evanston, WY 82930
199. Western Engineering Co., Box 350, Harlan, IA 51537
200. Western General Diary, P.O. Box 307, Midvale, UT 84047
201. Western Sports Center, 8925 S. 255 West, Sandy, UT 84070
202. Western Self-Service, 1223 No. State St., Orem, UT 84057
203. Western States Petro., P.O. Box 2488, Ogden, UT 84404
204. Westminster College, 1840 South 13th East, Salt Lake City, UT 84106
205. Wilcox Oil Company, P.O. Box 487, Rock Springs, WY 82901
206. Wiles Oil Co., 50 East Fort Union Blvd., Midvale, Ut 84047
207. Wilford C. Wood Furs, 3697 S. Orchard Dr., Bountiful, UT 84010
208. Williams Oil Company, P.O. Box 1687, Salt Lake City, UT 84110
209. Wirthlins Market, 812 E. 2nd South, Salt Lake City, UT 84107
210. Wright Engineering Co., 4205 S. Main St., Salt Lake City, UT 84107
211. Wright, Lester, Teckla Rt., Box 2408, Gillette, WY 82716
212. Yellow Freight Lines, Box 7270, Shawnee Mission, KS 66207

Exhibit 24

Name of Consent Order Firm: Witco Chemical Corporation, New York, NY.

Type of Operation: Refiner of covered products.

Consent Order Case Numbers:

ERA: 240S00054
OHA: HEF–0227

Consent Order Period: August 19, 1973–January 28, 1981.

Consent Order Fund: $4,500,000.

Alleged Overcharges $22,200,000.

Gallons Sold:

Consent order period estimate	*Annual sales estimate*
1,752,000,977	234,616,803

Per Gallon Refund Amount: $.002568.

Identified Purchasers:

1. Parts & Equipment, Tampa, FL
2. Beam Oil Co., Atlanta, GA
3. Thom Oil Distributing, Ft. Worth, TX
4. Gemeg Oil Co., Houston, TX
5. Carse Oil Co., Orlando, FL
6. Dabrusin Motors, Newburgh, NY
7. Wholesale Tire Co., Inc., S. Charlestown, WV
8. Automotive Whse. Dist., Clarksburg, WV
9. Middle Atlantic Whse. Dist., Butler, PA
10. Middle Atlantic Whse. Dist., Scranton, PA
11. Taylors, Inc., Lexington, KY
12. Valley Auto Supply, Inc., Edinburg, TX
13. Holston Auto Supply, Rogersville, TN
14. Cactus Oil Co., San Angelo, TX
15. Ideal Gas Inc., Levelland, TX
16. Myles Auto Stores, Cleveland, OH
17. McIntosh Oil Co., Canton, OH
18. Pinwheel Oil Co., Cleveland, OH
19. Norwood Motor Parts Co., Bruction, MA
20. Young Oil Co., Pompano Beach, FL
21. Oak Auto Supply, Seaford, NY
22. Kirby Auto Supply, Stuart, FL
23. Sovereign Oil Co., Chicago, IL
24. Dade Tire Co., Miami, FL
25. Associated Parts Corp., Cambridge, MA
26. Consolidated Oil Co., Miami, FL
27. Truck Parts Inc., Hamden, CT
28. Aquidneck Auto Supply, Newport, RI
29. Harry Amalie Dist., Franklin, PA
30. Middle Atlantic Whse. Dist., Beaver Falls, PA
31. Tri State Dist., Philadelphia, PA
32. Motive Parts Whse., Hartford, CT
33. Don Elliot Pet. Dist., Syracuse, NY
34. Marsan Ind., Biddeford, ME
35. Middle Atlantic Whse. Dist., Rochester, NY
36. Snug Fit Marine, Miami, FL
37. Jim Wimett, Rush, NY
38. Stereo Pak, Cincinnati, OH
39. Eastern Hills Tire Co., Cincinnati, OH
40. Brackeen Oil Co., Paris, TX
41. Healdton Oil Co., Healdton, OK
42. Walter Butler Oil Sales, Odessa, TX
43. Royal Supply Co., Oklahoma City, OK
44. Toba Sales Co., Longview, TX
45. Smithco Oil Corp., Tulsa, OK
46. Caruthers Oil Co., Denton, TX
47. O.L. Kimbrough, Longview, TX
48. J.C. Penny Co., Inc., Hialeah, FL
49. A.F. Schmalzried, Dallas, TX
50. Industrial Lubricants, San Antonio, TX
51. Centex Distributors Waco, TX
52. Campbell Oil & Supply, Maple Hgts., OH
53. Mid. Atlantic Dist., Niagara Falls, NY
54. Roy D. Frank, Painesville, OH
55. Carroll Equipment, Huntington, WV
56. Wentz Bros., Anna, OH
57. Fort Meyer, Fort Wayne, IN
58. General Auto Supply Co., Worcester, MA
59. Pacemaster Oil Corp., Plant City, FL
60. Ruwet Sibley, Inc., Torrington, CT
61. Mid. Atlantic Dist., Providence, RI
62. Joseph L. Werner, Baltimore, MD
63. Triple A Oil Co., Dallas, TX
64. Horn Bros. Oil Co., Greenville, TX
65. Griffin Oil Co., Lubbock, TX
66. Budai Oil Company, Ennis, TX
67. Sims Super Service, Childress, TX
68. Holman Boiler Works, Dallas, TX
69. Rogersnap Business Forms, Carrolton, TX
70. Davis Motor Craine Service, Dallas, TX
71. Allied Sales Co., Houston, TX
72. Duffie Munroe & Sons, Rosenberg, TX
73. Harris County Oil Co., Rosenberg, TX
74. Neches Oil Distributors, Beaumont, TX
75. Grozier & Mann Oil Co., Wichita Fall, TX
76. V. J. Oil Co., Abilene, TX
77. Cleburne Oil Co., Cleburne, TX
78. Porter Oil & LPG Co., McAllen, TX
79. M & H Oil & Butane Co., San Benito, TX
80. Creem Automotive Ser., New London, CT
81. Ed's Lawn Service & Supply, Dallas, TX
82. John M. Clark Dallas, TX
83. Allied Sales Co., Austin, TX
84. Automotive Supply Assoc., Concord, NH
85. Radio Oil Co., Worchester, MA
86. Baas Auto Supply, Leesburg, FL
87. Mid. Atlantic Whse. Dist., New Haven, CT
88. GoCo Inc., Texas City, TX
89. Lincoln Oil Co., Detroit, MI

90. Mid. Atlantic Dist. Co., Carlisle, PA
91. CJG Corp., Valhalla, NY
92. Truck Wheel & Tool Inc., Watertown, MA
93. Air Speed Oil Co., Amarillo, TX
94. Roberts & Sons, Ft. Smith, AR
95. Stokes Oil Co., Henderson, TX
96. Sizer's Auto Service, Dallas, TX

Exhibit 25

Name of Consent Order Firm: Aminoil U.S.A, Inc., Houston, TX 77092.
Type of Operation: Producer of condensate*.
Consent Order Case Numbers:

ERA: 740V01315
OHA: HEF-0229

Consent Order Period: September 1, 1973–April 30, 1980.
Consent Order Fund: $1,600,000.
Comments:
*Refund claims will be considered based on the *Johnson, Alkek* and *Adams* standards.

Exhibit 26

Name of Consent Order Firm: Stinnes Interoil, Inc., New York, NY 10017.
Type of Operation: Reseller of refined petroleum products.
Consent Order Case Number:

ERA: 240H00519
OHA: HEF-0174

Consent Order Period: January 10, 1978–September 30, 1979.
Consent Order Fund: $435,435.
Alleged Overcharges: Motor Gasoline: $1,280,974.
Gallons Sold:

	Consent order period estimate	*Annual sales estimate*
Motor Gasoline.....	314,746,534	182,726,580

Per Gallon Refund Amount: $.001383.
Identified Purchasers:

1. Tesoro Petroleum Corporation, P.O. Box 744, San Antonio, TX 78293
2. Northville Industries Corporation, 1 Huntington Quadrangle, Suite 4C01, Huntington Station, NY 11746
3. Sun Oil Trading Company, 200 West Lancaster Ave., Wayne, PA 19087
4. Mobil Oil Corporation, P.O. Box 900, Dallas, TX 75221
5. Amoco Oil Company, 200 East Randolph Drive, Chicago, IL 60601
6. Atlantic Richfield Company, P.O. Box 2819, Dallas, TX 75221
7. Chevron USA, Inc., P.O. Box 8643, San Francisco, CA 94120
8. Exxon Company, USA, P.O. Box 2180, Houston, TX 77001
9. Getty Refining & Marketing, P.O. Box 1650, Tulsa, OK 74102
10. Good Hope Refineries, Inc., 916 West Airline Highway, 120 Mallard Drive, St. Rose, LA 70087
11. Gulf States Oil & Ref. Co., 2000 South Street, P.O. Box 53137, Houston, TX 77002
12. United Refining Company, P.O. Box 780, Warren, PA 16365
13. Apex Oil Company, 212 South Central, St. Louis, MO 63105
14. Puritan Oil Company
15. Scallop Petroleum
16. Bulk Sales Corporation
17. Van Gold Corporation
18. NE Petroleum Corporation
19. Mt. Air Refinery
20. Anschutz

[FR Doc. 84–33415 Filed 12–24–84; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PP 1G2570/T476; PH–FRL 2740–8]

Amitraz; Renewal of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has renewed temporary tolerances for the combined residues of the insecticide/miticide amitraz and its metabolite in or on certain raw agricultural commodities.

DATE: These temporary tolerances expire April 25, 1985.

FOR FURTHER INFORMATION CONTACT:

By mail: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of May 19, 1982 (47 FR 21613) stating that temporary tolerances had been extended for the combined residues of the insecticide/miticide amitraz *N'*-(2,4-dimethylphenyl)-*N*-[[(2,4-dimethylphenyl)imino]methyl]-*N*-methylmethanimidamide and its metabolite containing the 2,4-dimethylaniline moiety (calculated as the parent compound) in or on the raw agricultural commodities fat, meat and meat by-products of cattle at 0.05 part per million (ppm). These tolerances were renewed in response to pesticide petition PP 1G2570, submitted by Nor-Am Chemical Co., P.O. Box 7495, Wilmington, DE 19803.

The company has requested a 1 year renewal of the temporary tolerances to permit the continued marketing of the above raw agricultural commodities when treated in accordance with the provisions of experimental use permit 45639–EUP–4 which is being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136). The scientific data reported and other relevant material were evaluated, and it was determined that a renewal of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been renewed on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Nor-Am Chemical Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance, and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire April 25, 1985. Residues not in excess of this amount remaining in or the above raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

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

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: December 12, 1984.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84–33121 Filed 12–24–84; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-00060; FRL-2743-2]

Interagency Toxic Substances Data Committee; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: This notice announces the forthcoming meeting of the Interagency Toxic Substances Data Committee. The meeting is open to the public.

DATE: The meeting will take place from 9:30 a.m. to 12:30 p.m. on Tuesday, January 8, 1985.

ADDRESS: The meeting will be held in the: First Floor Conference Room, Council on Environmental Quality, 722 Jackson Pl., NW., Washington, D.C. 20006. Please use the entrance on Jackson Place.

FOR FURTHER INFORMATION CONTACT: Sandra Lee (TS-777), Executive Secretary, Interagency Toxic Substances Data Committee, Office of Peaticides and Toxic Substances, Environmental Protection Agency, Rm. E-131, 401 M St., SW., Washington, D.C. 20460 (202-382-2249).

SUPPLEMENTARY INFORMATION: The regular meetings of the Interagency Toxic Substances Data Committee usually are held on the first Tuesday of alternate months. The next meeting has been scheduled for March 12, 1985.

Dated: December 18, 1984.

Sandra Lee,

Executive Secretary, Interagency Toxic Substances Data Committee.

[FR Doc. 84-33465 Filed 12-24-84; 8:45 am]

BILLING CODE 6560-50-M

[A-10-FRL-2743-1]

Extension of PSD Permit to the Washington Water Power Co.

Notice is hereby given that on December 10, 1984, the Environmental Protection Agency (EPA) extended a Prevention of Significant Deterioration (PSD) permit issued to the Washington Water Power Company to construct a four unit, coal-fired power plant near Creston, Washington. The extension allows the company an additional eighteen months to commence construction. This permit extension has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulation, subject to certain conditions specified in the permit.

Under section 307(b)(1) of the Clean Air Act, judicial review of the PSD Permit is available only by the filing of a petition for review in the Ninth Circuit Court of Appeals within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Room 11D, M/S 532, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Ray Nye, Air Programs Branch, Region 10, 1200 Sixth Avenue M/S 532, Seattle, Washington 98101, (206) 442-8574, 339-8574 (FTS).

Dated: December 10, 1984.

Gary L. O'Neal,

Air Toxics Division.

[FR Doc. 84-33466 Filed 12-24-84; 8:45 am]

BILLING CODE 6560-50-M

[OPP-100018; PH-FRL 2744-1]

General Accounting Office; Access to Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA plans to transfer information submitted under sections 3, 6, and 7 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to the General Accounting Office (GAO) of the U.S. Congress. Some of the information that will be made available to the GAO has been claimed to be confidential business information (CBI). Information will be transferred to the GAO consistent with requirements of 40 CFR 2.209(b). This action will enable the GAO to fulfill its obligations, and this notice serves to notify affected persons.

DATE: The GAO will be given access to these documents no sooner than January 7, 1985.

FOR FURTHER INFORMATION CONTACT:

By mail: William C. Grosse, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

Office location and telephone number: Rm. 222, CM#2, 1921 Jefferson Davis Highway, Arlington, Virginia (703-557-2613).

SUPPLEMENTARY INFORMATION: The Subcommittee on Toxic Substances and Environmental Oversight of the Senate Committee on Environment and Public Works has asked the GAO to review EPA's processes and procedures for registration and reregistration of pesticides, the establishment and enforcement of pesticide residue tolerances in food, and the non-farm use of pesticides. To perform its review, the GAO has requested access to information, including CBI, submitted to EPA under FIFRA.

Under 40 CRF 2.209(b), information that is considered by the submitter to be trade secret or commercial or financial as described by FIFRA section 10(d) may be disclosed to Congress or the Comptroller General when such disclosure is necessary for their review. (In this case, the request is from the GAO on behalf of the U.S. Congress.) EPA routinely receives such CBI as part of the data that are submitted by pesticide registrants and others as provided for in FIFRA sections 3, 6 and 7. Congress or the Comptroller General are authorized to receive such data upon written request to EPA as specified in 40 CFR Part 2 as referenced in § 2.209.

FIFRA section 10(f) sets a criminal penalty for wrongful disclosure of confidential information , whether such disclosure is made by an officer or employee of the United States.

The GAO recognizes the sensitivity of the confidential business information it may review in the course of its study. Prior to access, the GAO personnel performing this work will be briefed on EPA's security procedures. These employees will then be given access to information as requested and will be allowed to attend meetings in which such information is discussed. In addition, EPA employees will be authorized to discuss CBI with the designated GAO personnel.

The GAO intends to have access to CBI only on EPA's premises. In addition, it does not intend to include any such information in its final report to the Senate Committee. In order to ensure confidentiality, the GAO will ask EPA to review any technical information to be included in the final report to verify that it does not contain CBI.

EPA specifically prohibits disclosure of confidential business information to any third party in any form without written authorization from EPA, and personnel of the GAO will be asked to sign a nondisclosure agreement.

Dated: December 19, 1984.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 84-33595 Filed 12-24-84; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

C&P Broadcasting, et al.; Application for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
A. Peter J. Sautter and Charles J. Saltzman d/b/a C & P Broadcasting; Bountiful, UT.	BPH-820604AO	84-1263
B. Bountiful Communications of Utah, Inc.; Bountiful, UT.	BPH-820806AF	84-1264
C. Bountiful Wireless Corp.; Bountiful, UT.	BPH-821117AK	84-1265
D. Shirlee Elliot Tischner; Bountiful, UT.	BPH-821118AC	84-1266
E. Red Dog Broadcasting, Inc.; Woods Cross, UT.	BPH-821117AI	84-1267
F. Mountain Radio Media, Inc.; Layton, UT.	BPH-821117AP	84-1268

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, B, E, F
2. 307(b), A, B, C, D, E, F
3. Contingent Comparative, A, B, C, D, E, F
4. Ultimate, A, B, C, D, E, F

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained by written or telephone request, from the Mass Media Bureau's Contact Representaive, Room 242, 1919 M Street NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-33445 Filed 12-20-84; 8:45 am]

BILLING CODE 6712-01-M

Lawson Broadcasting Inc., et al.; Hearing Designation Order

In the matter of applications of Lawson Broadcasting, Inc., Debtor-in-Possession, WNAB (AM), Bridgeport, Connecticut, Has: 1450 kHz, 250 W, 1 kW-LS, U (MM Docket No. 84-1282, File No. BR-840103UC) and B. Preston Gilmore, Bridgeport, Connecticut. Req: 1450 kHz, 250 W, 1 kW-LS, U (MM Docket No. 84-1283 File No. BP-840301A1) for construction permit.

Adopted: November 24, 1984.
Released: December 14, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the application of Lawson Broadcasting, Inc., Debtor-In-Possession (Lawson) for renewal of WNAB (AM), Bridgeport, Connecticut, and an application for the WNAB facilities filed by B. Preston Gilmore (Gilmore).

2. Lawson. On May 27, 1983, Lawson filed a Chapter 11 voluntary debtor's petition with the United States Bankruptcy Court for the District of Connecticut. The petition was submitted by Lawson to permit the reorganization of its finances and obligations in order to create a better balance between liabilities and revenue generated. Thus, we are unsure at this time whether Lawson possesses sufficient financial resources to maintain operation of WNAB. Consequently, an appropriate financial issue will be specified.[1]

3. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, however, they must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Lawson Broadcasting Inc., Debtor-In-Possession, has the financial resources to maintain operation of its station.

2. To determine which of the applicants would, on a comparative basis, better serve the public interest.

[1] In the event that Lawson's attempt to voluntarily reorganize under Chapter 11 fails and the Bankruptcy Court then contemplates a sale of Lawson's assets, the proposed buyer would be made a party to this comparative proceeding and evaluated accordingly.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

5. It is further ordered, That in the event that the application of B. Preston Gilmore is granted, the construction permit shall contain the following condition: Nothing contained herein shall be construed as a finding by the Commission on the question of marking or lighting of the antenna system should future conditions require. The licensee expressly agrees to install such marking or lighting as the Commission may hereafter require under the provisions of section 303(q) of the Communications Act of 1934, as amended.

6. It is further ordered, That in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919 M Street, NW., Washington, D.C. 20554.

7. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

8. It is further ordered, That, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants herein shall give notice of the hearing within the time and the manner prescribed in such rules, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-33450 Filed 12-24-84; 8:45 am]

BILLING CODE 6712-01-M

Richford Broadcasting Co. et al.; Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
A. Jean E. Richford d/b/a Richford Broadcasting Co., Brewer, ME.	BPH-830907AB	84-1260
B. Stone Communications, Inc., Brewer, ME.	BPH-840105AA	84-1261
C. Katherine K. Dolby and Eugene Fisk d/b/a/ Castle Broadcasting, Brewer, ME.	BPH-840105AU	84-1262

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix), B, C
2. Air Hazard, C
3. Comparative, A, B, C
4. Ultimate, A, B, C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

1. If a final environmental impact statment is issued with respect to B (Stone) and/or C (Castle), which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment,

(a) To determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by Sections 1.1301-1319 of the Commission's Rules; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

[FR Doc. 84-33448 Filed 12-24-84; 8:45 am]

BILLING CODE 6712-01-M

Scenic Sounds, Inc., et al.; Application for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant city and State	File No.	MM Docket No.
A. Scenic Sounds, Inc., Wellsville, NY.	BPH-840423IB	84-1290
B. Betty J. Hogsed, Wellsville, NY.	BPH-840611IT	84-1291,

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Comparative, A, B
2. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-33447 Filed 12-24-84; 8:45 am]

BILLING CODE 6712-01-M

Stearns County Broadcasting Co., Inc., et al.; Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
A. Stearns County Broadcasting Co., Inc., Albany, MN.	BPH-840127AC	84-1256
B. Richard R. Leverrier and Leigh Sandoz Leverrier d/b/a/ Leverrier Broadcasting Co., Albany, MN.	BPH-840518IN	84-1257

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The test of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, A, B
2. Comparative, A, B
3. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-33446 Filed 12-24-84; 8:45 am]

BILLING CODE 6712-01-M

Tamarack Investment Corp., et al.; Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
A. Tamarack Investment Corp., Pahrump, Nevada.	BPH-830901AA	84-1288
B. Minority Media of Pahrump, Inc., Pahrump, Nevada.	BPH-840105AJ	84-1289

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have

been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Comparative, A, B
2. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84–33449 Filed 12–24–84; 8:45 am]

BILLING CODE 6712–01–M

Astro Broadcasting; System and Fantasy Broadcasting Hearing Designation Order

In the matter of: John J. Fuller d/b/a Astro Broadcasting System, Hope Valley, Rhode Island, Req: 1180 kHz, 1 kW, D MM Docket No. 84–1284, File No. BP–830817AB; Fantasy Broadcasting, Hope Valley, Rhode Island, Req: 1180 kHz, 1 kW (0.5 kW–CH), DA–D MM Docket No. 84–1285, File No. BP–840124AI for Construction Permit.

Adopted: November 24, 1984.
Released: December 14, 1984.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass media Bureau, acting pursuant to delegated authority, has under consideration the mutually exclusive applications of John J. Fuller, d/b/a Astro Broadcasting System, and Fantasy Broadcasting for a construction permit for a new AM broadcast station.

2. Both John J. Fuller, d/b/a Astro Broadcasting System and Fantasy Broadcasting have requested a waiver of § 73.37 of the Commission's Rules, to permit a small amount of overlap with the existing 0.5 mV/m contour of station WLIB, New York, New York. The overlap involved occurs at a great distance from the location of WLIB, and is caused by the high conductivity of long salt water paths. In veiw of the unique circumstances involved, we find that the overlap which would occur would not prejudice the basic policy considerations underlying the provisions of § 73.37(a) of the Rules. *See Larson-Irwin Enterprises (KOAG),* 6 F.C.C. 2d 613 (1967); *see also Collier Broadcasting Co.,* 25 F.C.C. 2d 867 (1970). Accordingly, a waiver has been granted to both applicants to permit acceptance of their proposals.

3. John J. Fuller, d/b/a Astro Braodcasting System, owns a 50% interest in an application for a new television station on channel 69 at Block Island, Rhode Island. Grant of both applications would violate the Commission's multiple ownership rule, § 73.3555. John J. Fuller has indicated that he will divest himself of this interest it his application is granted. Accordingly, an appropriate condition will be specified.

4. John J. Fuller, d/b/a Astro Broadcasting System, has failed to submit Section V–G of the engineering form (FCC Form 301); this applicant must, therefore, file the required Section V–G with the presiding Administrative Law Judge within 30 days of the release of this Order.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

6. Accordingly, it is ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the applications would, on a comparative basis, better serve the public interest.

2. To determine in light of the evidence adduced pursuant to the foregoing issues which of the applications, if any, should be granted.

7. It is further odered, that in the event that the application of John J. Fuller, d/b/a Astro Broadcasting System, is granted, the construction permit shall contain the following condition:

John J. Fuller will divest himself of his 50% interest in the application of John J. Fuller & Jerrell E. Kautz for a new television station on channel 69 at Block Island, Rhode Island prior to the grant of program test authorization.

8. It is further ordered, that John J. Fuller, d/b/a Astro Broadcasting System, shall submit Section V–G of the engineering from (FCC Form 301) to the presiding Administrative Law Judge within 30 days of the release of this Order.

9. It is further ordered, that § 73.37 of the Commission's Rules IS WAIVED on behalf of John J. Fuller, d/b/a Astro Broadcasting System, and Fantasy Broadcasting.

10. It is further ordered, that in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919 M Street, NW., Washington, D.C. 20554.

11. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

12. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84–33452 Filed 12–24–84; 8:45 am]

BILLING CODE 6712–01–M

Cleburne Broadcasting Co., and Broadcast Services; Hearing Designation Order

In re applications of: Cleburne Broadcasting Co., Heflin, Alabama, Req: 1020 kHz, 0.5 kW, D (MM Docket No. 84–1286, File No. BP–830714AA); Broadcast Services, Heflin, Alabama, Req: 1020 kHz, 0.5 KW, D (MM Docket No. 84–1287, File No. BP–831130AC, for Construction Permit.

Adopted: November 28, 1984.
Released: December 14, 1984.

By the Chief, Mass Media Bureau.

1. The Commission by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under

consideration the mutually exclusive applications of Cleburne Broadcasting Company ("Cleburne") and Broadcast Services, and a petition to deny the two applications filed by SE/USA Broadcasting Company ("SE/USA").

2. *The SE/USA petition.* SE/USA contends that its application for an AM radio station at Leeds, Alabama (BP-831130AM), is mutually exclusive with those of Cleburne and Broadcast Services. SE/USA requests that those two applications be denied or that they be designated for hearing with its application. However, we have determined that the SE/USA proposal is not mutually exclusive with the others. Accordingly, the SE/USA petition is denied.

3. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

4. Accordingly, it is ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsquent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

5. It is further ordered, that the petition to deny filed by SE/USA Broadcasting Company, is denied.

6. It is further ordered, that in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919 M Street, NW., Washington, D.C.

7. It is further ordered, that to avail themselves of an opportunity to be heard, the applicants shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

8. It is further ordered, that the applicants herein shall pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 84-33451 Filed 12-24-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

AT Financial Corp., et al.; Applications To Engage de Novo in Permissible Nonbanking Aactivities

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 January 16, 1985.

A. *Federal Reserve Bank of Cleveland* (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *AT Financial Corporation,* Cleveland, Ohio; to engage directly from a *de novo* office in Tampa, Florida in the activities of making, acquiring or servicing of loans or other extensions of credit including commercial loans secured by a borrower's inventory, accounts receivable, making leases of personal property or acting as agent, broker or advisor in leasing such property, and other extensions of credit such as would be made by a commercial finance company.

2. *PNC Financial Corp.,* Pittsburgh, Pennsylvania; to engage *de novo* through its subsidiary, BHC Securities, Inc., Pittsburgh, Pennsylvania, in underwriting and dealing in government obligations and money market instruments from an office in Pittsburgh, Pennsylvania.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First Atlanta Corporation,* Atlanta, Georgia; to engage *de novo* through its subsidiary, First Atlanta Mortgage Corporation, Atlanta, Georgia, in making or acquiring loans and other extensions of credit secured by real estate for its own account or for the account of others and in servicing loans and other extensions of credit secured by real estate.

Board of Governors of the Federal Reserve System, December 19, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-33398 Filed 12-24-84; 8:45 am]

BILLING CODE 6210-01-M

Southwest Virginia 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 office 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 January 18, 1985.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Southwest Virginia Bankshares, Inc.*, Marion, Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to The Bank of Marion, Marion, Virginia.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First National Bancshares, Inc.*, Jacksonville, Florida; to become a bank holding company by acquiring 80 percent of the voting shares of First National Bank of Jacksonville, Jacksonville, Florida.

2. *Southwest Banc Shares, Inc.*, Chatom, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Chatom State Bank, Chatom, Alabama.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Marble Falls National Bancshares, Inc.*, Marble Falls, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Marble Falls National Bank, Marble Falls, Texas.

Board of Governors of the Federal Reserve System, December 19, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-33399 Filed 12-24-84; 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; G.S.F.C. Inc., et al.

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 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) 84-1049—G.S.F.C. Incorporated's, (Weston L. Johnson, UPE) proposed acquisition of voting securities of Langendorf United Bakeries, Incorporated, (American Bakeries, Company, UPE).	Dec. 5, 1984.
(2) 84-1050—G.S.F.C. Incorporated's, (Robert P. Cornella, UPE) proposed acquisition of voting securities of Langendorf United Bakeries, Incorporated, (American Bakeries, Company, UPE).	Do.
(3) 84-1180—Bennett S. LeBow's proposed acquisition of assets of the Basic Four Information Systems, (Management Assistance, UPE).	Do.
(4) 84-1219—Societe des Ciments Francais' proposed acquisition of voting securities of Louisiville Cement Company.	Do.
(5) 84-1243—The Equitable Life Assurance Society of the United States' proposed acquisition of voting securities of Donaldson, Lufkin & Jenrette, Incorporated.	Do.
(6) 84-1244—The Equitable Life Assurance Society of the United States proposed acquisition of voting securities of Donaldson, Lufkin & Jenrette, Incorporated.	Do.
(7) 84-1255—The Washington Post Company's proposed acquisition of voting securities and assets of Kaplan's Educational Centers Business, (Stanley H. Kaplan, UPE).	Do.
(8) 84-1258—First American Bank and Trust's proposed acquisition of voting securities of Cenville Development Corporation.	Do.
(9) 84-1259—First American Bank and Trust's proposed acquisition of voting securities of Cenville Development Corporation.	Do.
(10) 84-1227—MidCon Corporaton's proposed acquisition of assets of Texoma Pipeline, Company, (Houston Natural Gas Corporation, UPE).	Dec. 6, 1984.
(11) 84-1228—Central and South West Corporation's proposed acquisition of assets of Texoma Pipe Line Company, (Houston Natural Gas Corporation, UPE).	Do.
(12) 84-1262—Bass Brothers Enterprises, Incorporated's proposed acquisition of assets of Brock Hotel Corporation.	Do.
(13) 84-1303—Brock Hotel Corporation's proposed acquisition of assets of Bass Brothers Enterprises, Incorporated.	Do.
(14) 84-1313—Bass Brothers Enterprises, Incorporated's proposed acquisition of assets of Brock Hotel Corporation.	Do.
(15) 84-1176—Toshiba Corporation's proposed acquisition of voting securities of New "unamed" Joint Venture.	Dec. 7, 1984.
(16) 84-1179—United Technologies Corporation's proposed acquisition of voting securities of New "unamed" Joint Venture.	Do.
(17) 84-1200—Federal Paper Board Company, Incorporated's proposed acquisition of assets of Nabisco Brands, Incorporated.	Do.
(18) 84-1204—Tenneco Incorporated's proposed acquisition of voting securities of Security Life Insurance Company of Georgia.	Do.
(19) 84-1209—Hoover Universal Incorporated's proposed acquisition of assets of Tricoast Container Corporation, (Tricoast Holding Corporation, UPE).	Do.
(20) 84-1237—Provident Mutual Life Insurance Company of Philadelphia's proposed acquisition of voting securities of Continental American Life Insurance Company, (Crown Central Petroleum Corporation, UPE).	Do.
(21) 84-1238—Placer Development Limited's proposed acquisition of voting securities of Prairie Producing Company.	Do.
(22) 84-1239—Placer Development Limited's proposed acquisition of voting securities of Prairie Producing Company.	Do.
(23) 84-1253—Texas Oil & Gas Corporation's proposed acquisition of assets of Occidental's interest in the Lathrop Gas Field, (Occidental Petroleum Corporation, UPE).	Do.
(24) 84-1257—Southmark Corporations's proposed acquisition of voting securities of Parker & Parsley Petroleum Company, (Joe M. Parsley, UPE).	Do.
(25) 84-1264—Thomas E. Moran's c/o Moran Towing Corporation proposed acquisition of voting securities of Moran Towing Corporation.	Do.
(26) 84-1271—Morton Thiokol, Incorporated's proposed acquisition of voting securities of Bee Chemical Company and Burley Building Corporation, (M.A. Self and Lila M. Self, UPE).	Do.
(27) 84-1186—California Hotel and Casino's proposed acquisition of assets of Trans-Sterling, Inc., (Allan D. Sachs, UPE).	Dec. 10, 1984.
(28) 84-1195—Glenn R. Jones' proposed acquisition of assets of Cox Communications, Inc..	Do.
(29) 84-1210—C.A. Vose, Jr., proposed acquisition of voting securities of Founders Bancorporation, Inc.	Do.
(30) 84-1216—Rockefeller Group, Incorporated's proposed acquisition of assets of Anacomp Inc.	Do.
(31) 84-1245—The Dun & Bradstreet Corporation's proposed acquisition of voting securities of Thomas Cook Travel Incorporated and assets of Midland Bank P.L.C..	Do.
(32) 84-1274—Lucky Stores, Incorporated's proposed acquisition of voting securities of Minnesota Fabrics, Inc.	Do.
(33) 84-1175—Marriott Corporation's proposed acquisition of voting securities of Gladieux Corporation, (Virgil A. Gladieux, UPE).	Dec. 12, 1984.

Transaction	Waiting period terminated effective
(34) 84-1235—Royal Dutch Petroleum Company's proposed acquisition of assets of Marathon Oil Company, (United States Steel Corporation, UPE).	Do.
(35) 84-1254—Vintage Petroleum, Incorporated, (Charles C. Stephenson, Jr., UPE) proposed acquisition of assets of Petro-Lewis Corporation and Petro-Lewis Producing Company II.	Dec. 13, 1984.
(36) 84-1260—Dr. William D. Hurley's proposed acquisition of assets of Anchor Swan Corporation and Amerace Corporation, (Bass Investment Limited Partnership, UPE).	Do.
(37) 84-1265—Metropolitan Life Insurance Company's proposed acquisition of voting securities of Charter Security Life Insurance Company (Louisiana), (The Charter Company, UPE).	Do.
(38) 84-1269—Etablissements Delhaize Freres et. Cie, "Le Lion" S. A.'s proposed acquisition of voting securities of Giant Food Markets, Incorporated, (Thomas LaGuardia, Jr., UPE).	Do.
(39) 84-1278—Winton M. Blount's proposed acquisition of voting securities of Omark Industries, Incorporated.	Do.
(40) 84-1279—Winton M. Blount's proposed acquisition of voting securities of Omark Industries, Incorporated.	Do.
(41) 84-1285—Paine Webber Group Incorporated's proposed acquisition of assets of A.C.F. Petroleum Company, Incorporated, (Carl C. Icahn, UPE).	Do.
(42) 84-1280—Houston Industries Incorporated's proposed acquisition of assets of A.C.F. Petroleum Company, Incorporated, (Carl C. Icahn, UPE).	Do.
(43) 84-1289—Masco Industries, Incorporated's proposed acquisition of voting securities of Jacobson Manufacturing, Incorporated, (Harvey Jacobson, UPE).	Do.
(44) 84-1292—Houston Natural Gas Corporation's proposed acquisition of voting securities of Petro Source Corporation, (Ladd E. Christensen, UPE).	Do.
(45) 84-1229—Martin Marietta Corporation's proposed acquisition of voting securities of International Light Metals Corporation.	Dec. 14, 1984.
(46) 84-1230—Rio Tinto Zinc Corporation's Limited's proposed acquisition of voting securities of Martin Marietta Aluminum Incorporated, (Martin Marietta Corporation, UPE).	Do.
(47) 84-1234—Nippon Kokan Kabushiki Kaisha's proposed acquisition of voting securities of International Light Metals Corporation.	Do.
(48) 84-1291—Southmark Corporation's proposed acquisition of assets of certain nursing homes in Louisiana and Texas, (KEPA Investments, Incorporated, UPE).	Do.
(49) 84-1294—Lubrizol Corporation's proposed acquisition of voting securities of Agrigenetics Corporation.	Do.

FOR FURTHER INFORMATION CONTACT:
Sandra M. Peay, Legal Technician, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 84-33419 Filed 12-24-84; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 84N-0418]

Determination of Regulatory Review Period for Purposes of Patent Extension; Amrinone Lactate

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for the human drug product amrinone lactate and is hereby publishing a notice of that determination as required by law. FDA has made the determination because of the submission of an application by Sterling Drug Inc. to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that drug.

FOR FURTHER INFORMATION CONTACT: Philip Spiller, Office of Legislation and Information (HFW-14), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3793.

SUPPLEMENTARY INFORMATION: The "Drug Price Competition and Patent Term Restoration Act of 1984" (Pub. L. 98-417) authorized up to 5 years of extension of the term of a patent which claims any human drug product, medical device, or a food or color additive or a method of using or manufacturing such a product, device, or additive so long as the product was subject to a Federal regulatory review period in accordance with that act before the product, device, or additive was marketed.

Under 35 U.S.C. 156(g), a regulatory review period consists of two periods of time: a period during which the product is being tested, followed by a period during which an application or petition for marketing approval is pending before FDA. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (half the testing time must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period will include all of the testing and application times as specified in 35 U.S.C. 156(g)(1)(B), (2)(B), and (3)(B).

On November 26, 1984, FDA received an application for patent extension from Sterling Drug Inc. involving the human drug product amrinone lactate. FDA has determined that the total length of the regulatory review period for amrinone lactate was 2,462 days, or approximately 6.7 years. Of this time, 1,459 days, or approximately 4 years, occurred during the testing phase of the regulatory review period while 1,003 days, or approximately 2.7 years, occurred during the application phase. These periods of time derive from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* November 4, 1977. (Note that under FDA regulations (21 CFR 312.1(b)(4)), an exemption usually does not become effective until 30 days after a notice of claimed investigational exemption for a new drug is submitted to FDA.)

2. *The date the application was initially submitted under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* November 2, 1981.

3. *The date the application was approved:* July 31, 1984.

FDA was able to verify these dates against agency records.

Dated: December 19, 1984.

Mark Novitch,

Deputy Commissioner of Food and Drugs

[FR Doc. 84-33540 Filed 12-24-84; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Steering Subcommittee of the National Council on Health Planning and Development Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of January 1985:

Name: Steering Subcommittee of the National Council on Health Planning and Development.

Date and Time: January 24, 1985; 3:00 p.m.

Place: Conference Room B, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

(Meeting by Conference Call)

Due to the limited nature of the meeting, a conference call will be substituted for the regular scheduled meeting. Open for entire meeting.

Purpose: The objectives of the Steering Subcommittee are to (1) assist the Chairperson in planning the order and timing of agenda topics for full Council consideration and action to assure that the Secretary will receive advice and/or recommendations on

each of its three areas of functional responsibilities under section 1503(a) in an appropriate time and manner; (2) coordinate information about and among subcommittee activities and plan; and (3) provide preliminary review of proposed changes in Council operations.

Agenda: (1) Discussion of Agenda for the Spring plenary session of the Council; (2) status reports on the Office of Health Planning and the Office of Health Facilities; and (3) other Council business.

Anyone requiring information regarding the subject Subcommittee should contact Mrs. Diane A. McMenamin, Executive Secretary, National Council on Health Planning and Development, Room 11–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone (301) 443–6377.

Agenda items are subject to change as priorities dictate.

Dated: December 19, 1984.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 84–33404 Filed 12–24–84; 8:45 am]

BILLING CODE 4160–15–M

Maternal and Child Health Research Grants Review Committee; Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Pub. L. 92–463, the Annual Report for the following Health Resources and Service Administration Federal Advisory Committee has been filed with the Library of Congress:

Materal and Child Health Research Grants Review Committee

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE, Washington, D.C., or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, North Building, Room 1436, 330 Independence Avenue, SW, Washington, D.C. 20201, Telephone (202) 245–6791. Copies may be obtained from Dr. Gontran Lamberty, Executive Secretary, Maternal and Child Health Research Grants Review Committee, Room 6–13, Parklawn Building, 5700 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–2190.

Dated: December 19, 1984.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 84–33403 Filed 12–24–84; 8:45 am]

BILLING CODE 4160–16–M

National Advisory Council on Nurse Training; Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Pub. L. 92–463, the Annual Report for the following Health Resources and Services Administration Federal Advisory Committee has been filed with the Library of Congress:

National Advisory Council on Nurse Training

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, D.C., or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, North Building, Room 1436, 330 Independence Avenue, SW., Washington, D.C. 20201, Telephone (202) 245–6791. Copies may be obtained from Dr. Mary S. Hill, Executive Secretary, National Advisory Council on Nurse Training, Bureau of Health Professions, Health Resources and Services Administration, Room 5C–04, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6193.

Dated: December 19, 1984.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 84–33402 Filed 12–24–84; 8:45 am]

BILLING CODE 4160–16–M

Public Health Service

Statement of Organization, Functions, and Delegations of Authority; Centers for Disease Control

Part H, Chapter HC (Centers for Disease Control) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 49 FR 13431, April 4, 1984) is amended to reflect the reorganization of the Center for Professional Development and Training (HCT) resulting from a realignment of functions.

Section HC–B, Organization and Function, is hereby amended as follows:

Delete all functional statements after the heading *Center for Professional Development and Training (HCT)* and substitute the following:

Center for Professional Development and Training (HCT). Provides national leadership to increase the effectiveness of public health organizations and improve job performance of health professionals by planning, directing, and coordinating a program to develop the capacity of public health organizations and professionals to achieve objectives for disease control and prevention and health promotion. In carrying out this mission, the Center: (1) Assists States, localities, other Federal agencies, and, upon request of the CDC Executive Office, CDC programs in identifying needs for organizational improvement and professional development and training; refers them to appropriate resources, or develops, implements, and evaluates organization development interventions and instructional or informational programs such as short-term training courses, conferences, manuals, and audiovisual packages; (2) provides assistance to States, localities, other Federal agencies, and CDC programs in the establishment, maintenance, and improvement of their health training and technology transfer programs; (3) conducts research and demonstration activities related to the improvement of health promotion and disease prevention training, professional development, and organization development; (4) works collaboratively with learning institutions, especially Schools of Public Health and Departments of Preventive and Community Medicine, and with professional organizations to develop and implement improved programs for disease prevention and health promotion; (5) provides assistance to other nations in establishing, implementing, and maintaining effective professional and organization development programs; (6) coordinates CDC's training activities, manages the Atlanta classroom and conference facilities, and provides training support services; (7) in carrying out the above functions, collaborates, as appropriate, with other Centers/Institute and Offices of CDC.

Office of the Director (HCT1). (1) Manages, directs, and coordinates the activities of the Center for Professional Development and Training (CPDT); (2) provides leadership in the development of long-range plans to ensure the accomplishment of CPDT's mission, sets annual objectives consistent with those

plans, and monitors progress toward their achievement; (3) provides leadership in establishing a quality assurance system for CPDT's products and services and designs and oversees scientifically valid studies to evaluate their impact and cost effectiveness; (4) provides leadership in applying current management techniques to improve organizational effectiveness and productivity within CPDT and CDC; (5) coordinates CPDT assistance to States, localities, other Federal agencies, other nations, and CDC programs; (6) coordinates collaborative projects with learning institutions and other public health organizations, especially Schools of Public Health, Departments of Preventive and Community Medicine, and the Association of State and Territorial Health Officials; (7) provides administrative and support services to CPDT.

Division of Field Services (HCT5). (1) Serves as CPDT's principal interface with States, localities, other Federal agencies, other nations and other health organizations to establish and maintain client relationships; (2) assists clients by routinely conducting assessments of needs for training and professional and organization development; (3) develops plans and strategies to ensure that identified client needs are being addressed; (4) maintains relationships with clients to determine the degree of client satisfaction with CPDT products and services and makes recommendations for needed improvements; (5) conducts research activities to maintain state-of-the-art methodologies in communications and conducts demonstrations to ensure the application of these methodologies; (6) in carrying out the above functions, collaborates, as appropriate, with the Office of the Director and other divisions within CPDT and with other Centers/Institute and Offices of CDC.

Division of Consultation and Technical Assistance (HCT6). (1) Assists States, localities, other Federal agencies, other nations, and CDC programs by: (a) Conducting analyses of problems which are complex and require detailed, precise identification of factors that impede public health worker performance and organizational effectiveness and recommends solutions, and (b) designing, implementing, and evaluating appropriate professional or organization development strategies; (2) conducts research activities to maintain state-of-the-art in organization development methodologies and conducts demonstrations to ensure the application of these methodologies to public health organizations; (3) in carrying out the above functions, collaborates, as appropriate, with the Office of the Director and other divisions within CPDT and with other Centers/Institute and Offices of CDC.

Division of Instructional Design and Development (HCT7). (1) Assists States, localities, other Federal agencies, other nations, and CDC programs by: (a) Determining the instructional, informational, or organization development materials which best meet identified needs; (b) designing and developing instructional, informational, or organization development materials such as training courses, audiovisuals and management guides for disease control programs; (c) assuring the instructional effectiveness of CPDT-developed materials through formative evaluation and revision; (2) conducts research activities to maintain state-of-the-art methodologies instructional design and development and conducts demonstrations to ensure the application of these methodologies; (3) in carrying out the above functions collaborates, as appropriate, with the Office of the Director and other divisions within CPDT and with other Centers/Institute and Offices of CDC.

Division of Continuing Education and Training (HCT8). (1) Assists States, localities, other Federal agencies, other nations, and CDC programs to meet the continuing education and training needs of health professionals by: (a) Managing a national public health training information and referral service; (b) conducting courses and providing other instruction utilizing classroom, seminar, conference, self-study, and other effective and efficient mechanisms to reach targeted audiences; (c) training and supporting preceptors to provide instruction using CPDT products and services; (d) managing the CDC classroom and conference facilities to ensure that these environments are optimal for learning and serve as models for the nation; (2) conducts research activities to maintain state-of-the-art methodologies in the delivery of continuing education and training and conducts demonstrations to ensure the application of these methodologies; (3) in carrying out the above functions, collaborates, as appropriate, with the Office of the Director and other divisions within CPDT and with other Centers/Institute and Offices of CDC.

Dated: December 12, 1984.

James F. Dickson,

Acting Assistant Secretary for Health.

[FR Doc. 84-33464 Filed 12-24-84; 8:45 am]

BILLING CODE 4160-18-M

Statement of Organization, Functions, and Delegations of Authority; Food and Drug Administration

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended most recently in pertinent parts at 45 FR 33729, May 20, 1980; 45 FR 57174-75, August 27, 1980; 48 FR 54129-34, November 30, 1983; and 49 FR 10166-85, March 19, 1984) is amended to reflect organizational changes in the Food and Drug Administration (FDA) and the deletion from the **Federal Register** of certain FDA organizational functional statements.

One change adds an international affairs liaison function and clarifies a communications function in the Office of Consumer and Professional Affairs (OCPA), Center for Drugs and Biologics (CDB). This change will more accurately reflect CDB external communications.

The second change adds a function to the Office of Management, CDB, for the coordination of the receipt and distribution of initial drug and biological product applications and other related documents. This change will allow better coordination of these documents with the reviewing components throughout CDB.

FDA is deleting all functional statements currently published in the **Federal Register** for fourth echelon organizational components. A fourth echelon component is one whose head is three reporting or organizational levels from the Commissioner of Food and Drugs who is the first echelon. As a result of revised Public Health Service (PHS) organizational guidelines, FDA's Office level components are defined as third echelon (divisional level). For example, the Office of Drug Standards is a third echelon organization because its Director reports to the Director of the Center for Drugs and Biologics who in turn reports to the Commissioner. FDA will continue to publish, as it always has, the functional statements for third echelon and above organizational components that require the approval either of the Assistant Secretary for Health (ASH) or the Secretary of the Department of Health and Human Services.

Section HF-B, Organization and Functions is amended as follows:

1. Delete subparagraph (n-1-i), *Office of Management (HFN12)* and insert new subparagraph (n-1-i), *Office of Management (HFN12).*

(n-1-i) *Office of Management (HFN12).* Monitors the development and operations of planning systems for Center activities and resource allocations and advises the Center Director on Center administrative policies and guidelines and information systems and services.

Directs and counsels Center managers through program evaluation and technological forecasting.

Plans and directs Center operations for financial and personnel management, employee development and training, equal employment opportunity (EEO) activities, and Office services.

Directs Center organization, management, and information systems, and provides library services.

Manages studies designed to improve processes and resource allocations in the Center.

Provides direct administrative support to all Center organizations. Advises the Center on contract and grant proposals.

Provides coordination for receipt and distribution of initial drug and biological product applications and other related documents.

2. Delete subparagraph (n-1-iii), Office of Consumer and Professional Affairs (HFN14) and insert new subparagraph (n-1-iii), Office of Consumer and Professional Affairs (HFN14).

(n-1-iii) *Office of Consumer and Professional Affairs (HFN14).* Directs and implements Center consumer and professional informational activities and coordinates these activities with other agency components.

Identifies, plans, and develops informational and educational programs and materials on drugs and biological products and their use for consumers and health professionals.

Prepares, develops, and coordinates Center and agency responses to inquiries on drugs and biological products from health professionals, consumers, and others, including requests under the Freedom of Information (FOI) Act, the Privacy Act, and other statutes.

Serves as Center liaison with the National Technical Information Service (NTIS) and serves as Center small business liaison.

Serves as the Center focal point for developing and maintaining international communications, policies, and programs.

3. Delete subparagraphs (f-1-i), (f-1-ii), (f-2-i), (f-2-ii), (f-3-i) through (f-3-iv), Office of Regulatory Affairs.

4. Delete subparagraphs (h-5-i) through (h-5-iv), Office of Management and Operations.

5. Delete subparagraphs (k-1-iA) through (k-1-iD), (k-2-i) through (k-2-iv), (k-3-i) through (k-3-iv), (k-4-i) through (k-4-v), and (k-5-i) through (k-5-v), Center for Food Safety and Applied Nutrition.

6. Delete subparagraphs (m-1-iA), (m-2-i), (m-2-ii), (m-3-i) through (m-3-v), (m-4-i) through (m-4-iv), (m-5-i), (m-5-ii), and (m-6-i) through (m-6-iii), Center for Veterinary Medicine.

7. Delete subparagraphs (n-1-iA) through (n-1-iE), (n-2-i) through (n-2-vii), (n-3-i) through (n-3-v), (n-4-i) through (n-4-viii), (n-5-i) through (n-5-x), and (n-6-i) through (n-6-iii), Center for Drugs and Biologics.

8. Delete subparagraphs (o-1-iA) through (o-1-iE), (o-2-i) through (o-2-v), (o-3-i) through (o-3-viii), (o-4-i) through (o-4-iv), and (o-5-i) through (o-5-vii), Center for Devices and Radiological Health.

9. Delete subparagraphs (q-4-i) through (q-4-iii), National Center for Toxicological Research.

Effective Date: December 10, 1984.

Dated: December 10, 1984.

James F. Dickson,

Acting Assistant Secretary for Health.

[FR Doc. 84-33463 Filed 12-24-84; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974—Revision of Notice of System of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to revise a notice describing a system of records maintained by the Bureau of Reclamation. The notice was formerly titled "Inventory and Control of Land Sales Subject to Acreage Limitation—Interior, Reclamation-31" and is now retitled as "Acreage Limitation—Interior, Reclamation-31". Except as noted below, all changes being published are editorial in nature, and reflect organization and statutory changes and other minor administrative and technical revisions which have occurred since the publication of the material in the **Federal Register** on July 30, 1981 (46 FR 39047). The revised notice is published in its entirety below.

In addition to the technical and administrative revisions noted above, two new compatible routine disclosures are being added to the notice. A routine disclosure to a Member of Congress is added to permit responses to inquiries made by individuals through a congressional office. Also added is a routine disclosure to non-Federal auditors performing financial audits for the Bureau.

5 U.S.C. 552(e)(11) requires that the public be provided a 30-day period in which to comment. Therefore, written comments on these proposed changes can be addressed to the Department Privacy Act Officer, Office of the Secretary (PIR), U.S. Department of the Interior, Washington, D.C. 20240. Comments received on or before January 25, 1985, will be considered. The notice shall be effective as proposed without further notice at the end of the comment period, unless comments are received which would require a contrary determination.

Dated: December 18, 1984.

Oscar W. Mueller, Jr.,

Director, Office of Information Resources Management.

Interior/WBR-31

SYSTEM NAME:

Acreage Limitation—Interior, Reclamation-31.

SYSTEM LOCATION:

Bureau of Reclamation Engineering and Reseach Center, Regional Offices: Pacific Northwest, Mid-Pacific, Lower Colorado, Upper Colorado, Southwest, Upper Missouri, Lower Missouri. See appendix for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals and entities that own or lease land subject to the acreage limitation provisions of Reclamation law, including individual landholders required to dispose of excess lands and individuals who are applicants to purchase excess lands.

CATEGORIES OF RECORDS IN THE SYSTEM:

Legal descriptions or Assessor Parcel Numbers of individually owned or leased lands which are subject to acreage limitation law, including, where appropriate, deeds, agreements to sell or purchase, lease/purchase options, and contracts relative to land ownership transfers. In addition, the system may contain the names of sellers and buyers of excess land and other pertinent details of the sales. Information, as required, for an eligibility determination by the Bureau of Reclamation of an individual's excess/nonexcess status under the Reclamation Reform Act, terms of leases, and names of lessors and lessees. The system will contain citizenship status and home addresses and telephone numbers of landholders. Social Security numbers may also be on

record; disclosure of this information is voluntary.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Reclamation Act of 1902 as amended and acts supplemental thereto, 43 U.S.C. 371, et seq., especially sections 206, 224, and 228 of the Reclamation Reform Act of 1982, Pub. L. 97–293.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary purpose of the system is to obtain written information from individuals and entities on their landholdings which are subject to acreage limitation law and a signed statement that the information provided is accurate and complete. The original certification and reporting forms are maintained in the irrigation districts of origin. Copies of such forms indicating multidistrict landholdings, full-cost acreage, and excess lands are provided to the Bureau for administration and recordkeeping. In addition, data from these forms which indicate multidistrict landholdings is entered into the computer system to determine compliance with Reclamation law. The data collected is used only by irrigation district and Reclamation personnel to determine compliance with Reclamation law. Disclosures outside the Department of the Interior may be made: (1) To the Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, or license to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual; and (4) to non-Federal auditors under contract with the Departments of Interior or Energy or water user and other organizations with which the Bureau of Reclamation has written agreements permitting access to financial records to perform financial audits.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on computer.

RETRIEVABILITY:

Manual records are retrieved by water district and/or landholder name, by land parcel number, and by a sale number. Automated records are retrieved by district identification number, sale number, landholder name, or social security number, if available, and other data codes identifying property characteristics.

SAFEGUARDS:

In accordance with requirements of 43 CFR 2.51 for computer and manual records.

RETENTION AND DISPOSAL:

In accordance with approved retention and disposal schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Water and Land Officers, Bureau of Reclamation Engineering and Research Center, Regional Offices: Pacific Northwest, Mid-Pacific, Lower Colorado, Upper Colorado, Southwest, Upper Missouri, Lower Missouri. See appendix for addresses.

NOTIFICATION PROCEDURE:

Written inquiries regarding the existence of a record(s) should be sent to the System Manager at the appropriate address listed in the appendix. See 43 CFR 2.60.

RECORD ACCESS PROCEDURE:

Same as Notification above. See 43 CFR 2.63

CONTESTING RECORD PROCEDURE:

Written petitions for amendment should be addressed to the System Manager at the appropriate office listed in the appendix. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individuals on whom records are maintained, official county records, and land appraisers.

[FR Doc. 84–33476 Filed 12–24–84; 8:45 am]
BILLING CODE 4310–09–M

Bureau of Indian Affairs

Land Claim; Squaxin Island Indian Reservation

Proclaiming Certain Land as Part of the Squaxin Island Indian Reservation. This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

On December 7, 1984, pursuant to authority contained in section 7 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 467), the following described six parcels of land, located in Mason County, Washington, were proclaimed to be made a part of the Squaxin Island Indian Reservation.

Parcel A. 130–T1123—Western Washington Public Domain, described as: The Northwest quarter of the Southeast quarter of the Northeast quarter and the West half of the Southwest quarter of the Southeast quarter of the NE quarter of Section 20, Township 19 North, Range 3 West, Willamette Meridian, containing 15.00 acres, more or less.

Parcel B. 130–T1127—Western Washington Public Domain, described as: The Northeast quarter of the Southeast quarter of the Northeast quarter and the Southeast quarter of the Southeast quarter of the Northeast quarter of Section 20, Township 19 North, Range 3 West, Willamette Meridian, containing 20.00 acres, more or less.

Parcel C. 130–T1136—Western Washington Public Domain, described as: That part of Lot 2 of Section 14, Township 20 North, Range 2 West, Willamette Meridian. Beginning at the Southwest corner of the North half of the Southwest quarter of said Section 14, thence Southeasterly along the Westerly line of said Lot 2, 110 feet; thence Northeasterly 148.50 feet, more or less, to a point on the North line of said Lot 2 which is 220 feet East from the point of beginning; thence West along the North line of said Lot 2, 220 feet to the point of beginning, containing .19 acre, more or less.

Parcel D. 130–T1140—Western Washington Public Domain, described as: The East half of the Southwest quarter of the Southeast quarter of the Northeast quarter of Section 20, Township 19 North, Range 3 West, Willamette Meridian, containing 5.00 acres, more or less.

Parcel E. 130–T1141—Western Washington Public Domain, described as: The Northeast quarter of the Northeast quarter of Section 20, Township 19 North, Range 3 West, Willamette Meridian, containing 40.00 acres, more or less.

Parcel F. 130–T1146—Western Washington Public Domain, described as: That portion of the East half of the Southwest quarter of the Southwest quarter of the Northeast quarter and of the West half of the Southeast quarter of the Southwest quarter of the Northeast quarter of Section 20, Township 19 North, Range 3 West, Willamette Meridian, lying east of the Old Olympic Highway, except the North 60 feet thereof, containing 7.16 acres, more or less.

The above parcels are subject to all valid existing easements, rights-of-way and other rights of record.

John W. Fritz,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 84-33413 Filed 12-24-84; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[W-62345; 5-22823-GP5-021]

Wyoming, Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of Pub. L. 31-245 and Title 43 Code of Federal Regulations, § 3108.2-1(c), and Pub. L. 97-451, a petition for reinstatement of oil and gas lease W-62345 for lands in Campbell County, Wyoming was timely filed and was accompanied by all the required rentals accruing from May 1, 1984, the date of termination.

The lessee has agreed to the lease terms for rentals and royalties at rates of $5.00 per acre, and 16⅔percent, respectively.

The lessee has paid the required $500.00 administrative fee and $106.25 to reimburse the Department for the cost of this **Federal Register** notice.

The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-62345 effective May 1, 1984, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 84-33405 Filed 12-24-84; 8:45 am]

BILLING CODE 4310-22-M

[5-22823-GP5-020; W-0310284]

Wyoming; Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of Pub. L. 31-245 and Title 43 Code of Federal Regulations, section 3108.2-1(c), and Pub. L. 97-451, a petition for reinstatement of oil and gas lease W-0310284 for lands in Converse County, Wyoming was timely filed and was accompanied by all the required rentals accruing from May 1, 1984, the date of termination.

The lessee has agreed to the new lease terms for rentals and royalties at rates of $5.00 per acre, and 16⅔ percent, respectively.

The lessee has paid the required $500.00 administrative fee and $106.25 to reimburse the Department for the cost of this **Federal Register** notice.

The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-0310284 effective May 1, 1984, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 84-33416 Filed 12-24-84; 8:45 am]

BILLING CODE 4310-22-M

Sale of Public Land in Piute County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action (43 CFR 2711.1-2).

SUMMARY: The following described land has been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value ($3,125.00)

Legal Description:

T. 30 S., R. 2 W., SLM&B

Sec. 28, S½ SW¼ NW¼ NW¼, E½ NW¼ NW¼ SW¼ NW½, NE¼ NW¼ SW¼ NW¼, E½ SE¼ NW¼ SW¼ NW¼, E½ NE¼ SW¼ SW¼ NW¼, E½ SW¼ NW¼.

Containing 31.25 acres.

This land is being offered by direct sale to the Otter Creek Reservoir Co., of Richfield, Utah at the appraised fair market value.

Sale of the land to the Otter Creek Reservoir Company will allow the Company to exercise greater control over the Otter Creek Reservior Dam, which is located on the tract of land proposed for sale. Ownership of land the dam is located on will enable the owner to maintain the dam is a safer more stable condition. This sale is also consistent with the Bureau of Land Management's planning system.

Detailed information concerning the sale, including the planning documents, envoronmental assessment, and the decision document is available for review at the Richfield District Office.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the Richfield District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination.

In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: December 17, 1984.

Donald L. Pendleton,

District Manager.

[FR Doc. 84-33418 Filed 12-24-84; 8:45 am]

BILLING CODE 4310-DQ-M

Availability of a Record of Decision for the Utah Combined Hydrocarbon Leasing Regional Environmental Impact Statement (EIS)

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of a record of decision for the Utah Combined Hydrocarbon Leasing Regional EIS.

SUMMARY: Notice is hereby given that a Record of Decision for the Utah Combined Hydrocarbon Leasing Regional EIS is now available for public inspection. The Record of Decision identifies decisions made from alternative actions considered in the EIS. These decisions focus on changes in BLM's land use planning in Special Tar Sand Areas (STSAs) and whether or not to offer new leases for competitive sale.

ADDRESS: Copies of the Record of Decision can be obtained from: Public Room, BLM Utah State Office, CFS Financial Center, 324 South State, Suite 301, Salt Lake City, Utah 84111.

FOR FURTHER INFORMATION CONTACT: Ronald B. Bolander, (801) 524-3133, Bureau of Land Management, CFS Financial Center, 324 South State, Salt Lake City, Utah 84111.

Dated: December 14, 1984.

Roland G. Robison,

State Director.

[FR Doc. 84-33444 Filed 12-24-84; 8:45 am]

BILLING CODE 4310-DQ-M

[INT DEIS—84-67]

Mt. Hope Molybdenum Project of Exxon Minerals Co. in Eureka County, NV; Availability of Draft Environmental Impact Statement

AGENCY: Bureau of Land Management.

ACTION: Notice of Availability of the Draft Environmental Impact Statement (DEIS).

SUMMARY: In accordance with section 203 of the Federal Land Policy and Management Act of 1976, and in compliance with section 102(2) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a DEIS for the Mt. Hope Molybdenum Project of Exxon Minerals Company.

SUPPLEMENTARY INFORMATION: The document analyzes the impacts of a proposed open pit molybdenum mine, with ancillary facilities, 30 miles north of the town of Eureka, Nevada. The proposed action includes sale of 2,440 acres of public land, other future land acquisitions, granting of power, water line, and highway relocation rights-of-way, and approval of a plan of operations. Several alternatives to the proposed action are also analyzed.

Public hearings are scheduled in Nevada at the following locations. Comments regarding the proposed action and the alternatives will be taken during the public hearings.

Jan. 29, 1985—Eureka at the Courthouse, 7:00 p.m.

Jan. 30, 1985—Elko at the Stockmen's Motor Lodge, 7:00 p.m.

Jan. 31, 1985—Reno at the Ramada Inn Convention Center, 6th and Lake Streets, 7:00 p.m.

Oral and written comments on the draft document will be considered during preparation of the final EIS. All comments must be received by March 8, 1985 at the following address.

FOR FURTHER INFORMATION CONTACT:
H. James Fox, District Manager.
Attn: Neil D. Talbot, Shoshone-Eureka Area Manager, P.O. Box 1420, Battle Mountain, Nevada 89820, (702) 635–5181.

Copies of the Draft Environmental Impact Statement are available for review at the following locations:

Bureau of Land Management, Nevada State Office, 300 Booth Street, Reno, Nevada 89520, (702) 784–5602
Bureau of Land Management, Elko District Office, 2002 Idaho Street, Elko, Nevada 89801, (702) 738–4071
Bureau of Land Management, Winnemucca District Office, 705 E. 4th Street, Winnemucca, Nevada 89445, (702) 623–3676
Bureau of Land Management, Carson City District Office, 1050 E. Williams Street, Carson City, Nevada 89701, (702) 882–1631
Bureau of Land Management, Ely District Office, Star Route 5, Box 1, Ely, Nevada 89301, (702) 289–4865
Bureau of Land Management, Las Vegas District Office, 4765 W. Vegas Drive, Las Vegas, Nevada 89102, (702) 388–6403
Bureau of Land Management, Battle Mountain District Office, North 2nd and Scott Streets, Battle Mountain, Nevada 89820, (702) 635–5181

Copies are also available for reviews at the following public libraries:

Churchill Public Library, 553 S. Main Street, Fallon, Nevada 89406
Elko County Library, Elko, Nevada 89801
Goldfield Public Library, Goldfield, Nevada 89013
Mineral County Library, 1st and D Streets, Hawthorne, Nevada 89415
Nye County Library, Tonopah, Nevada 89049
University of Nevada, Las Vegas, James R. Dickensen Library, 4505 Maryland Parkway, Las Vegas, Nevada 89154
Clark County Library, 1401 E. Flamingo Road, Las Vegas, Nevada 89109
Eureka County Library, Eureka, Nevada 89316
Lander County Library, Battle Mountain, Nevada 89820
Nevada State Library, 401 N. Carson Street, Carson City, Nevada 89710
University of Nevada, Reno, Getchell Library, Reno, Nevada 89507
Washoe County Library, 301 S. Center Street, Reno, Nevada 89505
White Pine County Library, Courthouse Plaza, Ely, Nevada 89301

Dated: December 17, 1984.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 84–33480 Filed 12–24–84; 8:45 am]

BILLING CODE 4310-HC-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Conoco, Inc.

AGENCY: Minerals Management Service.

ACTION: Notice of the receipt of a proposed development operations coordination document.

SUMMARY: This Notice announces that Conoco Inc., Unit Operator of the Grand Isle Block 43 Field Federal Unit Agreement No. 14–08–001–2454, submitted on December 12, 1984, a proposed Development Operations Coordination Document describing the activities it proposes to conduct on the Grand Isle Block 43 Field Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT:
Minerals Management Service, Records Management Section, Room 143, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in the proposed development operations coordination document available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 18, 1984.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 84–33475 Filed 12–24–84; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; ODECO Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document.

SUMMARY: This Notice announces that ODECO Oil & Gas Company, Unit Operator of the Ship Shoal Block 113 Field Federal Unit Agreement No. 14–08–001–2931, submitted on December 11, 1984, a proposed Development Operations Coordination Document describing the activities it proposes to conduct on the Ship Shoal Block 113 Field Federal unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Land Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT:
Minerals Management Service, Records Management Section, Room 143, open weekdays 9:00 a.m to 3:30 p.m., 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002, phone (504) 838–0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in the proposed development operations coordination document available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: December 18, 1984.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 84-33474 Filed 12-24-84; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

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 December 15, 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, D.C. 20243. Written comments should be submitted by January 10, 1985.

Carol D. Shull,

Chief of Registration, National Register.

ARIZONA

Maricopa County

Tempe, *Administration/Science Building (Tempe MRA)*, ASU Campus, Bldg. 11
Tempe, *B. B. Moeur Activity Building (Tempe MRA)*, ASU Campus, Bldg. 37
Tempe, *Grady Gammage Memorial Auditorium (Tempe MRA)*, NE Corner of Mill and Apache
Tempe, *Industrial Arts Building (Tempe MRA)*, ASU Campus, Bldg. 4
Tempe, *Matthews Hall*, ASU Campus, Bldg. 172

MARYLAND

Baltimore County

Pikesville vicinity, *Wester Ogle*, 8948–8950 Reisterstown Rd.

Garrett County

Accident vicinity, *Drane, James, House*, Accident-Bittinger Rd.

Montgomery County

Rockville, *Dawson Farm*, 1070 and 1060 Copperstone Ct.

Queen Ann's County

Centreville, *Ozmon, Capt. John H., Store*, Centreville Wharf

MICHIGAN

Gogebic County

Ironwood, *Ironwood Theatre Complex*, Aurora St.

Oakland County

Milford, *Foote, Dr. Henry K., House*, 213 W. Huron St.

Ottawa County

Holland, *Holland Old City Hall and Fire Station*, 108 E. 8th St.

Sanilac County

Lexington, *Moore, Charles H. and Albert E. Sleeper House*, 7277 Simons St.

Wayne County,

Detroit, *Elwood Bar*, 2100 Woodward

NEBRASKA

Douglas County,

Omaha, *Bemis Omaha Bag Company Building*, 614–624 S. 11th St. and 1102–1118 Jones St.
Omaha, *Blackstone Hotel*, 302 S. 36th St.

OHIO

Hamilton County

Cincinnati, *Phoenix Building/Cincinnati Club*, 30 Garfield Pl. and 812 Race St.

Licking County

Alexandria vicinity, *Shaub, Martin, Mill Site/House*, 8259 Duncan Plains Rd.

Miami County

Piqua, *Piqua-Caldwell Historic District*, N. Main, Wayne, Downing, Caldwell Sts.; W. Ash to Camp Sts.

PENNSYLVANIA

Cumberland County

Shippensburg, *Cumberland Valley State Normal School Historic District*, Roughly bounded by N. Prince St., Stewart, Old Main, Gilbert and Henderson Drives

Dauphin County

Harrisburg, *Mount Pleasant Historic District*, Sylvan Terrace to 19th St., Market to Brookwood Sts.

TENNESSEE

Shelby County

Memphis, *Evergreen Historic District*, Roughly bounded by N. Parkway, Kenilworth/McLean, Poplar and Watkins; also area bounded by Poplar, Willett, Court and Stonewall

TEXAS

Galveston County

Galveston, *Merimax Building (Central Business District MRA)*, 521 22nd St.

Kaufman County

Terrell, *First National Bank Building*, 101 E. Moore

UTAH

Cache County

Clarkson, *Clarkston Tithing Granary (Tithing Offices and Granaries of the Mormon Church TR)*, 10212 N. 8700 West
Hyrum, Hyrum Stake Tithing Office (Tithing Offices and Granaries of the Mormon Church TR), 26 W. Main St.
Lewiston, *Lewiston Tithing Office and Granary (Tithing Offices and Granaries of the Mormon Church TR)*, 87 E. 800 South
Paradise, *Paradise Tithing Office (Tithing Offices and Granaries of the Mormon Church TR)*, 8970 S. 200 West
Richmond, *Richmond Tithing Office (Tithing Offices and Granaries of the Mormon Church TR)*, 31 S. State St.
Smithfield, *Smithfield Tithing Office (Tithing Offices and Granaries of the Mormon Church TR)*, 35 W. Center

Emery County

Huntington, *Huntington Tithing Granary (Tithing Offices and Granaries of the Mormon Church TR)*, 65 W. 300 North

Millard County

Kanosh, *Kanosh Tithing Office (Tithing Offices and Granaries of the Mormon Church TR)*, Off U.S./ 91 Meadow, *Meadow Tithing Granary (Tithing Offices and Granaries of the Mormon Church TR)*, Off U.S. 91

Salt Lake County

Sandy, *Sandy Tithing Office (Tithing Offices and Granaries of the Mormon Church TR)*, 326 S. 280 East

Sanpete County

Fairview, *Fairview Tithing Office/Bishop's Storehouse(Tithing Offices and Granaries of the Mormon Church TR)*, 60 W. 100 South

Sevier County

Richfield, *Richfield Tithing Office (Tithing Offices and Granaries of the Mormon Church TR)*, 190 W. Center

Uintah County

Vernal, *Vernal Tithing Office (Tithing Offices and Granaries of the Mormon Church TR)*, NW Corner of 500 W. and 200 South

Utah County

Pleasant Grove, *Pleasant Grove Tithing Office (Tithing Offices and Granaries of the Mormon Church TR)*, 7 S. 300 East
Provo, *Lakview Tithing Office (Bunnell Creamery) (Tithing Offices and Granaries of the Mormon Church TR)*, Off UT 114

Washington County

Leeds, *Leeds Tithing Office (Tithing Offices and Granaries of the Mormon Church TR)*, SW Corner 100 W. and 100 North

The following property was erroneously listed in the **Federal Register** dated Tuesday, December 11, 1984 on pg. 48229 as being in the state of Montana.

MICHIGAN

Wayne County

Detroit, *Sweet, Ossian H., House*, 2905 Garland

CORRECTION: The address of the following property listed on Tuesday, December 18, 1984 should read as follows:

CALIFORNIA

Los Angeles County

Glendale, *U.S. Post Office (Glendale Main Post Office/Federal Building) (U.S. Post Office in California 1900–1941 TR), 313 E. Broadway*

[FR Doc. 84–33385 Filed 12–24–84; 8:45 am]

BILLING CODE 4310–70–M

Upper Delaware National Scenic and Recreational River; Citizens Advisory Council; Meeting

AGENCY: National Park Service, Interior.

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: January 25, 1985, 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. 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: December 14, 1984.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 84–33442 Filed 12–24–84; 8:45 am]

BILLING CODE 4310–70–M

Gateway National Recreation Area; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Gateway Advisory Commission. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: January 8, 1985, commencing at 3 p.m.

ADDRESS: Gateway Hilton, Raymond Boulevard, Newark, New Jersey.

FOR FURTHER INFORMATION CONTACT: Robert W. McIntosh, Jr., Superintendent, Gateway National Recreation Act, Headquarters, Building No. 69, Floyd Bennett Field, Brooklyn, New York 11234, (718) 338–3578.

SUPPLEMENTARY INFORMATION: The Advisory Commission was established by Pub. L. 92–592, to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Gateway National Recreation Area. The agenda for the meeting will include: (1) Status, Floyd Bennett Field; (2) Status, Fountain Avenue Landfill; (3) Report, Winter Programs; (4) Park Land Protection Plan; (5) New Business.

The meeting will be open to the public. The facility at which the meeting will be held is considered physically accessible. If interpretive services for the deaf or hearing impaired will be needed, they should be requested within five working days before the meeting. Facilities and space to accommodate members of the public are limited, and persons will be accommodated on a first-come, first-served basis.

Any member of the public may file with the Commission a written statement concerning agenda items to be discussed. The statement should be addressed to the Commission, c/o Gateway National Recreation Area, Building No. 69, Headquarters, Floyd Bennett Field, Brooklyn, New York 11234. Minutes of the meeting will be available for inspection four weeks after the meeting at Gateway National Recreation Area Headquarters Building in Brooklyn, New York.

Dated: December 18, 1984.

Robert W. McIntosh, Jr.,

Superintendent, Gateway National Recreation Area.

[FR Doc. 84–33512 Filed 12–24–84; 8:45 am]

BILLING CODE 4310–70–M

Office of Surface Mining Reclamation and Enforcement

Availability of Annual Evaluation Reports on the Administration of State Regulatory and Abandoned Mine Lands Programs Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Notice of availability.

SUMMARY: OSM is announcing the availability of two annual evaluation reports on the administration of State regulatory and abandoned mine lands (AML) programs under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The two reports, covering the States of Alabama and North Dakota, were prepared under the provisions of OSM's oversight policy and have been transmitted to Congress.

ADDRESS: See **SUPPLEMENTARY INFORMATION** for the addresses where copies of the reports may be obtained.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining, 1951 Constitution Avene, NW, Washington, D.C. 20240; Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION: Copies of the reports are available, free of charge, at the respective OSM offices listed below:

1. *Alabama:* Birmingham Field Office, Office of Surface Mining, 228 West Valley Avenue, Homewood, Alabama 34209.

2. *North Dakota:* Casper Field Office, Office of Surface Mining, Freden Building, 935 Pendell Boulevard, Mills, Wyoming 82644.

Background

Under Section 503 of SMCRA, a State may elect to assume primary responsibility for regulating surface coal mining and reclamation operations within its borders by submitting a program to the Secretary of the Interior which demonstrates the State's capability to carry out the provisons of SMCRA. Once the Secretary approves

the program, the State is granted primacy, and the Federal government assumes a monitoring and evaluation role. OSM has developed an evaluation policy, in consultation with the State's which is implemented primarily through OSM's Field Offices. Monitoring of the State's administration and enforcement of its regulatory and AML programs is conducted throughout the year. The Field Office Directors compile and analyze the data gathered during the evaluation period and prepare annual evaluation reports for transmittal to Congress. The schedule for the report calls for staggered completion dates.

The first six evaluation reports for this year (Colorado, Kentucky, Mississippi, Montana, Ohio and West Virginia) were completed and sent to Congress September 5, 1984. These final reports were made publicly available on September 17, 1984 (49 FR 36453). Four additional evaluation reports for Alaska, Illinois, Maryland and Virginia were completed and sent to Congress September 28, 1984 and were made publicly available on October 16, 1984 (49 FR 40453). OSM has now completed two additional reports for Alabama and North Dakota. These final reports were sent to Congress on November 26, 1984, and are now publicly available. As the remaining reports are completed, OSM plans to make them available also.

Dated: December 20, 1984.

John D. Ward,

Director, Office of Surface Mining.

[FR Doc. 84-33477 Filed 12-24-84; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF JUSTICE

Proposed Amendment to Final Judgment on Consent; Puerto Rico Aqueduct and Sewage Authority

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed amendment modifying the final judgment in *United States* v. *Puerto Rico Aqueduct and Sewage Authority*, C. A. Nos. 78-0038(TR) and 83-0105(TR) was lodged with the Clerk of the United States District Court for the District of Puerto Rico on December 12, 1984. The proposed amended judgment requires that 92 sewage treatment facilities be subject to oversight by a Court-appointed "Monitor," that all facilities achieved secondary treatment in accordance with compliance schedule, that PRASA set aside $1.2 million for remedial actions, that PRASA pay a $100,000 penalty for past violations and that identified employees be liable for contempt sanctions for future violations of the judgment.

The Department of Justice will receive for thirty (30) days from the publication date of this office, written comments relating to the proposed amendment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resourse Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Puerto Rico Aqueduct and Sewage Authority*, 90-5-1-1-1793.

The amendment can be examined at the Office of the United States Attorney, 101 Federal Building, Carlos Chardon Environmental Protection Agency, Office of Regional Counsel, 26 Federal Plaza, New York, New York and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice (Room 1515), Ninth and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the amendment can be obtained in person or by mail from the Environmental Enforcement Section at a cost of $29.30 (10 cents per page) at the above address.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84-33459 Filed 12-24-84; 8:45 am]

BILLING CODE 4410-01-M

Proposed Consent Decree in Clean Water Act Enforcement Action; City of Welch, WV

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent degree in *United States* v. *City of Welch, West Virginia*, was lodged with the Clerk of the United States District Court for the Southern District of West Virginia on November 16, 1984. The decree requires the City to build a sewage treatment plant and to meet secondary treatment levels by August 1, 1987. The city is required to pay a $2,000.00 penalty for past violations and stipulated penalities for any future violations of the consent decree.

The Department of Justice will receive for thirty (30) days from the publication date of this notice, written comments relating to the decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *City of Welch*, 90-5-1-1-813.

The consent decree can be examined at the office of the United States Attorney, P.O. Box 3234, Charleston, West Virginia 25332, at the Region III office of the Environmental Protection Agency, Office of Regional Counsel, 6th and Walnut Streets, Philadelphia, Pennsylvania and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice (Room 1515), Ninth and Pennsylvania Avenue, NW, Washington, D.C. 20530. A copy of the consent decree can be obtained in person or by mail from the Environmental Enforcement Section at a cost of one dollar (10 cents per page) at the above address.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 84-33460 Filed 12-24-84; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

National Cooperative Research Act; Implementation

Notice is hereby given that on December 11, 1984, J. Paul McGrath, Assistant Attorney General in charge of the Antitrust Division, issued a statement regarding the Department's implementation of the notification and **Federal Register** notice provisions of the National Cooperative Research Act of 1984, Pub. L. 98-462, 98 Stat. 1815 (1984). The Act is designed to promote research and development, encourage innovation, stimulate trade, and make necessary and appropriate modifications in the operation of the antitrust laws.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

For Immediate Release

Tuesday, December 11, 1984

The Department of Justice released today a statement by J. Paul McGrath, Assistant Attorney General in charge of the Antitrust Division, regarding the Department's implementation of the notification and **Federal Register** notice provisions of the National Cooperative Research Act of 1984.

Under the Act, parties to joint research and development ventures may limit their possible antitrust damage exposure to actual, as opposed to treble, damages by filing a notification with the Department of Justice and the Federal Trade Commission.

Assistant Attorney General McGrath's statement, concurred in by the FTC, identifies the offices to which notifications should be delivered, and advises parties on how to facilitate the publication by the Department of Justice of the **Federal Register** notice required by the Act. The complete text of McGrath's statement follows:

"On October 11, 1984, President Reagan signed into law S. 1841, the National Cooperative Research Act of 1984 (Pub. L. 98–462). Cooperative research and development efforts may improve productivity, bring better products to consumers sooner and at lower cost, and enable American business and industry to keep pace with foreign competitors in a world increasingly dependent on technological innovation. By significantly improving the legal climate, the National Cooperative Research Act should stimulate innovative research and development by the private sector. The legislation clarifies the application of the antitrust rule of reason to joint R&D ventures and establishes special attorneys' fee rules to antitrust cases challenging such ventures. It also provides parties to such ventures with the opportunity to limit any possible monetary relief that might be sought from them in actions brought under the antitrust laws to actual—as opposed to treble—damages.

"The new rule-of-reason and attorneys' fee provisions automatically cover all joint R&D ventures as defined in the Act. However, the Act's damage protection depends on the filing of a notification with the antitrust enforcement agencies. In order to obtain damage protection, any party to a joint research and development venture may, not later than 90 days after entering into a written agreement to form the venture, or not later than 90 days after the date of enactment of the Act, whichever is later, file simultaneously with the Attorney General and the Federal Trade Commission a written notification disclosing the identities of the parties to the venture and its nature and objectives. The manner and extent of this disclosure is left to the parties; they are to exercise their own discretion in determining the quantity and form of the material required to describe the nature and objectives of their venture. Parties should be aware, however, that the detrebling protection of the Act is based on the contents of their notification. Such additional notifications as are appropriate to extend the Act's protection to new or different activities undertaken by a venture also may be filed. In order to maintain the protection of the Act, a joint R&D venture must file a notification disclosing any change in its membership within 90 days of the change.

"The responsibilities of the Attorney General under the Act have been delegated to the Assistant Attorney General in charge of the Antitrust Division. Written notifications filed pursuant to the Act should be delivered to each of the following offices:

Evaluation Office, Bureau of Competition, Room 392, Federal Trade Commission, Washington, D.C. 20580; and

Director of Operations, Antitrust Division, Room 3214, Department of Justice, Washington, D.C. 20530.

"The Act further provides that the Attorney General or the Commission shall, not later than 30 days after receiving notification of a joint research and development venture, publish in the **Federal Register** a notice that identifies the parties to the venture and describes in general terms its area of planned activity. Prior to publication, the notice must be made available to the parties. Any person who files a notification may withdraw it before notice is published in the **Federal Register**, but notification so withdrawn will not confer the Act's protection on the parties to the joint R&D venture involved. The Department of Justice will publish all **Federal Register** notices under the Act. Submission of the following along with a notification will facilitate most prompt publication of a notice under the Act:

"1. A draft **Federal Register** notice.

"2. Evidence that the party filing the notification has been authorized by each party to the joint R&D venture to review on its behalf the notice that is to be published in the **Federal Register**, or, alternatively, the names and addresses of other persons to whom the notice should be made available prior to publication.

"3. An extra copy of the notification materials to the Antitrust Division.

"The Federal Trade Commission concurs in this statement."

[FR Doc. 84–33479 Filed 12–24–84; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

The Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: January 8, 1984, 9:30 a.m., Rm. S4215 A & B, Frances Perkins, Department of Labor Building, 200 Constitution Avenue, NW, Washington, D.C. 20210

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

FOR FURTHER INFORMATION CONTACT: Fernand Lavallee, Executive Secretary, Labor Advisory Committee, Phone: (202) 523–6565, December 12, 1984.

Signed at Washington, D.C. this 12th day of December 1984.

Robert W. Searby,

Deputy Under Secretary, International Affairs.

[FR Doc. 84–33513 Filed 12–24–84; 8:45 am]

BILLING CODE 4510-20-M

Mine Safety and Health Administration

[Docket No. M–84–242–C]

Blair Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Blair Coal Company, Inc., P.O. Box 126, Steele, Kentucky 41566 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. H–1 Mine (I.D. No. 15–08458) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine ranges from 36 to 56 inches in height with consistent ascending and descending grades creating dips in the coal bed.

3. Petitioner states that the use of canopies could result in a diminution of safety for the miners affected because the canopies can strike and destroy the roof support system. The canopies also limit the equipment operator's visibility and hamper the operator's seating position, forcing the operator to lean out from under the canopy, exposing body parts to potential injury.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and

Variances, Mine Safety and Health Administration, Room 637, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 25, 1985. Copies of the petition are available for inspection at that address.

Dated: December 17, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-33502 Filed 12-24-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-257-C]

Booker Fork Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Booker Fork Coal Corporation, Box 190, Dorton, Kentucky 41520 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 2 Mine (I.D. No. 15-13730) located in Pike County, Kentucky. The petitition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is in the No. 2 Elkhorn seam and ranges from 42 to 50 inches in height with consistent ascending and descending grades creating dips in the coalbed.

3. Petitioner states that the canopies can strike and dislodge the roof support. The canopies also restrict the equipment operator's seating position and visibility, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 25, 1985. Copies of the petition are available for inspection at the address.

Dated: December 17, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-33503 Filed 12-24-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-252-C]

C.R. & C. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

C.R. & C. Coal Company, Box 131, R.D. #1, Lydens, Pennsylvania 17048 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity, and velocity) to its No. 6 Vein Slope (I.D. No. 36-07289) located in Dauphin County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Air sample analysis history reveals that harmful quantities of methane are non-existent in the mine.

2. Ignition, explosion and mine fire history are non-existent for the mine.

3. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

4. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

5. Extremely high velocities in small cross-sectional areas of airways and manways required in friable anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

6. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

7. As an alternate method, petitioner proposes that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that any be required in any of these areas to maintain a safe and healthful mine atmosphere.

9. Petitoner states that the alternate method proposed will at all times provide the same measure of protection for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 25, 1985. Copies of the petition are available for inspection at that address.

Dated: December 17, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-33504 Filed 12-24-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-24-M]

International Salt Company; Petition for Modification of Application of Mandatory Safety Standard

International Salt Company, 3846 Retsof Road, Retsof, New York 14539 has filed a petition to modify the application of 30 CFR 57.21-20(b) (installation of main fans) to its Sterling "B" Shaft (I.D. No. 30-0264) located in Livingston County, New York. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that main fans be installed to permit prompt reversal of airflow.

2. Ventilation is by a surface fan at the collar blowing through flexible vent tubing installed in the shaft. The vent tubing has been lowered on steel cables to the plugged area of the shaft at approximately 500-foot depth, which allows the entire open portion of the shaft to be purged of contaminants. The work stage has started at the surface and the shaft is being secured from the collar downward. There is no access by miners to the lower portion of the shaft where the majority of the vent tubing is in place. Access will be provided only as the shaft is made safe as the miners work their way down. For this reason, the vent tubing had to be lowered before access was provided into the shaft.

3. Petitioner states that application of the standard would result in a diminution of safety for the miners affected because flexible tubing is incompatible with ventilation reversal. The tubing will collapse and the system will fail if the fan is reversed.

4. Petitioner states that rigid tubing must be used if the fan is to be reversed and that the hazards associated with suspending a heavy rigid tubing within the shaft are not justified.

5. Petitioner further states that the existing ventilation system uses two fans in parallel, either one of which will

operate if the other fails. Immediate back-up is available with a diesel generator set. A back-up exhausting fan is mounted at the collar with a second diesel generator set as a back-up power supply to this fan.

6. For these reasons, petitioner contends that the blowing system is use with lightweight flexible tubing, designed to control all contaminants throughout the shaft area, with back-up fans and power onsite, is the best and safest system of ventilation, and requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 25, 1985. Copies of the petition are available for inspection at that address.

Dated: December 17, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-33505 Filed 12-24-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-238-C]

Maynard Branch Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Maynard Branch Mining Co., Inc., Route 1, box 121 Elkhorn City, Kentucky 41522 has filed a petition to modify the application of 30 CFR 75.1710 (cabls and canopies) to its Mine No. 1 (I.D. No. 15-10673) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The mine is in the Elkhorn seam and ranges in height from 42 to 48 inches, with consistent ascending and descending grades creating dips in the coalbed.

3. Petitioner states that the canopies can strike and destroy roof support, resulting in a diminution of safety. In addition, the canopies limit the equipment operator's seating position and visibility, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administraion, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 25, 1985. Copies of the petition are available for inspection at that address.

Dated: December 17, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-33506 Filed 12-24-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-27-M]

Rio Algom Mining Corp.; Petition for Modification of Application of Mandatory Safety Standard

Rio Algom Mining Corporation, La Sal Route, Moab, Utah 84532 has filed a petition to modify the application of 30 CFR 57.21-46 (crosscut intervals) to its Lisbon Mine (I.D. No. 42-00677) located in San Juan County, Utah. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that crosscuts be made at intervals not in excess of 100 feet between entries and between rooms.

2. As an alternate method, petitioner seeks a modification of the standard to allow mining a maximum distance of 500 feet prior to making a connection between entries and rooms. This additional interval distance will improve mine ventilation, and permit extraction of ore blocks otherwise presently curtailed by limited ventilation controls.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 25, 1985. Copies of the petition are available for inspection at that address.

Dated: December 17, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-33507 Filed 12-24-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-250-C]

Scotts Branch Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Scotts Branch Mining Company, 1100 Superior Avenue, Cleveland, Ohio 44114 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Scotts Branch Mine (I.D. No. 15-08079) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that entries used as intake and return aircourses be separated from belt haulage entries and that belt haulage air not be used to ventilate active working places.

2. As an alternate method, petitioner proposes to use belt haulage air to ventilate active working places. In support of this request, petitioner proposes to install and maintain a carbon monoxide monitoring system with specific conditions in the conveyor belt entry.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Requests for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 25, 1985. Copies of the petition are available for inspection at that address.

Dated: December 17, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84-33508 Filed 12-24-84; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-84-251-C]

Scotts Branch Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Scotts Branch Mining Company, 1100 Superior Avenue, Cleveland, Ohio 44114 has filed a petition to modify the application of 30 CFR 75.1103 (automatic fire warning devices) to its Scotts Branch Mine (I.D. No. 15–08079) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that devices be installed on all belts which will give a warning automatically when a fire occurs on or near such belt.

2. As an alternate method, petitioner proposes to install and maintain a carbon monoxide monitoring system with specific conditions in the conveyor belt entry.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 25, 1985. Copies of the petition are available for inspection at that address.

Dated: December 17, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84–33509 Filed 12–24–84; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M-84-20-M]

Signal Mountain Cement Co.; Petition for Modification of Application of Mandatory Safety Standard

Signal Mountain Cement Company, 1300 American National Bank Building, Chattanooga, Tennessee 37402 has filed a petition to modify the application of 30 CFR 56.16–14(b) (cranes) to its Cement Plant (I.D. No. 40–00838) located in Hamilton County, Tennessee. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that operator-carrying overhead cranes be provided with automatic switches to halt uptravel of the blocks before they strike the hoist.

2. Petitioner seeks a modification of the standard because the craneway is a covered building that stores the raw materials. The overhead crane feeds the raw materials into the production process. All areas under the overhead crane are clear of personnel and no workers are present under the cranes while in operation. Therefore, no exposure exists if the crane cable breaks. Only when the cable breaks and the system is inoperable do workers go into the storage area to repair the crane bucket.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 25, 1985. Copies of the petition are available for inspection at that address.

Dated: December 17, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84–33510 Filed 12–24–84; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M-84-26-M]

White River Shale Oil Corp.; Petition for Modification of Application of Mandatory Safety Standard

White River Shale Oil Corporation, P.O. Box 790040, Vernal, Utah 84079 has filed a petition to modify the application of 30 CFR 57.21–46 (crosscut intervals) to its White River Shale Project (I.D. No. 42–01793) located in Uintah County, Utah. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirements that crosscuts be made at intervals not in excess of 100 feet between entries and between rooms.

2. As an alternate method for the purpose of establishing a test area to provide data for mine design, petitioner proposes to excavate a single entry for approximately 620 feet with ventilation supplied by an auxiliary fan and ventilation tubing. The face area will be ventilated by approximately 31,000 cfm of air taken directly from a fresh air split. At completion, there will be a connection made to another drift allowing flow-thru ventilation and eliminating the need for the auxiliary fan and ventilation tubing. All persons will be removed from the mine during blasting and work not permitted to resume until sampling indicates acceptable methane concentrations.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 25, 1985. Copies of the petition are available for inspection at that address.

Dated: December 17, 1984.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 84–33511 Filed 12–24–84; 8:45 am]

BILLING CODE 4510–43–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum Services; Information Collection Requirements Submitted to OMB

The Institute of Museum Services (IMS) has submitted the following collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Copies of this submission are available at IMS from Kristine K. Ramaekers, (202) 786–0539. Send comments to Joe Lackey, Office of Management and Budget, Room 3208 NEOB, Washington, D.C. 20503.

Title: 1985 Conservation Project Support Grant Application and Information

Form No.: IMS 104

Action: Revision

Respondents: Non-Profit Institutions

Estimated Annual Burden Hours: 600
Respondents; 9,000 Hours

Susan E. Phillips,

Director, Institute of Museum Services.

[FR Doc. 84-33443 Filed 12-24-84; 8:45 am]

BILLING CODE 7036-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

Availability of Recommendation Responses

Responses from

Highway—Federal Highway Administration: Nov. 9: H-84-40: Is developing two supplements to the Bridge Inspector's Training Manual. The first, "Inspection of Fracture Critical Bridge Members," and a companion training course will be made available to all States to enhance their inspection skills and to emphasize the special care which must be taken to inspect and ensure the safety of bridges with fracture-critical details. The second manual and a companion training course will cover "Inspection of Long Span Culverts," which will address the inspection and evaluation of a particular structure type for which no guidance has been issued to date. *H-84-41:* Will update 23 CFR 650.303 in 1985. *H-84-42:* A checklist for bridge inspectors was developed in conjunction with the Bridge Inspector's Training Manual and has been made available to all interested States since 1971. *H-84-43:* Is reviewing the National Bridge Inspection Standards, and recommendations for improving effectiveness will be given in 1985. *H-84-44:* A videotape describing in detail the best methods for inspecting pin and link hanger connections has been distributed to all States through FHWA field offices and is available to all interested parties through the FHWA's National Highway Institute. *H-84-45:* The new manual "Inspection of Fracture Critical Bridge Members" will prescribe objective dimensional standards for the alignment of bridge spans to facilitate detection of misalignment caused by deterioration of pin and hanger assemblies. *H-84-46:* The new manual "Inspection of Fracture Critical Bridge Members" will accommodate the recommendation to identify bridges that have a pin and hanger assembly design using bearing stresses above those allowed by the 1983 Interim Specification—Bridges, 1983 of the American Association of State Highway and Transportation Officials, and designate them for frequent inspection. *H-84-47:* The National Bridge Inspection Standards require the inspections and ratings of bridges for planning large-scale replacement or rehabilitation funding in sufficient depth and detail to address all elements critical to bridge safety. *H-84-48:* Issued through its field organization instructions that inspectability and accessibility be considered in bridge design. *H-84-49:* Discussions are underway with researchers to evaluate the feasibility of studying the Mianus River Bridge and other representative bridges having a skewed and nonskewed suspended span design with pin and hanger assemblies to determine whether there is a significant difference between the two designs in terms of the movement of hangers on pins due to either dead or live loading and whether such movement is acceptable. *H-84-50:* Sent a July 16, 1984, memorandum to regional administrators implementing a procedure concerning State development of individualized inspection procedures for bridges that have critical elements whose failure will almost certainly result in a catastrophic failure of the bridge. *H-84-51:* The new manual "Inspection of Fracture Critical Bridge Members" will prescribe criteria for in-depth inspections of pin and hanger assemblies based on objective measures of the risk of hidden deterioration. *H-84-52:* To the degree currently possible, the new manual "Inspection of Fracture Critical Bridge Members" will prescribe an objective standard for repair or replacement of pin and hanger assemblies according to measured conditions of misalignment, distortion, or changes in the position of elements of the assembly. *H-84-53:* The Bridge Inspector's Training Manual has been punched for assembly in a three-hole ring binder since it was first issued in 1970 to permit additions or corrections by the Federal Highway Administration, States, or individual inspectors. *H-84-54:* A review of the training of bridge inspectors is currently included in FHWA reviews of State bridge inspection programs.

State of Washington Traffic Safety Commission: Dec. 4: H-84-19 through -21: Has drafted an act relating to sobriety checkpoints for presentation during the 1985 legislation session.

Marine—*U.S. Coast Guard: Nov. 28: M-84-17:* The installation of a means of automatically recording engine orders during maneuvering and a means of automatically recording the vessel's headings would not prevent accidents, but would only be used in the postaccident analysis. *M-84-18:* Further guidance will be prepared and distributed on the subject of U.S. Coast Guard vessels using commercial tugs for assistance in berthing retaining the services of a qualified docking pilot. *M-84-19:* Rather than establishing a formal program to cover a few particular cases, commanding officers will be advised to contact local tug companies for acquiring information on use of tugs when they are required. This will be emphasized in a change to Coast Guard Regulations.

Railroad—*The Alton & Southern Railway Company: Dec. 13: R-84-20:* Has installed some chrome-vanadium alloy, high strength vacuum-treated rail. Rail in main track is not cut with a torch.

Missouri-Kansas-Texas Railroad Company: Dec. 11: R-84-20: Has for many years prohibited torch cutting of rails to be installed in track. Reissued its instructions making specific reference to alloy steel rails.

Intermodal—*U.S. Coast Guard: Nov. 27: I-84-5:* Participates in the American Society for Testing and Materials F23 Protective Clothing Committee and will be a member of the National Fire Protection Association's analogous committee when established. Is taking and active role in multi-agency coordination with the Environmental Protection Agency, Federal Emergency Management Agency, and the National Institute of Occupational Safety and Health to develop uniform encapsulated suit specifications and procedures. Intends to use its own specifications, which are in the process of being finalized, as the basis for joint government specifications to fulfill each organization's hazardous chemical personnel protection needs.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 14 cents per page ($1 minimum charge).

Dated: December 21, 1984.

H. Ray Smith, Jr.,

Federal Register Liaison Officer.

[FR Doc. 84-33400 Filed 12-24-84; 8:45 am]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Extension.

2. The title of the information collection: NMSS Caseload Planning Survey.

3. The form number if applicable: Not applicable.

4. How often the collection is required: Once annually.

5. Who will be required or asked to report: Current NRC licensees and potential applicants under 10 CFR Parts 40, 70, 71, and 72 engaged in providing nuclear fuel and associated services to the nuclear power industry.

6. An estimate of the number of responses: 70.

7. An estimate of the total number of hours needed to complete the requirement or request: 4 hours per respondent, for a total of 280 hours.

8. An indication of whether section 3504 (h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: The information collected serves as the basis for agency planning projections used in budget formulation and staffing plans for licensing of all domestic activities regulated by the agency except reactors.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395–7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Betesda, Maryland, this 20th day of December 1984.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 84–33515 Filed 12–24–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–320]

General Public Utilities Nuclear Corp. (Three Mile Island Nuclear Station, Unit 2); Exemption

I

GPU Nuclear Corporation, Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (collectively, the licensee) are the holders of Facility Operating License No. DPR–73, which had authorized operation of the Three Mile Island Nuclear Station, Unit 2 (TMI–2) at power levels up to 2772 megawatts thermal. The facility, which is located in Londonderry Township, Dauphin County, Pennsylvania, is a pressurized water reactor previously used for the commercial generation of electricity.

By Order for Modification of License, dated July 20, 1979, the licensee's authority to operate the facility was suspended and the licensee's authority was limited to maintenance of the facility in the present shutdown cooling mode (44 FR 45271). By futher Order of the Director, Office of Nuclear Reactor Regulation, dated February 11, 1980, a new set of formal license requirements was imposed to reflect the post-accident condition of the facility and to assure the continued maintenance of the current safe, stable, long-term cooling condition of the facility (45 FR 11292). This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

In a letter dated April 18, 1984, the licensee requested an exemption from the requirements of 10 CFR Part 50 relative to Seismic Monitoring Instrumentation. 10 CFR 50.36(c)(3) requires surveillance requirements "* * * to assure that the necessary quality of systems and components is maintained, that facility operation will be within the safety limits, and that the limiting conditions of operation will be met." 10 CFR Part 100, Appendix A, Section VI(a)(3) states that:

> Suitable instrumentation shall be provided so that the seismic response of nuclear power plant features important to safety can be determined promptly to permit comparison of such response with that used as the design basis. Such a comparison is needed to decide whether the plant can be operated safely and to permit such timely action as may be appropriate.
>
> These criteria do not address the need for instrumentation that would automatically shut down a nuclear power plant when an earthquake occurs which exceeds a predetermined intensity. * * *

Presently, Section 4.3.3.3.1 of the TMI–2 PTS requires that Transaxial Time–History Accelographs be operable for the Reactor Building Ring Girder and the Reactor Building Mat; that Triaxial Peak Accelographs be operable for the Reactor Service Structure, "B" Core Flood Tank Piping and 2–IE Switchgear; that Triaxial Seismic Switches be operable for the Reactor Building Base and that Triaxial Response—Spectrum Recorders be operable for the Reactor Building Mat.

III

The TMI–2 core is cooled via loss of heat to the reactor building environment. This is a passive mode that does not require any mechanical equipment to be operating to maintain an ability to cool the core. As stated in 10 CFR Part 100, Appendix A, Section VI(a)(3), one of the reasons for seismic instrumentation is to decide whether or not the plant can be operated safely. In the July 20, 1979 Order for Modification of License, the authority to operate the facility was suspended and the licensee's authority was limited to the maintenance of the facility in the present shutdown cooling mode. Therefore this basis for Section VI(a)(3) does not apply to TMI–2. In reference to the seismic instrumentation providing information for timely actions by plant personnel and the NRC, it is the staff's opinion that if a seismic event were to occur at TMI, the status of the core would not be affected because of the passive cooling mode and therefore no immediate actions would have to be taken to maintain the health and safety of the public. It is also the staff's opinion that when considering the above discussion, maintenance and surveillance requirements for seismic instrumentation is also not justified and is an unnecessary burden on the licensee.

Because of the suspension of the licensee's authority to operate the facility in other than the present recovery mode as defined in the proposed technical specifications, certain of the regulations, which are intended to apply to normal operating plants, are simply inappropriate and, more significantly, are unnecessary to protect the public health and safety. Given the unique status of the plant in terms of primary system temperature and pressure, available fission product inventory, the ability to cool the reactor without forced circulation (loss-to-ambient), and the low decay heat rate, maintenance of the facility with the exemptions granted hereby will provide an adequate level of safety.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Based on the discussions above, the Commission hereby grants an exemption

to the requirements of 10 CFR 50.36(c)(3) and 10 CFR Part 100, Appendix A, Section VI(a)(3) relative to seismic instrumentation.

It is further determined that the exemption does not authorize a change in effluent types or total amounts nor an increase in power level and will not result in any significant environmental impact. In light of this determination and as reflected in the Environmental Assessment and Notice of Finding of No Significant Environmental Impact prepared pursuant to 10 CFR 51.21 and 51.30 through 51.32, issued concurrently herewith, it was concluded that the instant action is insignificant from the standpoint of environmental impact and an environmental impact statement need not be prepared.

Effective Date: December 19, 1984.

Dated at Bethesda, Maryland.

Issuance Date: December 19, 1984.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 84-33522 Filed 12-24-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-315 and 50-316]

Indiana and Michigan Electric Co. (Donald C. Cook, Nuclear Station, Units 1 and 2); Exemption

The Indiana and Michigan Electric Company (the licensee) is the holder of Facility Operating Licenses Nos. DPR-58 and DPR-74 which authorize the operation of the Donald C. Cook Nuclear Station, Units Nos. 1 and 2 (the facilities), at reactor power levels not in excess of 3250 and 3411 megawatts thermal (rated power), respectively. The facilities are Westinghouse designed pressurized water reactors located at the licensee's site in Berrien County, Michigan.

The license is subject to all rules, regulations and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II

10 CFR Part 50.55a requires that piping and components of boiling and pressurized water reactor plants be examined and pressure tested to the requirements of Section XI of the ASME Code and that the examinations and tests be completed during each of four (4) ten-year intervals. These ten-year intervals are calculated from the start date of commercial operation of the facility.

10 CFR Part 50.55a(g)(4) requires that licensees update their inservice inspection (ISI) and pump and valve inservice (IST) programs to a newer edition of Section XI of the Code each ten years. Since the regulations require these updates based on the 10-year anniversary of facility commercial operation, multi-units sites often find that each unit has an ISI and IST program structured for a slightly different edition of the Code.

By letter dated March 15 and subsequently modified by letter dated May 11, 1984, the licensee requested an exemption to the requirements to 10 CFR Part 50.55a(g)(4) which would allow the use of common start date for ISI and IST for both units.

According to the regulations, the second ten-year interval for the ISI and IST program should begin on August 23, 1985 and July 1, 1988 for D. C. Cook Units 1 and 2, respectively. The licensee has requested a common start date of July 1, 1986. The Commission's staff has reviewed this request and has determined that a common ISI and IST start date for two units has inherent administrative, technical, and cost saving advantages, both to the licensee and to the Commission. The staff has concluded that:

1. The same Code edition and addenda, by regulation, can be used as the basis for the ISI and IST program for both units;

2. Since the units are similar in design, only one ISI and IST program would have to be written and submitted by the licensee;

3. The Commission's staff would have to review and approve only one submittal instead of two;

4. The Commission's staff would have to inspect for compliance against only one program instead of two; and

5. The change of the ISI and IST start date to July 1, 1986, will not affect the completion schedule of examinations and pressure tests for the Units. However, some tests on Unit 2 will be conducted to the first ten year interval criteria; relief granting these changes are the subject of separate Commission action.

The selected start date of July 1986 is basically two years prior to that which would normally be required by the regulations for D. C. Cook Unit 2 and one year later than required for Unit 1. Future program updates for Unit 1 will constitute update to a newer Code sooner than would normally be required. For Unit 2 the ISI and IST program will be in accordance with a slightly older edition of the Code than would have been required by the regulations, but the Commission's staff concludes that the use of a single ISI and IST program for both D. C. Cook Units is more beneficial in terms of net overall plant safety and both the older and newer editions of the Code provide acceptable standards for the ISI and IST program.

Therefore, the staff concludes that the exemption request should be granted. If a common start date were not established, the ISI and IST programs at D. C. Cook would be accomplished, for some period of time, to two different ASME Codes. Although administratively possible, this situation could contribute to increased personnel errors in the performance of inspection and testing requirements to two different versions of the Code. This can create a substantial and additional administrative workload for what can be described as only nominal technical differences in the inspection and testing requirements.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption requested by the licensee's letter of May 11, 1984 is authorized by law, and will not endanger life or properety or the common defense and security, and is otherwise in the public interest. The Commission hereby grants to the licensee an exemption from the requirements of 10 CFR 50.55a(g)(4).

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the exemption will have no significant impact on the environment (49 FR 47666).

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland this 29th day of November 1984.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Director, Division of Licensing, Office of Nuclear Regulation.

[FR Doc. 84-33523 Filed 12-24-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-388]

Pennsylvania Power & Light Co., Susquehanna Steam Electric Station Unit 2; Exemption

I

The Pennsylvania Power and Light Co. (PP&L/the licensee) is the holder of Facility License No. NPF-22 which authorizes operation of Susquehanna Steam Electric Station Unit 2 (SSES-2) at power levels not in excess of 3293 megawatts thermal. The facility is a Boiling Water Reactor located at the licensee's site in Luzerne County, Pennsylvania. The license provides,

among other things, that it is subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

II

Inerting the containment for the SSES–2 plant is required by 10 CFR 50.44 (revised). In 10 CFR 50.44, "Standards for combustible gas control system in light-water-cooled power reactors," § 50.44(c)(3)(i) states that, "Effective May 4, 1982 or 6 months after initial criticality, whichever is later, an inerted atmosphere shall be provided for each boiling light-water nuclear power reactor with a Mark I or Mark II type containment."

Sinse SSES–2 achieved its initial criticality on May 7, 1984, the plant is required to be inerted by November 8, 1984, per the 10 CFR 50.44 requirement set forth above. On October 27, 1984 SSES–2 was shut-down for a pre-commercial outage scheduled to last thru the end of December 1984. Prior to start-up presently scheduled for January 1985, the licensee needs an exemption so it may continue operating the plant with a non-inerted containment during the balance of the initial startup test program.

The exemption from the regulation is required in order to complete the balance of the power ascension test program (PATP) in accordance with the licensee's test plan. The licensee's test plan is based on maintaining the containment in a non-inerted condition until after completing the 100% rated thermal trip test, a condition which normally would be expected to occur within about 120 effective full power days of core burn-up. No changes are being made in the maximum full power days of core burn-up normally expected before inerting is required. In fact to assure this, the maximum expected value of 120 effective full power days is made part of the proposed action. The licensee's PATP schedule has not been maintained as originally planned. This has resulted in a simple stretch out of the time required to complete all post criticality PATP tests.

It is advantageous to operate the reactor without inerting during the PATP, as an uninerted containment would permit unscheduled inspections or identification of possible problems important to safety during this period. The anticipated high frequency of containment entries during the PATP period and the required deinerting and re-inerting time (about 24 hours) would tend to discourage early and frequent containment entries for identifying and correcting any potential safety problems before they become serious safety problems.

III

The NRC staff has evaluated the licensee's current schedule for completing the preoperational test program and believes that to now require inerting before the PATP tests have been completed could result in less assurance of safety, because of the added time and/or decreased ability to directly examine and evaluate components and systems inside containment while the PATP tests are under way. Completing the PATP tests with an uninerted containment then would reduce the likelihood of development of an event requiring protective safety actions both during the period of exemption and later. Because of the low level of fission product inventory during the PATP period, (less than 42 effective full power days (FPD) at present increasing to the maximum of only 120 FPD) and the short duration anticipated for the exemption (about 2–3 weeks of remaining PATP testing after start-up), there is an extremely low likelihood that the inerting system would be required.

Based on the information provided by the licensee and the staff's assurance that the remainder of the PATP tests will be performed in essentially the same manner as originally planned with respect to the magnitude and duration of power levels for each remaining PATP test, the NRC staff concludes that there will be no increase in the risks of operation through completion of the PATP tests with the proposed limited exemption regarding initial inerting over the risks that were contemplated for the duration of the PATP tests at the time the plant was licensed. Therefore, since there is no perceived increased risk by the mere fact of extending the time allowed for completion of the PATP tests under uninerted conditions, the NRC staff finds that operation would be as safe under the conditions proposed by the exemption as it would have been had the tests been completed in the shorter calendar time of six months after initial criticality.

The inerting requirement resulted from a staff judgement that the safety benefits attributable to having an inerted containment during normal operations outweighed the associated disadvantages. This judgement does not prevail during the PATP because of the need for frequent containment entries for inspection and surveillance purposes. The staff finds that an exemption from 10 CFR 50.44, paragraph (c)(3)(i) is acceptable.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12 the exemption is authorized by law, will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, the Commission hereby grants the exemption as follows:

An exemption is granted from the requirements of 10 CFR 50.44 paragraph (c)(3)(i) until either the required 100 percent rated thermal power trip startup tests have been completed or the reactor has operated for 120 effective full power days, whichever is earlier.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the exemption will have no significant impact on the environment (49 FR 48625).

A copy of the Commission's Safety Evaluation dated Dec. 19, 1894 related to this action is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland this 19th day of December 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, NRR.

[FR Doc. 84–33524 Filed 12–24–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–354]

Public Service Electric and Gas Co.; Availability of the Final Environmental Statement for Hope Creek Generating Station

Notice is hereby given that the Final Environmental Statement (NUREG–1074) related to the operation of the Hope Creek Generating Station has been prepared by the Commission's Office of Nuclear Reactor Regulation. The Hope Creek Generating Station is located on the Delaware River Estuary in Lower Alloways Creek Township, Salem County, New Jersey.

Copies of NUREG–1074 are available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555, and at the Pennsville Public Library, 190 South Broadway, Pennsville, New Jersey 08070. The document is also being made available at the State Clearinghouse, Department of Environmental Protection, Planning

Group/Attn: Larry Schmidt, Office of the Commissioner, CN–402, Trenton, NJ 08625. The Notice of Availability of the Draft Environmental Statement for the Hope Creek Generating Station and request for comments were published in the **Federal Register** on July 5, 1984 (49 FR 27646). The comments received from Federal, State and local agencies and from interested members of the public have been included in the appendices to the Final Environmental Statement.

Copies of the Final Environmental Statement (NUREG–1074) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and from the U.S. Nuclear Regulatory Commission, Sales Office, Washington, D.C. 20555.

Dated at Bethesda, Maryland this 19th day of December 1984.

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 84–33525 Filed 12–24–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–293]

Boston Edison Co., (Pilgrim Nuclear Power Station); Exemption

I

The Boston Edison Company (BECO/ the licensee) is the holder of Facility Operating License No. DPR–35 which authorizes operation of the Pilgrim Nuclear Power Station. This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility comprises one boiling water reactor at the licensee's site located at Plymouth County, Massachusetts.

II

On November 19, 1980, the Commission published a revised section 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these fifteen subsections, III.G., is the subject of the licensee's exemption request.

Subsection III.G.2 of Appendix R requires that one train of cables and equipment necessary to achieve and maintain safe shutdown shall be maintained free of fire damage by specific use of fire barriers, separation or enclosures. If these conditions are not met, Section III.G.3 requires an alternative shutdown capability independent of the fire area of concern.

III

By letter dated May 17, 1983, the licensee requested the following exemptions from the requirements of Sections III.G.2 and III.G.3 of Appendix R:

1. Exemptions for Fire Zones 1.9 and 1.10 on the 23-foot elevation and Fire Zones 1.11 and 1.12 on the 51-foot elevation of the reactor building were requested to the extent Section III.G.2 requires a total area coverage automatic fire suppression system and 20 feet of separation free of intervening combustibles between redundant trains of safe shutdown equipment and cabling. Exemptions for the same fire zones were also requested from the requirement in Section III.G.3 to have fixed fire suppression systems in areas with alternative shutdown capability.

Fire Zones 1.9 and 1.11 contain the train "A" shutdown components and Fire Zones 1.10 and 1.12 contain the train "B" shutdown components. The horizontal separation between these redundant trains is greater than 20 feet; however, several of the separation areas have intervening low combustible loading (cable insulation). The licensee proposes to install automatic water curtains where physical barriers do not exist between the fire zones on each elevation. All of these zones have smoke detectors which alarm in the control room and redundant cables have been installed outside the fire zones to provide alternative shutdown capability.

Bases on our review of the existing fire protection features and the proposed modifications, we find that there is reasonable assurance that one division of shutdown equipment would remain free of fire damage to achieve and maintain safe shutdown.

2. An exemption for Fire Zone 1.30A (the torus compartment) was requested from the Section III.G.2 requirement to install fire direction and automatic fire suppression systems. The licensee justifies the exemption on the following bases: (1) The in-situ fuel loading is very low; (2) the area has limited access during normal operation; (3) the redundant trains of shutdown equipment are horizontally separated by 30 feet free intervening combustibles; and (4) one train of redundant cables is enclosed in a one-hour fire rated barrier.

Considering the bases stated above, we concluded that fires involving combustibles in the torus compartment would be so limited in size and duration that the proposed one-hour fire rated barrier would provide adequate protection for one train of safe shutdown cables. Furthermore, because of the tours configuration, full area fire detection and automatic suppression would not provide a significant increase in fire safety.

3. An exemption was requested for Fire Zone 3.5 (the Vital M.G. set room) from Section III.G.3 to the extent it requires a fixed fire suppression system in an area for which alternate shutdown capability is provided. This fire zone is separated from other areas by three-hour rated fire barriers and its combustible loading is moderate. A fire detection system and manual suppression equipment are available in the area. We find that there is reasonable assurance that fire in this area would be promptly detected and extinguished. Thus, the installation of a fixed fire suppression system would not significantly increase the level of fire protection in this area.

As a result of our review, we concluded that the existing fire protection, together with the proposed modifications, in Fire Zones 1.9, 1.10, 1.11, 1.12, 1.30A and 3.5 provides a level of fire protection equivalent to compliance with the technical requirements of Sections III.G.2 and III.G.3. Therefore, the requested exemptions should be granted.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the requested exemptions are authorized bu law and will not endanger life or property or the common defense and security and are otherwise in the public interest. Therefore, the Commission hereby grants the following exemptions from the requirements of Sections III.G of Appendix R to 10 CFR Part 50:

1. Fire Zones 1.9, 1.10, 1.11, and 1.12 to the extent they require total area coverage automatic fire suppression systems and 20 feet of separation free of intervening combustibles between redundant trains of safe shutdown equipment and cabling.

2. Fire Zone 1.30A to the extent it requires the installation of fire detection and automatic fire suppression systems.

3. Fire Zones 1.9, 1.10, 1.11, 1.12, and 3.5 to the extent they require fixed fire

suppression systems in areas with alternative shutdown capability.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of these exemptions will have no significant impact on the environment (49 FR 47342).

A copy of the Safety Evaluation dated December 18, 1984, related to this action is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the local public document room located at the Plymouth Public Library, North Street, Plymouth, Massachusetts. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 18th day of December, 1984.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 84-33517 Filed 12-24-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-245]

Connecticut Light and Power Co., et al.; Availability of an Environmental Assessment Relating to the Full-Term Operating License Review

The Nuclear Regulatory Commission's (NRC) Office of Nuclear Reactor Regulation (staff) has issued an Environmental Assessment related to the application for Full-Term Operating License (FTOL) filed by the Northeast Nuclear Energy Company for its Millstone Nuclear Power Station, Unit No. 1 located in the town of Waterford, Connecticut, on Millstone Point.

In preparation for the conversion of Provisional Operating License (POL) No. DPR-21 for the Millstone Nuclear Power Station, Unit No. 1, to an FTOL, the NRC staff performed an assessment of the Existing Final Environmental Statement (FES) dated June 1973.

The NRC staff has evaluated the environmental effects of the continued operation of the Millstone-1 facility and reexamined the impacts initially presented in the 1973 FES. Based on this evalution, the NRC staff has determined that: (1) There are no new impacts that differ significantly from those evaluated in the FES, there are no substantial changes in the proposed actions relevant to environmental concerns and there are no significant new circumstances of information relevant to environmental concerns bearing on the proposed action or its impact and, thus, issuance of a supplement to the FES is not required under the National Environmental Policy Act (NEPA); and (2) the conclusion on page iv., paragraph 7b of the FES, as applied to Millstone-1, is still valid, with the exception that the Technical Specifications called for are now included in Appendix I to 10 CFR Part 50 changes currently being finalized and the State Pollution Discharge Elimination System Program.

The Environmental Assessment is being made available at the NRC Public Document Room, 1717 H Street, NW, Washington, D.C. 20555, and at the Local Public Document Room, Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385, for inspection and copying.

Dated at Bethesda, Maryland, this 17 day of December 1984.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Assistant Director for Safety Assessment, Division of Licensing.

[FR Doc. 84-33518 Filed 12-24-84; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-389]

Florida Power & Light Co., et al.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-16, issued to Florida Power and Light Company, et al. (the licensee), for operation of the St. Lucie Plant, Unit No. 2 located in St. Lucie County, Florida.

The amendment would revise the provisions in the Technical Specifications relating to an increase in the presently rated core power level of 2560 MWt to 2700 MWt, in accordance with the licensee's application for amendment dated November 21, 1984. The increase in power will change the core physics margins. For the ex-core Linear Heat Rate Limiting Conditions for Operation and Limiting Safety System Setpoint, the margin loss mechanisms are increased peaking and increased power output. These losses are partly offset by gains due to other factors. For the Departure from Nucleate Boiling Limiting Conditions for Operation and Limiting Safety System Setpoint, the margin loss mechanisms are increased peaking, increased power output, and reduced Reactor Coolant System Technical Specification flow. These losses are primarily offset by gains due to other factors.

A minor margin loss mechanism is increased Reactor Coolant System inlet temperature. Minor margin gain mechanisms are improved Required Overpower Margin results, improvements in the axial power distributions, and use of a statistically based thermal-hydraulic model.

Consequences of accidents will be slightly increased as a result of the increase in the power level. However, it should be noted that the accidents analyzed during the operating license review considered operation at power levels in excess of 2700 MWt. Likewise, a slight change in environmental impact can be expected, but again, the Final Environmental Statement for the operating license was based on operation of a power level of 2700 MWt.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By January 25, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible

effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner 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 James R. Miller: (petitioner's name and telephone number), (date petition was mailed), (plant name), and (publication date and page number of the **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 Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW, Washington, D.C. 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer 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. The determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated November 21, 1984, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450.

Dated at Bethesda, Maryland this 19th day of December 1984.

For the Nuclear Regulatory Commission.

James R. Miller,

Chief, Operating Reactors Branch #, Division of Licensing.

[FR Doc. 84–33519 Filed 12–24–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–320]

General Public Utilities Nuclear Corp. (Three Mile Island Nuclear Station, Unit 2); Amendment of Order

I

GPU Nuclear Corporation, Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (collectively, the licensee) are the holders of Facility Operating License No. DPR–73, which had authorized operation of the Three Mile Island Nuclear Station, Unit 2 (TMI–2) at power levels up to 2772 megawatts thermal. The facilty, which is located in Londonderry Township, Dauphin County, Pennsylvania, is a pressurized water reactor previously used for the commercial generation of electricity.

II

By Order for Modification of License, dated July 20, 1979, the licensee's authority to operate the facility was suspended and the licensee's authority was limited to maintenance of the facility in the present shutdown cooling mode (44 FR 45271). By further Order of the Director, Office of Nuclear Reactor Regulation, dated February 11, 1980, a new set of formal license requirements was imposed to reflect the post-accident condition of the facility and to assure the continued maintenance of the current safe, stable, long-term cooling condition of the facility (45 FR 11292).

Although these requirements were imposed on the licensee by an Order of the Director of Nuclear Reactor Regulation, dated February 11, 1980, the TMI–2 license has not been formally amended. The requirements are reflected in the proposed Recovery Mode Technical Specifications (PTS) presently pending before the Atomic Safety and Licensing Board. The revisions that are the subject of this order do not give the licensee authorizations that may be needed to undertake specific cleanup activities. These activities will require separate consideration by the staff per section 6.8.2 of the PTS, individual staff safety evaluations and/or licensing actions as appropriate. Hereafter in this Amendment of Order, the requirements in question are identified by the applicable Proposed Technical Specification.

III

By letters dated January 12, 1983, September 12, 1983, and September 30, 1983, GPU Nuclear Corporation (GPUNC) proposed changes to the Proposed Technial Specifications (PTS) for Three Mile Island Unit 2 (TMI–2) to reflect current plant conditions.

The TMI–2 Technical Specifications were revised in their entirety with the issuance of the February 11, 1980 Order. The general purpose of that order was to properly reflect technical specification requirements for the facility's post accident mode of operation. From February 1980 to present, many modifications of that order have been issued in addition to several License Amendments and changes to the Recovery Operations Plan. Even though each of these changes was justified and concurred with by the staff, there has not been a complete review and revision of the Proposed Technical Specifications since the February 11, 1980 Order. This review is necessary because of the degree of technical knowledge obtained since the original Order and the resultant altered approaches to technical problems. The necessary course of action for the NRC at TMI–2 to maximize our ability to protect the health and safety of the public is now better defined and therefore Proposed Technical Specification requirements can now be deleted, added or modified

for consistency and to more correctly reflect what should be required by the NRC at TMI–2.

The staff has reviewed the licensee's proposed changes which can be grouped into the following categories:·(1) Editorial Changes that correct spelling, grammar, page numbers, and the associated indexes. These changes do not affect the technical content nor the intent of the section; (2) Modifications to the existing Limiting Conditions for Operation and Safety Limits that were made to more correctly state what systems or equipment are necessary based on the present status of TMI–2; (3) New Limiting Conditions for Operation that were added to also more correctly reflect what systems or equipment are necessary based on the present status of TMI–2; (4) Design Features of Section 5.0 that were modified or deleted to more accurately state design limits that can be verified; (5) Bases that were revised because of changes in technical approaches resulting from data that has been obtained and analyzed; and (6) Tables listing specific pieces of equipment that were moved from the Limiting Conditions for Operation sections to the applicable section of the Recovery Operations Plan. This type of change does not lessen the regulatory requirement but more appropriately places the description of the piece of equipment along with its corresponding testing requirement.

An Exemption from 10 CFR 50.55a with respect to Code Safety Relief Valves, and an Exemption from the seismic monitoring requirements of 10 CFR 50.36 and 10 CFR 100, Appendix A, Paragraph VI(a)(3) are required to accompany this Amendment of Order because of some of the deletions and alterations to the PTS that were granted herein.

Changes to associated surveillance requirements of the Recovery Operations Plan that correspond to modifications to the Limiting Conditions of Operation have also been made accordingly.

The staff's safety assessment of this matter as discussed above is set forth in the concurrently issued Safety Evaluation. Since the February 11, 1980 Order imposing the Proposed Technical Specifications is currently pending before the Atomic Safety and Licensing Board, the staff will be advising the Licensing Board of this Amendment of Order through a Notice of Issuance of Amendment of Order and a Motion to Conform Proposed Technical Specifications in Accordance herewith.

It is further determined that the modification does not authorize a change in effluent types or total amounts nor an increase in power level and will not result in any significant environmental impact. In light of this determination and as reflected in the Environmental Assessment and Notice of Finding of No Significant Environmental Impact prepared pursuant to 10 CFR 51.2 and 51.30 through 51.32 issued concurrently herewith, it was concluded that the action is insignificant from the standpoint of environmental impact and that an environmental impact statement need not be prepared.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, the Director's Order of February 11, 1980, is hereby revised to incorporate the deletions, additions, and modifications set forth in Enclosure 3 hereto. This Amendment of Order shall be effective on January 7, 1985.

For further details with respect to this action, see (1) Letter to B. J. Snyder, USNRC, from R. C. Arnold, GPUNC, Technical Specification Change Request No. 39, dated January 12, 1983, (2) Letter to B. J. Snyder, USNRC, from R. C. Arnold, GPUNC, Technical Specification Change Request No. 41, dated September 12, 1983, (3) Letter to B. J. Snyder, USNRC, from R. C. Arnold, GPUNC, Technical Specification Change Request No. 43, dated September 30, 1983, (4) Letter to L. H. Barrett, USNRC, from B. K. Kanga, GPUNC, Recovery Operations Plan Change Request No. 19, dated January 12, 1983, (5) Letter to L. H. Barrett, USNRC, from B. K. Kanga, GPUNC, Recovery Operations Plan Change Request No. 20, dated September 12, 1983, (6) Letter to L. H. Barrett, USNRC, from B. K. Kanga, GPUNC, Recovery Operations Plan Change Request No. 22, dated September 30, 1983, (7) Letter to B. J. Snyder, USNRC, from E. E. Kintner, GPUNC, Seismic Monitoring Exemption Request, dated April 18, 1984, (8) Letter to B. J. Snyder, USNRC, from E. E. Kintner, GPUNC, Exemption Request from 10 CFR 50.55a with respect to Code Safety Valves, dated April 18, 1984, and (9) the Director's Order of February 11, 1980.

All of the above documents are available for inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Commission's Local Public Document Room at the State Library of Pennsylvania, Government Publications Section, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Effective Date: January 7, 1985.

Dated at Bethesda, Maryland.

Issuance Date: December 19, 1984.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 84–33520 Filed 12–24–84; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–320]

General Public Utilities Nuclear Corporation; (Three Mile Island Nuclear Station, Unit 2); Exemption

I

GPU Nuclear Corporation, Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Eelctric Company (collectively, the licensee) are the holders of Facility Operating License No. DPR–73, which had authorized operation of the Three Mile Island Nuclear Station, Unit 2 (TMI–2) at power levels up to 2772 megawatts thermal. The facility, which is located in Londonderry Township, Dauphin County, Pennsylvania, is a pressurized water reactor previously used for the commercial generation of electricity.

By Order for Modification of License, dated July 20, 1979, the licensee's authority to operate the facility was suspended and the licensee's authority was limited to maintenance of the facility in the present shutdown cooling mode (44 FR. 45271). By further Order of the Director, Office of Nuclear Reactor Regualtion, dated February 11, 1980, a new set of formal license requirements was imposed to reflect the post-accident condition of the facility and to assure the continued maintenance of the current safe, stable, long-term cooling condition of the facility (45 FR. 11292). This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

On April 18, 1984, General Public Utilities Nuclear Corporation (GPUNC) requested an Exemption from the requirements of 10 CFR 50.55a with respect to Code Safety Valves for TMI–2. This provision of the Commission's regulations currently requires that components which are part of the reactor coolant pressure boundary meet the requirements for Class 1 components in Section III of the ASME Boiler and Pressure Vessel Code.

As stated in Table 5.2–1 of the TMI–2 Final Safety Analysis Report (FSAR), the TMI–2 Code Safety Valves

(pressurizer) meet the requirements of ASME Section III, Article 9, Summer 1969 Addendum. N–910.1 of Article 9 states that, "Each vessel within the scope of the Code shall be protected while in service from consequences arising from the application of steady state or transient conditions of pressure and (coincident) temperature which are in excess of the design conditions. . . ." N–910.4, N–910.5, N–910.6, N–910.7, and N–910–8 state various design and location requirements for the relief valves. As stated in the FSAR, the TMI–2 reactor coolant system has a design pressure of 2500 psig with the pressurizer Code Safety Valves relieving at approximately 2450 psig with a 690,000 pounds per hour capacity.

III

In the current system configuration, with the reactor vessel head removed to facilitate defueling, the code safety valves are not useable and are not required in order to relieve system pressure. It is also the staff's opinion that the normal maintenance performed and presently needed on these valves (bench testing, blowdown, seal inspection, etc.) would be an unnecessary maintenance burden and result in an unjustified raidiological dose to the plant workers. As discussed in the concurrently issued safety evaluation, the reactor coolant system will remain open to the reactor building atmosphere throughout the recovery period. The system's configuration inherently provides overpressure protection because of the lack of a closed system that is necesary for a significant pressure buildup. The only thermodynamic event that can occur in the RCS that would have potential negative consequence is a system heatup. Because of the open vessel, even a heatup would have no pressure consequences unless the containment atmosphere pressure increased. Because of the volume of the containment (approximately 2×10^6 cu. ft.) and the amount of decay heat present (approximately 15 Kw), any significant containment pressure buildup would occur over a period of days, if not weeks. Should a currently unforeseen event occur that could potentially cause pressure to increase or which would require that a pressurized system be reestablished, the staff and the licensee would have sufficient response time to decide a course of action whether it be placing the head back on the vessel, installing a pressure relief component, or leaving the system as is. Therefore, it is the staff's opinion that a pressure relief device for the RCS need not be in place at this time. If a decision is made in the future to repressurize the RCS, a maximum pressure rating and appropriate overpressure protection must be specified in a safety evaluation approved by the staff, and in procedures approved pursuant to Section 6.8.2 of the PTS.

Because of the suspension of the licensee's authority to operate the facility in other than the present recovery mode as defined in the proposed technical specifications, certain of the regulations, which are intended to apply to normal operating plants, are simply inappropriate and, more significantly, are unnecessary to protect the public health and safety. Given the unique status of the plant in terms of primary system temperature and pressure, available fission product inventory, the ability to cool the reactor without forced circulation (loss-to-ambient), and the low decay heat rate, maintenance of the facility with the exemptions granted hereby will provide an adequate level of safety.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. The Commission hereby grants an exemption to the requirements of 10 CFR Part 50, Appendix A, Criterion 2, 50, and 51.

It is further determined that the exemption does not authorize a change in effluent types or total amounts nor an increase in power level and will not result in any significant environmental impact. In light of this determination and as reflected in the Environmental Assessment and Notice of Finding of No Significant Environmental Impact prepared pursuant to 10 CFR 51.21 and 51.30 through 51.32, issued concurrently herewith, it was concluded that the instant action is insignificant from the standpoint of environmental impact and an environmental impact statement need not be prepared.

Effective Date: December 19, 1984.

Dated at Bethesda, Maryland.

Issuance Date: December 19, 1984.

For the Nuclear Regualtory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 84–33521 Filed 12–24–84; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Audit Requirements for State and Local Governments

This notice offers interested parties an opportunity to comment on a proposed Circular, "Audit requirements for State and local governments."

The Circular is the product of an interagency team made up of representatives of Assistant Secretaries for Management and Inspectors General. Its purpose is to implement the Single Audit Act of 1984, Pub. L. 98–502. The Circular establishes audit requirements for State and local governments that receive Federal aid, and defines Federal responsibilities for implementing and monitoring these requirements.

At the present time requirements for State and local audits are included in Attachment P to Circular A–102, "Uniform requirements for grants to State and local governments." This proposed Circular would supersede those requirements. However, the provisions of Attachment P remain in effect until the new Circular is issued.

The proposed Circular is shown below in its entirety. Comments should be submitted in duplicate to the Financial Management Division, Office of Management and Budget, Washington, D.C. 20503. All comments should be received within 60 days of the date of this publication. Contact person: Palmer A. Marcantonio, 202–395–3993.

Candice C. Bryant,

Deputy Associate Director for Administration.

EXECUTIVE OFFICE OF THE PRESIDENT

Office of Management and Budget

CIRCULAR NO. A——

——1984

To the Heads of Executive Departments and Establishments.

Subject: Audit Requirements for State and Local Governments.

1. *Purpose.* This Circular is issued pursuant to the Single Audit Act of 1984, Public Law, 98–502. It establishes audit requirements for State and local governments that receive Federal aid, and defines Federal responsibilities for implementing and monitoring those requirements.

2. *Supersession.* The Circular supersedes Attachment P, "Audit Requirements," dated October 22, 1979, to OMB Circular A–102, "Uniform requirements for grants to State and local governments."

3. *Background.* The Single Audit Act builds upon earlier efforts to improve audits of Federal aid programs. The Act requires State or local governments that receive more than $100,000 a year in Federal funds to have be an audit made for that year. Section 7504 of the Act requires the Director of the Office of Management and Budget to issue guidelines to implement the Act. It specifies that the guidelines include procedures for the assignment of cognizant Federal agencies, criteria for determining the appropriate charges to Federal programs for the cost of audits, and procedures to assure that small business concerns and business concerns owned and controlled by socially and economically disadvantaged individuals have the opportunity to participate in contracts awarded to fulfill the single audit requirements.

4. *Policy.* The Single Audit Act requires the following:

a. A State or local government shall have an audit made in accordance with this Circular for any of its fiscal years which began after December 31, 1984, in which it receives more than $100,000 in Federal financial assistance.

b. A State or local government shall have an audit made in accordance with this Circular, or in accordance with laws and regulations governing the programs it participates in, for any fiscal year in which it receives between $25,000 and $100,000 in Federal financial assistance.

c. Each State or local government that receives a total amount of Federal financial assistance which is less than $25,000 for any fiscal year shall be exempt from compliance with the Act or other Federal audit requirements. However, these State and local governments should have an audit made in accordance with State or local regulations.

d. Nothing in this paragraph exempts State or local governments from maintaining records of Federal financial assistance or from providing access to such records to a Federal agency or the Comptroller General, as provided for in Federal law or in Circular A–102, "Uniform requirements for grants to State or local governments."

5. *Definitions.* For the purposes of this Circular the following definitions from the Single Audit Act apply:

a "Cognizant agency" means the Federal agency assisgned by the Office of Management and Budget to carry out the responsibilities described in paragraph 12 of this Circular.

b. "Federal financial assistance" means assistance provided by a Federal agency in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, or direct appropriations, but does not include direct Federal cash assistance to individuals. It includes awards received directly from Federal agencies, or indirectly through other units of State and local governments.

c. "Federal agency" has the same meaning as the term 'agency' in section 551(1) of Title 5, United States Code.

d. "Generally accepted accounting principles" has the meaning specified in the generally accepted government auditing standards.

e. "Generally accepted government auditing standards" means the *Standards For Audit of Governmental Organizations, Programs, Activities, and Functions,* issued by the Comptroller General on February 27, 1981.

f. "Independent auditor" means:

(1) An external State or local government auditor who meets the independence standards specified in generally accepted government auditing standards; or

(2) A public accountant who meets such independence standards.

g. "Internal controls" means the plan of organization and methods and procedures adopted by management to ensure that

(1) Resource use is consistent with laws, regulations, and policies;

(2) Resources are safeguarded against waste, loss, and misuse; and

(3) Reliable data are obtained, maintained and fairly disclosed in reports.

h. "Indian tribe" means any Indian tribe, band, nations, or other organized group or community, including any Alaskan Native village or regional or village corporations (as defined in, or established under, the Alaskan Native claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

i. "Local government" means any unit of local government within a State, including a county, a borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.

j. "Major Federal assistance program", as defined by Pub. L. 98–502, is presented in Attachment A to this Circular.

k. "Public accountants" means those individuals who meet the qualification standards included in generally accepted government auditing standards for personnel performing government audits.

l. "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust territory of the Pacific Islands, any instrumentality thereof, and any multi-State regional, or interstate entity that has governmental functions and any Indian tribe.

m. "Subrecipient" means any person or government department, agency, or establishment that receives Federal financial assistance to carry out a program through a State or local government, but does not include an individual that is a beneficiary of such a program.

6. *Scope of audit.* The Single Audit Act provides that:

a. Each audit shall cover the entire operations of a State or local government or, at the option of that government, it may cover departments, agencies or estalishments that received, expended, or otherwise administered Federal financial assistance during the year. However, if a State or local government receives over $25,000 in General Revenue Sharing funds in a fiscal year, it shall have an audit of the entire organization. A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered a single audit.

b. The audit may exclude public hospitals and public colleges and universities.

c. The audit shall determine and report in accordance with paragraph 14 of the Circular on whether:

(1) The financial statements of the organization present fairly its financial position and the results of its financial oprations in accordance with generally accepted accounting principles and the organization has complied with laws and regulations that may have a meterial effect on the financial statements;

(2) The organization has internal accounting and a administrative control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations; and

(3) The organization has complied with laws and regulations that may have a material effect upon each major Federal assistance program.

d. The audit should be done in accordance with generally accepted government auditing standards covering financial and compliance audits.

7. *Frequency of audit.* Audits shall be made annually unless the State or local government has by January 1, 1987, a constitutional or statutory requirement for less frequent audits. For those governments, the cognizant agency shall permit biennial audits, if the government so requests. It shall also honor requests for biennial audits by governments that have an administrative policy calling for audits less frequent than annual, but only for fiscal years beginning before January 1, 1987. The audit report should be forwarded to the Federal Government within a year after the end of the audit period.

8. *Compliance testing.* The Single Audit Act requires the auditor to evaluate systems established to ensure compliance with laws and regulations applicable to Federal assistance programs the unit of government carried out. It also requires the auditor to determine whether the government, department or agency has complied with laws and regulations that have a material effect upon each major Federal assistance program.

a. In order to determine which major programs are to be tested for compliance, State and local governments shall identify in their accounts all Federal funds received and expended and the programs under which they were received. This shall include funds received directly from Federal agencies and through other State and local governments.

b. The evaluation must include the selection and testing of a representative number of charges from each major Federal assistance program. The selection and testing of transactions shall be based on the independent auditor's professional judgment considering such factors as the amount of expenditures for the program and the individual awards; the newness of the program or changes in its conditions; prior experience with the program particularly as revealed in audits and other evaluations (e.g., inspections, program reviews); the extent to which the program is carried out through subrecipients; the extent to which the program contracts for goods or services; the level to which the program is already subject to program reviews or other forms of independent oversight; the adequacy of the controls for ensuring compliance; the expectation adherence or lack of adherence to the applicable laws and regulations; and the potential impact of adverse findings.

c. Transactions selected from nonmajor Federal assistance programs in connection with examinations of financial statements and internal controls shall be tested for compliance with Federal laws and regulations that apply to such transactions.

d. In making these tests the auditor shall determine whether:

The amounts claimed on Federal financial reports and claims for advances and reimbursements were for allowable services and thus its claims for Federal assistance were proper and supported by the books and records from which basic financial statements have been prepared;

The recipients of services or benefits were eligible to receive them;

Matching requirements, levels of effort, and earmarking limitations were fulfilled;

Other special requirements were met; and

Amounts claimed, or used for matching, were determined in accordance with OMB Circular A–87, "Cost principles for State and local governments," and attachment F of Circular A–102, "Uniform requirements for grants to State and local governments."

e. The auditor may ascertain the principal compliance requirements of the largest Federal aid programs by referring to the *Compliance Supplement for Single Audits of State and Local Governments*, published by OMB and available from the Government Printing Office. For those programs not covered in the compliance supplement, the auditor may ascertain compliance requirements by researching the statutes, regulations, and agreements governing individual programs.

9. *Other testing.* The recipient's independent auditor is responsible for:

a. Reviewing the recipient's system for monitoring subrecipients and obtaining and acting on subrecipient audit reports.

b. Testing to determine whether these systems are functioning in accordance with prescribed procedures.

c. Commenting on the recipient's monitoring procedures, if warranted by the circumstances.

d. Considering whether subrecipient audits require adjustment of the recipient's financial statements, footnote disclosure, or modification of the auditor's report.

10. *Subrecipients.* Each State or local government that receives Federal financial assistance and provides $25,000 or more of it in a fiscal year to a subrecipient shall:

a. Ensure that the subrecipient has met the audit requirements of this Circular or Circular A–110, "Uniform requirements for grants to universities, hospitals, and other nonprofit organizations";

b. Determine whether the subrecipient spent Federal assistance funds in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subrecipient made in accordance with this Circular, Circular A–110, or through other means (e.g., program reviews) if the subrecipient has not had such an audit;

c. Ensure that appropriate corrective action is taken within six months after issuance of the audit report in instances of material noncompliance with laws and regulations;

d. Require each subrecipient to permit independent auditors to have access to the records and financial statements as necessary to comply with this Circular.

11. *Relation to other audit requirements.* The Single Audit Act provides that an audit made in accordance with this Circular shall be in lieu of any audit required under individual Federal assistance programs. A single audit should provide Federal agencies with information and assurances they need to carry out their responsibilities, and they shall rely upon and use that information. Any Federal audits shall be planned and made in such a way as to avoid duplication of effort. This applies to State or local governments that make audits in accordance with this Circular even though not required to do so.

a. A Federal agency shall make any additional audits that are necessary to carry out its responsibilities under Federal law or regulation. The provisions of this Circular do not authorize any State or local government (or subrecipient thereof) to constrain, in any manner, such agency from carrying out such additional audits.

b. The provisions of this Circular do not limit the authority of Federal agencies to make, or contract for audits and evaluations of Federal financial assistance programs, nor do they limit the authority of any Federal agency Inspector General or other Federal audit official.

c. A Federal agency that makes or contracts for audits in addition to the audits made by recipients pursuant to this Circular shall, consistent with other applicable laws and regulations, arrange for funding the cost of such additional audits. Such additional audits include economy and efficiency audits, program results audits, and program evaluations.

12. *Cognizant agency responsibilities.* The Single Audit Act provides for cognizant Federal agencies to oversee the implementation of this Circular.

a. The Office of Management and Budget will assign cognizant agencies for State and larger local governments. Other Federal agencies may participate

with an assigned cognizant agency, in order to fulfill the cognizant responsibilities. Smaller governments not assigned a cognizant agency should contact the Federal agency that provides them the most funds to work out a cognizant agency agreement.

b. A cognizant agency shall have the following responsibilities.

(1) Ensure that audits are made in a timely manner and in accordance with the requirements of this Circular.

(2) Provide the liaison between the Federal audit organizations and the recipient entities and independent auditors.

(3) Provide technical advice to State and local governments and independent auditors.

(4) Obtain or make quality control reviews of individual audits made by non-Federal audit organizations, and provide, when appropriate the results to other interested organizations.

(5) Inform other affected Federal organizations of any reported illegal acts or irregularities. The Federal organizations, in turn, shall inform appropriate Federal law enforcement officials. State or local government law enforcement and prosecution authorities, if not advised by the recipient, may also be informed of any violation of law within their jurisdiction by the cognizant agency.

(6) Advise the recipient of audits that have been found not to have met the requirements set forth in this Circular. In such instances, the recipient will work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency shall notify the recipient and Federal awarding agencies of the facts and make recommendations, if appropriate. Major inadequacies or repetitive substandard performance of independent auditors shall be referred to appropriate professional bodies for disciplinary action.

(7) Coordinate, to the extent practicable, audits made by or for Federal agencies that are in addition to the audits made pursuant to this Circular; and ensure that the additional audits build upon such audits.

(8) Oversee the resolution of audit findings that affect the programs of more than one agency.

c. Additional information concerning the roles of the cognizant agencies can be found in cognizant agency guidelines, published by the Joint Financial Management Improvement Program.

13. *Illegal acts or irregularities.* If the auditor becomes aware of illegal acts or other irregularities, prompt notice shall be given to recipient management officials above the level of involvement. (See also paragraph 14(a)3 below for the auditor's reporting responsibilities.) The recipient, in turn, shall promptly notify the cognizant agency of the illegal acts or irregularities and of proposed and actual actions, if any. Illegal acts and irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriations of funds or other assets.

14. *Audit Reports.* Audit reports must be prepared at the completion of the audit and shall include the following:

a. The audit report shall state that the audit was made in accordance with the provisions of this Circular. The report shall be made up of:

(1) An auditor's report on financial statements and on a schedule of Federal assistance; the financial statements; and a schedule of Federal assistance showing the total expenditures for each Federal assistance program as identified in the *Catalog of Federal Domestic Assistance.*

(2) An internal control report on the study and evaluation of accounting and administrative control systems. The report must identify the entity's significant internal accounting controls, the controls that were evaluated, the controls that were not evaluated, and the material weaknesses identified as a result of the evaluation.

(3) A compliance report containing:

A statement of positive assurance with respect to those items tested for compliance (including compliance with law and regulations pertaining to financial reports and claims for advances and reimbursements);

Negative assurance on those items not tested;

All instances of noncompliance and instances or indications of illegal acts and irregularities found in connection with the audit.

An identification of the total amounts questioned, if any, as a result of noncompliance, fraud, abuse, or illegal acts or irregularities for each Federal assistance program (without regard to whether a condition giving rise to the questioned cost has been corrected, or whether the recipient entity does or does not agree with the finding or questioned costs).

b. The three parts of the audit report may be bound into a single report, or simultaneously presented as separate documents.

c. In addition to the audit report, the recipient shall provide comments on the findings and recommendations in the report, including a plan for corrective actions taken or planned and comments on the status of corrective action taken on prior findings. If corrective action is not necessary, a statement describing the reason it is not should accompany the audit report.

d. The reports shall be made available by the State or local government for public inspection.

e. In accordance with generally accepted government audit standards, reports shall be submitted to the organization audited and to those requiring or arranging for the audit. In addition, the standards provide for copies of the reports to be sent to other officials who may be responsible for taking action and to others authorized to receive such reports.

f. Recipients of more than $100,000 in Federal funds shall, in addition to copies provided to appropriate Federal, State, or local program officials, transmit the audit report(s) within 30 days after its issuance to a central clearinghouse to be designated by the Office of Management and Budget. The clearinghouse will assure that the reports meet the requirements of this Circular and that reports with findings and/or questioned cost are distributed to appropriate officials of the departments and agencies providing Federal assistance. Federal departments and agencies desiring copies of all audit reports may work out separate arrangements with the clearinghouse. Audit reports that do not contain findings and recommendations will be kept on file at the clearinghouse and provided to appropriate Federal officials upon request.

g. Recipients of less than $100,000 shall keep audit reports on file and available for reivew upon request by Federal agencies.

15. *Audit Resolution.* As provided in paragraph 12, the cognizant agency shall be responsible for overseeing the resolution of audit findings that affect the programs of more than one Federal agency. Resolution of findings that relate solely to the programs of a single Federal agency will be the responsibility of the recipient and that agency. Alternate arrangements may be made on a case-by-case basis by agreement between the agencies concerned.

Resolution shall be made within six months after receipt of the report by the departments and agencies that provided Federal assistance funds to State and local governments. Corrective action should proceed as rapidly as possible.

16. *Audit workpapers and reports.* Workpapers and reports shall be retained for a minimum of three years from the date of the audit report, unless the audit is notified in writing by the cognizant agency to extend the retention period. Audit workpapers shall be made available upon request to the cognizant

agency or its designee or the General Accounting Office, at the completion of the audit.

17. *Audit Costs.* The cost of audits made in accordance with the provisions of this Circular are allowable charges to Federal assistance programs.

a. The charges may be considered a direct cost or an allocated indirect cost, determined in accordance with the provisions of Circular A–87, "Cost principles for State and local governments." Generally, the percentage of costs charges to Federal assistance programs for a single audit shall not exceed the percentage that Federal funds represent of total expenditures of the recipient during the fiscal year. The ceiling may be exceeded, however, if appropriate documentation demonstrates higher actual cost.

b. No cost may be charged to Federal assistance programs for financial audits or financial and compliance audits required by the Single Audit Act that are not made in accordance with the Circular.

18. *Small and Minority Audit Firms.* Small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts awarded to fulfill the audit requirements of this Circular. Recipients of Federal assistance shall take the following steps to further this goal:

a. Assure that small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals are used to the fullest extent practicable.

b. Make information on forthcoming opportunities available and arrange timeframes for the audit so as to encourage and facilitate participation by small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals.

c. Consider in the contract process whether firms competing for larger audits intend to subcontract with small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals.

d. Encourage contracting with small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals which have traditionally audited government programs and, in such cases where this is not possible, assure that these firms are given consideration for audit subcontracting opportunities.

e. Encourage contracting with consortiums of small audit firms as described in paragraph (a) above when a contract is too large for an individual small audit firm or audit firm owned and controlled by socially and economically disadvantaged individuals.

f. Use the services and assistance, as appropriate, of such organizations as the Small Business Administration in the solicitation and utilization of small audit firms or audit firms owned and controlled by socially and economically disadvantaged individuals.

19. *Reporting.* Each Federal agency will report to the Disrector of OMB on or before March 1, 1987, and annually thereafter on the effectiveness of State and local governments carrying out the provisions of this Circular. The report must identify each State or local government or Indian tribe that, in the opinion of the agency, is failing to comply with the Circular.

20. *Regulations.* Each Federal agency shall promulgate a common regulation to implement the requirements of this Circular.

21. *Effective date.* This Circular is effective on publication.

22. *Inquiries.* All questions or inquiries should be addressed to Palmer A. Marcantonio, Financial Management Division, Office of Management and Budget, telephone number 202/395–3993.

23. *Sunset review date.* This Circular shall have an independent policy review to ascertain its effectiveness three years from the date of issuance.

David A. Stockman,

Director.

Attachment A—Definition of Major Program as provided in Pub. L. 98–502

Major Federal assistance program means any program for which total expenditures of Federal financial assistance by the State or local government during the applicable year exceeded—

(A) $20,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $7,000,000,000;

(B) $19,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $6,000,000,000 but are less than or equal to $7,000,000,000;

(C) $16,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $5,000,000,000 but are less than or equal to $6,000,000,000;

(D) $13,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $4,000,000,000 but are less than or equal to $5,000,000,000;

(E) $10,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $3,000,000,000 but are less than or equal to $4,000,000,000;

(F) $7,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $2,000,000,000 but are less than or equal to $3,000,000,000;

(G) $4,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $1,000,000,000 but are less than or equal to $2,000,000,000;

(H) $3,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $1,000,000,000;

(I) the larger of (i) $300,000 or (ii) 3 percent of such total expenditures for all programs, in the case of a State or local government for which such total expenditures for all programs exceed $100,000 but are less than or equal to $100,000,000;

[FR Doc. 84–33499 Filed 12–24–84; 8:45 am]

BILLING CODE 3110–01–M

PENSION BENEFIT GUARANTY CORPORATION

Withdrawal of Requests for Determination of Substantial Damage or No Substantial Damage With Respect to Cessation of Contributions by Arrow Transportation Co., Inc., to Road Carriers Local 707 Pension Fund

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of withdrawal of requests.

SUMMARY: This notice advises interested persons of the withdrawal of requests for a determination of substantial damage or no substantial damage under section 4203(d) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Section 4203(d) provides a special withdrawal rule for cessations of contributions involving plans and employers in the trucking industry (as defined in that section). On May 30, 1984, the Pension Benefit Guaranty Corporation published (at 49 FR 22583) a notice of the pendency of a request from Road Carriers Local 707 Pension Fund for a determination of substantial damage under section 4203(d)(4) of ERISA, and a request from Arrow Transportation Co., Inc., for a determination of no substantial damage under section 4203(d)(5) of ERISA, with respect to the cessation of contributions under the Fund by Arrow. Both the Fund and Arrow have withdrawn their requests. The effect of this notice is to

advise interested persons that these requests have been withdrawn.

FOR FURTHER INFORMATION CONTACT: Deborah Murphy, Attorney, Corporate Policy and Regulations Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; 202–254–4860 (202–254–8010 for TTY and TDD). These are not toll-free numbers.

Issued at Washington, D.C., this 19th day of December 1984.

David M. Walker,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84–33461 Filed 12–24–84; 8:45 am]

BILLING CODE 7708–01–M

Pendency of Request for Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan; the Great Atlantic & Pacific Tea Company, Inc., and Kohl's Food Stores, Inc. (Case No. 120–563)

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from The Great Atlantic & Pacific Tea Company, Inc., and Kohl's Food Stores, Inc., for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not result in a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years beginning after the sale. ERISA authorizes the PBGC to grant exemptions from this requirement after giving interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

DATES: Commenters must submit comments on or before February 11, 1985.

ADDRESSES: Commenters should address all written comments to: Director, Corporate Policy and Regulations Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. The exemption request and the comments received will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Deborah Murphy, attorney, Corporate Policy and Regulations Department (611), Pension benefit guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; 202–254–4860 (202–254–8010 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1974 ("ERISA") provides that a bona fide arm's-length sale of assets to an unrelated party by an employer that contributes to a multiemployer pension plan will not result in a withdrawal if three conditions are met. These conditions, listed in section 4204(a)(1)(A)–(C), are that—

(A) The purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) the purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years before the year of sale or the seller's required annual contribution for the plan year before the year of sale; and

(C)The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay its liability to the plan, the seller will be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above will be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) and the contract-provision requirement of section 4204(a)(1)(C). The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of plans with the least practicable intrusion into normal business transactions. The granting of an exemption from the requirements of section 4204(a)(1) (B) or (C) is not a finding by the PBGC that the transaction satisfies the other requirements of section 4204(a)(1).

Under § 2643.3(a) of the PBGC's regulation on procedures for variance for sales of assets (29 CFR Part 2643), the PBGC will approve an exemption request if it determines that approval of the exemption—

(1) Will more effectively or equitably carry out the purposes of Title IV of ERISA; and

(2) Will not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for an exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed exemption.

The Request

The PBGC has received a request from The Great Atlantic & Pacific Tea Company, Inc. ("A & P"), and its wholly-owned subsidiary, Kohl's Food Stores, Inc. ("Kohl's"), to waive the bond/escrow requirement of section 4204(a)(1)(B) of ERISA. (The request antedates the amendments to 29 CFR Part 2643 that were published in the **Federal Register** on May 31, 1984 (49 FR 22635).) The applicants represent, among other things, as follows:

1. Effective October 1, 1983, Kohl's purchased from Brown & Williamson Tobacco Corporation ("B & W") certain of the property, assets and business of B & B's Kohl Food Store Division. As part of the transaction, Kohl's acquired the stock of several wholly-owned subsidiaries ("Subs") of B & W that functioned as part of the food store business.

2. Before the sale of assets, B & W and/or one or more of the Subs had an obligation, pursuant to collective bargaining agreements with four unions, to contribute to four pension plans, viz.:

Union	Plan
United Food and Commercial Workers International Union, AFL–CIO–CLC, Local Unions Nos. 1444 and 214	Milwaukee Area Retail Food Clerks Pension Fund ("Food Clerks Fund").
United Food and Commercial Workers International Union, AFL–CIO–CLC, Local Union No. 73A	United Food and Commercial Workers Union and Wisconsin Meat and Allied Industry Pension Plan ("UFCW Plan").
International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local Union No. 200	Central States, Southeast and Southwest Areas Pension Fund ("Central States Fund").

Union	Plan
Carpenters District Council of Milwaukee, Waukesha, Washington and Ozaukee Counties	Building Trades United Pension Trust Fund ("Building Trades Fund").

A & P and/or Kohl's agreed to assume B & W's and the Subs' obligation to contribute to the plans in accordance with the related collective bargaining agreements.

3. Assuming that the entire transaction, including the transfer of the Subs, constituted a sale of assets under section 4204 of ERISA, the total bond/escrow amount required of A & P and/or Kohl's under section 4204(a)(1)(B) is $3,185,819, and the estimated total amount of the withdrawal liability that B & W and/or the Subs would otherwise incur as a result of the sale if section 4204 did not apply to the sale is $15,819,180, broken down as follows:

Plan	Bond	Withdrawal liability
Food Clerks Fund	$1,421,102	$6,832,196
UFCW Plan	993,451	5,019,605
Central States Fund	762,757	3,967,379
Building Trades Fund	8,509	None

A & P contributed to the Central States Fund (but not to the other three plans) before the transaction. A & P's estimated potential pre-transaction withdrawal liability to the Central States Fund is $6,319,590.

(4) A & P and its consolidated subsidiaries had net tangible assets of $180,397,000 as of the end of their fiscal year ending in February 1983 and an average net loss of $37,824,000 for the three fiscal years ending in February 1983. (They had net income of $31,211,000 for the single year ending in February 1983.)

(5) The applicants have sent a copy of this request (excluding a copy of the sale contract and attachments thereto) to the four pension plans and the collective bargaining representatives of the former employees of Kohl's by certified mail, return receipt requested.

Comments

The PBGC invites all interested persons to submit written comments on the pending exemption request to the above address by February 11, 1985. The PBGC will make all comments a part of the record. Comments received, as well as the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C., on this 19th day of December 1984.

David M. Walker,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84-33462 Filed 12-24-84; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/791]

Integrated Services Digital Network (ISDN) Joint Working Party of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the ISDN Joint Working Party of the U.S. Organization for the International Telegraph and Telephone Consultative Committee will meet January 7, 1985 in Room 1205, Department of State, 2201 C Street, NW., Washington, D.C. The meeting will begin at 9:30 a.m.

The agenda for the meeting is as follows:

1. Report on CCITT Study Group XI/6 meeting;

2. Consideration of contributions for the Study Group XVIII Group of Experts Meeting on ISDN;

3. Other business.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is therefore suggested that prior to the meeting, persons who plan to attend, so advise the office of Mr. Earl Barbely, State Department, Washington, D.C.; telephone (202) 632-3405. All attendees must use the C Street entrance to the building.

Dated: December 4, 1984.

Earl S. Barbely,

Chairman U.S. CCITT National Committee.

[FR Doc. 84-33429 Filed 12-24-84; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/794]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea Working Group on Radio Communications; Meeting

The Working Group on Radio Communications of the Subcommittee on Safety of Life at Sea will conduct an open meeting at 0930 on January 10, 1985, in room 9230 of the Department of Transportation, 400 Seventh Street, SW., Washington, D.C.

The purpose of the meeting is to prepare position documents for the Twenty-ninth Session of the Subcommittee on Radio Communications of the International Maritime Organization to be held in London during April 1985. In particular the working group will discuss the following topics:

Maritime Distress System
Digital Selective Calling
Satellite Emergency Position Indicating Radio Beacons
Preparations for the International Telecommunication Union (ITU) World Administrative Radio Conference (WARC) for Mobile Telecommunications
Preparations for International Radio Consultative Committee (CCIR) Study Group 8

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. Richard Swanson, U.S. Coast Guard Headquarters (G-TPP-3/63), 2100 2nd Street, SW., Washington, D.C. 20593, Telephone: (202) 426-1231.

Dated: December 14, 1984.

Samuel V. Smith,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 84-33433 Filed 12-24-84; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/793]

Shipping Coordinating Committee Subcommittee on UNCTAD; Meeting

The Subcommittee on the United Nations Conference on Trade and Development of the Shipping Coordinating Committee (SHC) will hold an open meeting at 10:00 a.m on January 17, 1985, in Room 1207 of the Department of State, 2201 C Street, NW., Washington, D.C.

The purpose of the meeting is to discuss United States preparations for the United Nations Conference on Conditions for Registration of Ships from January 28 to February 15, 1985. In particular, the Subcommittee will discuss the development of U.S. positions regarding proposals of Conference President, Lamine Fadika, designed to find common ground among Conference participants, expecially concerning the issues of ownership, management, and manning.

Members of the public may attend up to the seating capacity of the room. Entrance to the Department of State building is controlled and entry will be

facilitated if arrangements are made in advance of the meeting. For further information, contact Mr. Ronald M. Roberts, Office of Maritime and Land Transport, Room 5826, Department of State, 2201 C Street, NW., Washington, D.C. 20520. Telephone (202) 632-0703.

Dated: December 5, 1984.

Samuel V. Smith,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 84-33431 Filed 12-24-84; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/792]

Study Group 5 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 5 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on January 8, 1985 in Room 3012, Radio Building, Department of Commerce, 325 S. Broadway, Boulder, Colorado. The meeting will begin at 9:30 a.m.

Study Group 5 deals with propagation of radio waves (including radio noise) at the surface of the earth, through the non-ionized regions of the earth's atmosphere, and in space where the effect of ionization is negligible. The purpose of the meeting will be to review the work program in preparation for the international meeting of Study Group 5 in September-October 1985.

Members of the general public may attend the meeting and join in the discussions subject to be instructions of the Chairman. Admittance of public members will be limited to the seating available. Requests for further information should be directed to Mr. Richard Shrum, State Department, Washington, D.C. 20520; telephone (202) 632-2592.

Dated: December 4, 1984.

Earl S. Barbely,

Director, Office of International Communications Policy.

[FR Doc. 84-33430 Filed 12-24-84; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/790]

Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on January 17, 1985 at the U.S. Naval Observatory, in the Conference Room in Building No. 1, 34th and Massachusetts Avenue, NW., Washington, D.C. The meeting will begin at 9:30 a.m.

Study Group 7 deals with time-signal services by means of radiocommunications. The purpose of the meeting is to review preparations for the international meeting of Study Group 7 in October 1985.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman. Requests for further information should be directed to Mr. Richard Shrum, State Department, Washington, D.C. 20520 (telephone (202) 632-2592).

Dated: December 4, 1984.

Earl S. Barbely,

Director, Office of International Communications Policy.

[FR Doc. 84-33428 Filed 12-24-84; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circ.: Public Debt-No; 40-84]

Treasury Notes of December 31, 1988; Series Q-1988

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $6,200,000,000 of United States securities, designated Treasury Notes of December 31, 1988, Series Q-1988 (CUSIP No. 912827 RS 3). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated December 31, 1984, and will bear interest from that date, payable on a semiannual basis on June 30, 1985, and each subsequent 6 months on December 31 and June 30 until the principal becomes payable. They will mature December 31, 1988, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The securities are subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later data.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Standard time, Wednesday, December 26, 1984. Noncompetitive tenders as defined below will be considered timely if post-marked no later than Tuesday, December 26, 1984, and received no later than Monday, December 31, 1984.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue being auctioned prior to the designated closing time for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.000. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in section 3.5. must be made or completed on or before Monday, December 31, 1984. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, December 27, 1984. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for allotted securities for their own accounts and for account of customers by credit to their Treasury Tax and Loan Note Accounts on or before Monday, December 31, 1984. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20239. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 84-33458 Filed 12-24-84; 8:45 am]

BILLING CODE 4810-40-M

Public Information Collection Requirements Submitted to OMB for Review

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Cearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Internal Revenue Service

OMB Number: 1545-0706
Form Number: IRS Form 6868
Type of Review: Revision
Title: Qualified Appraisers Application

OMB Number: New
Form Number: IRS Form 8210
Type of Review: New
Title: Self-Assessed Penalties Return

OMB Number: New
Form Number: Informal Supplier Study
Type of Review: New
Title: Replication and Extension of the Measurement of Selected Income Flows in Informal Markets

Clearance Officer: Garrick Shear, (202) 566-6254, Room 5571, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

OMB Reviewer: Norman Frumkin, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0171
Form Number: ATF F 3373 (5330.3)
Type of Review: Extension
Title: Inventory—Export Warehouse Proprieter

Clearance Officer: Howard Hood, (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, Room 2228, Federal Building, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20226.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Bureau of the Public Debt

OMB Number: 1535-0059
Form Number: PD 1832
Type of Review: Extension
Title: Special Form of Detached Assignment for United States Treasury Registered Securities

OMB Number: 1535-0040
Form Number: PD 2458-1
Type of Review: Extension
Title: Certificate of Entitlement for United States Registered Securities and Checks Not Exceeding $500.00 After Administration of a Deceased Owner's Estate

OMB Number: 1535-0034
Form Number: PD 3475
Type of Review: Extension
Title: Special form for Assignment of Federal housing Insurance Fund Debentures

OMB Number: 1535-0052
Form Number: PD 1011
Type of Review: Extension
Title: Resolution Authorizing (1) Disposition of Securities Held by Organization and (2) Exeuction and Dilvery of Bonds of Indemnity

Clearance Officer: Paula Spedden, (202) 634-5295, Bureau of the Public Debt, Room 420, Vanguard Building, 1111 20th Street, NW., Washington, D.C. 20226.

OMB Reviewer: Norman Frumkin, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

James V. Nasche, Jr.,

Departmental Reports, Management Office.

[FR Doc. 84-33516 Filed 12-24-84; 8:45 am]

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federal register

Wednesday
December 26, 1984

Part II

Environmental Protection Agency

40 CFR Part 61

National Emission Standards for Hazardous Air Pollutants Review and Proposed Revision of the Standards for Mercury From Mercury-Cell Chlor-Alkali Plants, Sludge Incineration and Drying Plants and Mercury Ore Processing Facilities; Review and Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[AD-FRL-2676-6]

National Emission Standards for Hazardous Air Pollutants Review and Proposed Revision of the Standards for Mercury From Mercury-Cell Chlor-Alkali Plants, Sludge Incineration and Drying Plants, and Mercury Ore Processing Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Review and proposed rule.

SUMMARY: The current mercury national emission standards for hazardous air pollutants (NESHAP) implement section 112 of the Clean Air Act and are based on the Administrator's earlier determination that mercury is a hazardous air pollutant. This determination was based on the finding that previously unregulated mercury emissions might cause or contribute to an increase in serious irreversible, or incapacitating reversible, illness. The intent of the standards is to protect the public health with an ample margin of safety.

A review of the mercury NESHAP (40 CFR 61.5, Subpart E) has been completed to determine if changes to the existing standards are needed or if any additional source categories should be included. The NESHAP limit mercury emissions from mercury-cell chlor-alkali plants, sludge drying and incineration plants, and mercury ore processing facilities. This notice summarizes information gathered during the review, proposes the addition of monitoring and reporting requirements to the standard for mercury-cell chlor-alkali plants, and proposes to allow the owner or operator of any affected facility 15 days to verify the validity of source test data prior to reporting the results to the Administrator.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed revisions to the standard.

DATES: *Comments.* Comments must be received on or before March 13, 1985.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by January 16, 1985, a public hearing will be held on February 13, 1985 beginning at 10:00 a.m. Persons interested in attending the hearing should call Mrs. Shelby Journigan at (919) 541-5578 to verify that a hearing will occur.

Request To Speak at Hearing. Persons wishing to present oral testimony must contact the EPA by January 16, 1985.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Attention: Docket No. A-82-41, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing, it will be held at the Environmental Research Center Auditorium, corner of Highway 54 and Alexander Drive, Research Triangle Park, North Carolina. Persons wishing to present oral testimony should notify Mrs. Shelby Journigan, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Review Documents. The document summarizing emissions information gathered during the review of the standards may be obtained from the EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Review of National Emission Standards for Mercury." EPA-450/3-84-014.

The document summarizing current information on the potential health effects associated with mercury exposures may also be obtained from the EPA Library. Refer to "Mercury Health Effects Update," EPA-600/8-84-019F.

Docket. Docket No. A-82-41, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable free may be charged for copying.

FOR FURTHER INFORMATION CONTACT:

On policy issues contact: Ms. Dianne Byrne or Mr. Gil Wood, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

On technical issues contact: Dr. James Crowder, Industrial Studies Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5601.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 1971 (36 FR 5931), the EPA listed mercury as a hazardous air pollutant under section 112 of the Clean Air Act. The NESHAP for mercury were proposed on December 7, 1971 (36 FR 23239). Comments received during two public hearings and a public comment period were considered, and the NESHAP were promulgated on April 6, 1973 (38 FR 8826). Initially, the standards included emission limits for only two sources, mercury-cell chlor-alkali plants and mercury ore processing facilities. These were the only sources that the EPA reasonably expected to have the air emission potential to adversely affect human health. Mercury emissions were limited to 2,300 grams per 24-hour period for each source. As a result of a May 7, 1973, petition to the EPA by the Environmental Defense Fund, the EPA agreed to investigate the need to regulate mercury emissions from sludge drying and incineration facilities. The investigation showed that mercury could be emitted in such a way as to endanger human health from several facilities if they were to carry out plans to significantly expand their capacity. Thus, the inclusion of these sources in the NESHAP was proposed on October 25, 1974 (39 FR 38064), and promulgated on October 14, 1975 (40 FR 48302). Emission limits for sludge drying and incineration plants were set at 3,200 grams per 24-hour period.

A revised authority citation to the amended Clean Air Act was published on March 3, 1978 (43 FR 8799). Minor revisions to Reference Test Methods 101 and 102, "Determination of Particulate and Gaseous Mercury Emissions from Chlor-Alkali Plants-Air Streams" and "Determination of Particulate and Gaseous Mercury Emission from Chlor-Alkali Plants-Hydrogen Streams," respectively, to allow the use of alternative sampling and analysis equipment were proposed on October 15, 1980 (45 FR 68514), and promulgated on June 8, 1982 (47 FR 24704). The addition of Reference Test Method 101A, "Determination of Particulate and Gaseous Mercury Emissions from Sewage Sludge Incinerators" was proposed and promulgated on the same dates as the revised Reference Test Methods 101 and 102.

The emission standards for mercury were developed with the intention of regulating those sources that have the potential to emit mercury in a manner that could cause the mercury ambient concentration, averaged over 30 days, to exceed 1.0 microgram per cubic meter

(g/m³). This concentration is a guideline developed by the EPA at the time of the initial proposed rulemaking to protect human health with an ample margin of safety from the adverse health effects of inhaled mercury, taking into consideration the expected levels of ingested mercury. A detailed discussion of the development of the 1.0 g/m³ guideline is presented in the health effects document referred to earlier under *Review Documents*. Inhalation and ingestion and mercury compounds cause central nervous system and renal damage. The effects depend on the dose and include tremors and gingivitis as well as a form of poisoning involving a number of nonspecific neurological and physiological symptoms, e.g., memory loss, delusions, and hallucinations. An EPA review of the mercury health effects studies indicates that there is no evidence that current standards are not amply protective of human health from the inhalation of mercury vapor or from other airborne mercury exposures, and revision of the current 1.0 g/m³ guideline, based on available data, is not warranted. In making this determination, the EPA would like to note that the 1.0 ug/m³ guideline was based on the public health effects of inhaled mercury, taking into consideration dietary contributions to total body burden of mercury. It did not account for any indirect exposures to mercury. The final health effects review document, however, states that the deposition of airborne mercury emissions can lead to increased concentrations of mercury in the edible fish of local lakes and rivers. It also states that recent studies suggest that mercury levels in more remote lakes can be affected as well through the long-distance transport and deposition of mercury on water and land, as the runoff from land transfers mercury to water.

EPA believes that the 1.0 ug/m³ guideline, which takes into account average ingestion levels of mercury, is amply protective because of conservative assumptions made in the development of the guideline. However, because the effects of indirect exposures have not been definitively quantified, EPA requests comments on this issue. Should new information become available to allow for quantification of these effects, the Agency will reevaluate the adequacy of the mercury standards. The final health effects review is included in the docket as item II–A–13.

The findings of the review of the national emission standards for mercury are presented in the following sections of this notice. The first section discusses the compliance and enforcement experiences of the regulated source categories and assesses the need to revise the NESHAP for these sources. The second section discusses the emission potential of unregulated sources of mercury emissions and the need to regulate these sources.

Findings

Unregulated (via NESHAP) Source Categories

The mercury emissions potential of coal-fired power plants and nonferrous smelters was investigated by the EPA under the original rulemaking. These sources were not included in the original standard because it was found that mercury emissions from these sources, even assuming restrictive dispersion conditions and uncontrolled emissions, were not expected to cause the ambient concentration guideline to be exceeded. A recent study of mercury emissions from power plants supports this conclusion.

Battery manufacturing, secondary mercury recovery using retort furnances or vacuum distillation, geothermal power plants, peat-to-methanol plants, mercury vapor lamp manufacturing, industrial instrument manufacturing, paint manufacturing, manufacture of mercurials, laboratory use of mercury, use of amalgams in dentistry, and solid waste incenerators also emit mercury to the air. Based on published information about the use of mercury by these sources and the probable magnitude of their air emissions, only battery manufacturing and secondary mercury recovery were considered as candidates for inclusion in the standard. Details regarding these sources are provided in the review document.

Battery Manufacturing. Mercury in the form of zinc (Zn) amalgam, mercuric oxide (H_gO), mercuric chloride (H_gCl_2), or mercurous chloride ($H_{g2}Cl_2$) is a component of most primary batteries and some storage batteries. Because of the amount of mercury involved, mercuric oxide battery (commonly called mercury battery) and alkaline-manganese battery manufacturing would have the greatest potential for mercury emissions. Thus, these two sources were analyzed first to determine if the ambient mercury concentration guideline would be exceeded.

Five mercuric oxide battery manufacturing plants are currently in operation. Estimated daily mercury emissions provided by industry range from about 5 to 454 grams (g) (0.01 to 1 pound [1b/d]) for these plants. Short-term ambient mercury vapor levels (averaged over 6 to 9 hours) greater than 1 μg/m³ have been measured in the vicinity of emission sources and at points on the perimeter of the plant having the highest mercury emission level. Atmospheric dispersion modeling, assuming maximum production capacity, was performed for this facility to provide an indication of the expected ambient mercury concentrations over a 30-day averaging period. The results of the dispersion modeling indicated a maximum 30-day average mercury concentration of 0.16 μg/m³, a level significantly lower than the 1 μg/m³ (30-day average) used as a health effects guideline. As would be expected, the modeling results are different from the short-term measurements primarily because the 30-day averaging time includes meteorological conditions representative of the entire averaging period and is, therefore, less likely to reflect only the effects of specific short-term meteorological conditions. As such, the modeling results are judged to be more representative of the 30-day average ambient levels than are the short-term monitoring results.

A large alkaline-maganese battery manufacturing plant may use about 910 kilograms per day (kg/d) (2,000 lb/d) of mercury for zinc amalgamation. Mercury emission estimates ranging from <100 g/d (<0.2 lb/d) to about 800 g/d (1.8 lb/d) were reported by industry for the seven plant in the U.S. Atmospheric dispersion modeling, assuming maximum production capacity, was performed for the facility with the highest mercury emission level. The modeling results indicated a maximum 30-day average mercury concentration of 0.17 μg/m³, a level significantly lower than the 1 μg/m³ (30-day average) set as a health effects guideline.

Thus, extending the standard to include battery manufacturing is not warranted at this time because dispersion modeling data indicate that the level of mercury emitted would not cause the ambient concentration guideline to be exceeded.

Secondary Recovery. Mercury is recovered from such sources as batteries, thermometers, and sludges by vacuum distillation or by condensing vaporized mercury in retorts. Of these, retorts have the potential for higher mercury emissions. Mercury is emitted from the vapor stream remaining after condensation and from the retort chamber during loading and unloading operations.

Two companies and one battery manufacturer operate mercury recovery retorts processing between 64,000 and 159,000 kg/yr (140,000 and 350,000 lb/yr) of scrap. Several chlor-alkali companies

operate small mercury recovery retorts on-site. Mercury emission estimates from two facilities and test data from a third indicate that daily emissions range from <1 to 840 g (0.002 to 1.85 lb). (The highest emission level was from the facility with test data.) The highest emission level (840 g/d) is similar to the highest level measured for alkaline-manganese battery manufacturing plants (800 g/d). As with battery manufacturing, the 30-day average ambient concentration would not be expected to exceed the health effects guideline.

Thus, extending the standard to include secondary recovery facilities is not warranted at this time because the data indicate that the level of mercury emitted would not cause the ambient concentration guideline to be exceeded.

Regulated Source Categories

Mercury Ore Processing. The 24 mercury ore processing facilities in operation when the standard was promulgated have closed, primarily because of the decline in mercury prices from 1969 to 1978. While prices have increased since 1978, they are still below those reached in 1969.

One facility that uses high grade ore and improved ore processing technology was constructed in 1975 and is capable of producing over 690 megagrams per year (Mg/yr)) 1.5 million pounds per year [lb/yr]) of mercury. The new facility has demonstrated compliance with the standard by using control technology (a venturi and impinger tower, and a wet scrubber) designed to remove sulfur dioxide and particulates. An emission level of 816 grams per day (g/d) (1.8 pounds per day [lb/d]), less than one-half the limit of the standard, was measured by Reference Method 101 in 1981 when the facility was operating at the maximum capacity allowed under its permit.

No new or reopened facilties are expected unless mercury prices increase significantly. No enforcement problems with the standard were noted by either EPA region or State personnel.

Sludge Drying and Incineration. Approximately 9 sludge dryers at 5 plants and 280 sludge incinerators at 170 plants process wastewater treatment plant sludges and are subject to the standard. There have been 38 incineration plants constructed since the standard was proposed. Half of these have a dry solids burning capacity greater than 45 Mg/d (50 tons/d). Only 16 percent of those plants constructed prior to 1974 were this large. All facilities have demonstrated compliance with the standard; the highest mercury emission level for the existing plants is less than one-half the NESHAP emission limit. No enforcement problems with the standard have been encountered or are expected because the mercury content of sludge is generally to low to cause the emission limit to be exceeded in the sizes of incinerators in use today.

The EPA projected in 1974, however, that mercury could be emitted in such a way as to endanger human health from several facilities if they significantly expanded their capacity. These expansions have not occurred, but the possiblity for future expansions or construction of new large facilities exists in heavily populated areas such as the New York-New Jersey metropolitan area. Theoretically, if all of the municipal sludges from this area were to be incinerated in a small number of incinerators, there could be facilities sufficiently large to have uncontrolled mercury emissions in excess of the standard. An EPA sludge task force is studying the environmental consequences of several hypothetical situations in which all electrical generating plants in the area would be coal-fired and all municipal sludges would be either incinerated in several large facilities, buried in sanitary landfills, or disposed in the ocean. The findings of the task force will provide preliminary indications of the most environmentally acceptable disposal method considering the combined impacts on air, land, and water. If warranted, the mercury NESHAP emission limit for sewage sludge incinerators would be studied to determine the reasonableness of alternative controls.

Mercury-Cell Chlor-Alkali Process. The total U.S. installed chlorine capacity using mercury-cell technology dropped from 25 percent in 1973 to 19 percent in 1982. Twenty-four chlor-alkali plants using the mercury-cell process are currently subject to the national emission standard. No new mercury-cell chlor-alkali plants have been built since promulgation of the standard, and it is probable that no new chlor-alkali plants of this type will be constructed in the U.S. in the future. This trend is due to the availability of alternative technologies, such as the membrane cell and diaphragm cell technology, that do not use mercury and that consume less energy. Growth is expected in the number of facilities using these alternative technologies.

According to enforcement agencies and the industry, all mercury-cell chlor-alkali plants are presently in compliance with the standard. To demonstrate compliance with the cell room provisions of the standard, all facilities have elected to follow prescribed housekeeping practices instead of testing cell room emissions.

Combined mercury emissions from the hydrogen and end-box ventilation streams and the cell room are limited to 2,300 g/d (5.0 lb/d) by the national emission standard. Emissions from the cell room are assumed to be 1,300 g/d (2.8 lb/d) when housekeeping practices are followed. Thus, combined emissions from the hydrogen and end-box ventilation streams must be maintained at no more than 1,000 g/d (2.2 lb/d) when compliance is demonstrated by following approved housekeeping practices (e.g., maintaining floors in good condition and promptly cleaning mercury spills).

Control systems used for the hydrogen gas and end-box ventilation systems include: Coolers, wet scrubbers, carbon adsorbers and molecular sieves. Compliance tests conducted since 1973 show mercury emission measurements on the hydrogen stream ranging from 1 to 891 g/d (0.002 to 2.0 lb/d). Emission data near the low end of this range were generally measured on hydrogen streams controlled by molecular sieve of carbon absorption control systems. Other control systems include coolers and chemical absorption systems. Mercury emission data for the end-box ventilation stream ranged from 1 to 428 g/d (0.002 to 0.94 lb/d).

State and EPA regional personnel contacted in this study stated that monitoring and reporting requirements, which are not now included in the NESHAP, would aid enforcement significantly. The most recent compliance tests indicate that all facilities were in compliance with the standard at the time of the test; however, several facilities control emissions to just below the emission limits to minimize compliance costs. Because continued attainment of the standards is dependent on proper operation and maintenance of the control and process equipment, the monitoring of control system performance and conditions contributing to mercury emissions is important to ensure that the emission limits are not being exceeded. The Chlorine Institute, a trade associaton representing the mercury-cell chlor-alkali industry, has concurred with the adoption of suitable, simple, and effective mechanisms to assure compliance with the hydrogen and end-box emission limits and cell room housekeeping rules. These include combinations of monitoring of specific parameters, recording, and reporting.

Ideally, monitoring requirements would require the continuous and precise measurements of the amount of

mercury being emitted. However, in the case of mercury emissions from the mercury-cell chlor-alkai industry, a single test by Reference Method 101 or 102 costs approximately $12,000, and continuous mercury emission monitors are not adequately demonstrated. Parameters that could be monitored to indicate the performance of various control devices include the temperature of gas streams for cooling systems; the liquid flow rate, pH, concentration of available chlorine and inlet gas temperature for chemical absorption systems; the liquid flow rate and exit gas temperature for water scrubbers; the regeneration temperature of molecular sieves; and the inlet temperature of carbon absorbers. The exit gas temperature for uncontrolled systems would indicate the maximum amount of mercury in the stream.

Alternative Monitoring Requirements That Were Considered

Five alternatives for monitoring requirements for the hydrogen and end-box ventilation streams of mercury-cell chlor-alkali plants were considered. These were: (1) Continuous instrument monitoring of mercury emissions; (2) no routine monitoring, but periodic emission tests by the EPA reference test methods; (3) continous, or hourly, monitoring of control device and/or process parameters followed by reporting of periods when the parameters fall outside ranges specified in the NESHAP; (4) hourly monitoring of control device and/or process parameters, followed by a simplified sampling procedure (i.e., non-reference method) when the monitored parameters fall outside limits established on a plant-by-plant basis; and (5) periodic monitoring of emissions by a simplified sampling procedure.

The first alternative was judged to be insufficiently demonstrated and too costly, and the second alternative was judged to be too monitoring of control device and/or process parameters followed by reporting of periods when parameters fall outside a specified range (the third alternative.) They stated that parameters such as temperature could exceed the ranges suggested by the Agency at some facilities, while those facilities' emissions could be well below the limit of the standard, negating the need for reports. At a meeting with members of the Chlorine Institute on February 28, 1984 (Docket A–82–41, Item II–E–153), some representatives proposed that the periodic monitoring of control device and/or process parameters, which is already done to varying degrees by all plants, be coupled with a simplied sampling procedure to determine mercury emissions when the level of the monitored parameter falls outside an established limit. They recommended that these limits be established separately for each plant and used to develop a plant-specific compliance assurance plan. Industry representatives further proposed, as another alternative, that simplified sampling be done on a quarterly basis (the fifth alternative) instead of routine monitoring of parameters.

The EPA investigated the Chlorine Institute members' suggestion of conducting a simplified sampling procedure (i.e., non-reference method) as an alternative to monitoring control device or process parameters or as a means of indicating whether excess emissions may have occurred during periods when monitored parameters have fallen outside established limits. The Agency is not aware of any simplified sampling method that has been sufficiently demonstrated to accurately represent the mercury concentration in the stack. The reference test methods include, and any acceptable alternative method would also have to include, rigorous procedures for ensuring that the sampling train is properly prepared prior to sampling and that the collected mercury vapors accurately represent the mercury concentration in the stack. In addition, sampling periods shorter than the minimum periods required for each of the three reference method runs (2 hours each) may not collect an amount of mercury sufficient for accurate analysis. Thus, the Agency knows of no demonstrated emission monitoring method applicable to all affected facilities that can be proposed as an optional method. Consequently, the fourth and fifth monitoring alternatives were rejected. However, as an alternative to hourly parameter monitoring, the EPA will consider for approval, on a case-by-case basis, alternative demonstrated emission monitoring methods that would provide for complete collection and accurate analysis of mercury. Use of such an emission monitoring method would be required on a routine basis. The frequency of use would be partially determined by the accuracy of the method and the complexity of the collection procedures.

In considering the third monitoring alternative, the Agency agreed with the Chlorine Institute members' statement that certain process or control device parameters, such as temperature, could be exceeded on some occasions without affecting the compliance status of the facility. This is most likely to happen in cases where the established limit of the parameter to be monitored (temperature, for example) is equivalent to the level measured during a performance test which demonstrated compliance and which was conducted under optimal operating conditions. For example, if the performance test were conducted in the winter at a facility where water at ambient temperature is used to cool exit gas streams, the temperature recorded during the test could be relatively low. If an equivalent temperature served as the limit not to be exceeded and the temperature of the facility's cooling water were 30° to 50°F higher during the summer, the facility could be required to report the temperature exceedance, but the emissions could be below the emission limit. The Agency also agreed that the upper limit of the parameter could be different for each plant.

Proposed Revisions

To incorporate the industry's suggestion of tailoring the monitoring requirements to reflect plant-by-plant differences, and to provide parameter limits that would be a better indicator of operation and maintenance and of potential excess emissions, the Agency is proposing that the owner/operator of each affected facility be allowed to establish the maximum parameter limits (or, in the case of chemical absorption systems, the minimum liquid flow rate and available chlorine) based on the levels that would be expected to occur when the facility was operating under the upper, or worst-case, range of conditions that are reasonably expected to occur, given proper operation and maintenance of the facility. Consequently, these limits would be established during a performance test that demonstrated compliance and that was conducted when the facility was operating at the upper range of operating conditions that could reasonably be expected to occur. Because the limits would reflect the upper range of operating conditions, failure to maintain the parameters within the limits would be a better indication of improper operation and maintenance, and the potential for excess emissions, than would failure to maintain the parameters within limits established under optimal operating conditions.

For the reasons just described, this proposal would require the owner or operator of each mercury-cell chlor-alkali plant to conduct an initial performance test of the hydrogen and end-box ventilation streams by Reference Method 101 or 102. The tests

may be performed under the upper range of operating conditions (other than conditions of malfunctions) that can reasonably be expected to occur on a routine basis.

While the reference method test is being conducted, the owner or operator of each mercury-cell chlor-alkali plant would be required to monitor and record, at least once every 15 minutes, the following process and/or control device parameters for each stream, depending on the control system used: The temperature of gas discharged to the atmosphere from uncontrolled streams; the outlet temperature of the gas stream from the final (i.e., the farthest downstream) cooling system where no control devices other than coolers and demisters are used; the outlet temperature of the gas stream from the final cooling system where the cooling system is followed by a mercury removal device such as a molecular sieve or carbon adsorber; concentration of available chlorine, pH, liquid flow rate and inlet gas temperature for chlorinated brine scrubbers and hypochlorite scrubbers; the liquid flow rate and exit gas temperature for water scrubbers; the regeneration temperature for molecular sieves; and the inlet temperature for carbon adsorption systems. The recorded values of these monitored parameters would be averaged over the performance test period (a minimum of 6 hours) to establish the plant-specific limits.

Subsequent to this performance test, the owner or operator each mercury-cell chlor-alkali plant would be required to monitor and record, hourly, the same process and/or control device parameters that were monitored during the test. The hourly monitoring frequency is based on the Agency's belief that control system failures could result in excedances of the emission limits if they are not noted and repaired within several hours. Information received from industry (Docket item II–E–154) indicates that, in some cases, the time required to repair or replace portions of the hydrogen stream control system, such as a chiller or upstream compressor, could typically be 2–3 hours. The limits of the standards could be exceeded within this time period, depending on such factors as plant capacity (tons per day of chlorine production), cooler temperature, and end-box emissions levels. Monitoring parameter less frequently than hourly would be expected to increase the risk of excess emissions occurring before control systems are repaired. Many plant owners or operators continuously monitor process or control device parameters; others monitor on either an hourly or bihourly basis. The Agency invites comments on the appropriateness of hourly monitoring and requests that such comments be accompanied by data supporting any alternate interval that is suggested.

If the hourly value of a monitored parameter of either the hydrogen or end-box ventilation stream exceeds (or, in the case of chemical absorption systems where liquid flow rate and available chlorine are monitored, falls below) for a period of 24 consecutive hours, the value of that same parameter established during the performance test, the owner/operator would be required to report within 10 days the failure to maintain parameters within the established limits. The 24-hour period is believed to be sufficient time for an owner/operator to repair most conditions expected to cause the parameters to fall outside the limits.

Semi-annual reports documenting all hourly instances in which monitored parameters fall outside the established limits shall also be submitted to the Administrator. These reports would be for the purpose of notifying enforcement agencies that monitored parameters have fallen outside the limits and, therefore, that there has been a potential for excess emissions to occur. Enforcement agencies, after reviewing the reports and evaluating the nature of the failure to remain within the limits, may require a performance test to determine if the facility is exceeding the standards.

Each owner or operator of a chlor-alkali plant that uses housekeeping practices to comply with the standard for cell room ventilation systems would be required to maintain daily records of all leaks or spills of mercury in the cell room. The records shall indicate the location of the leak or spill, the time and date it was detected, immediate steps taken to minimize mercury emissions (i.e., containing a leak under water), the ultimate corrective action, and the time and date of the ultimate corrective action. These leaks and spills are not expected to occur frequently at well-operated and -maintained plants.

Because the documentation of mercury leaks and spills will be available to enforcement personnel, the owner or operator of each mercury-cell chlor-alkali plant will be encouraged to conduct proper operation and maintenance. Requiring reports of mercury leaks and spills is not being proposed because it would not encourage proper operation and maintenance beyond the program described above. Excess emission reports are not being required for housekeeping practices because the practices are not structured in a way that excesses can be defined. Although leaks of hydrogen gas can contain relatively high concentrations of mercury, it is standard operating practice to promptly repair these leaks because of the explosive nature of hydrogen. The EPA believes that because these leaks would be promptly repaired, the reporting of hydrogen leaks is not necessary and is, therefore, not being proposed. Reporting leaks and spills of brine, wash-water, or caustic is not being proposed because these media would not be expected to contain significant quantities of mercury.

The results of all monitoring and recordkeeping for mercury-cell chlor-alkali plants would be retained at the source and made available for inspection by the Administrator for a minimum of 2 years.

The addition of monitoring, recordkeeping, and reporting requirements for mercury-cell chlor-alkali industry will benefit the environment through encouraging plants to adopt best operating practices for operating and maintaining process equipment and control devices. There would be no energy impacts as a result of this addition. There will be an average yearly cost to each chlor-alkali plant during the first three years the proposed revisions are in effect of approximately $9,000 associated with the monitoring, recordkeeping, and reporting requirements and the initial performance test. This cost is judged to be reasonable in light of the resulting more efficient use of enforcement resources.

This proposal would also allow the owner or operator of an affected chlor-alkali plant, mercury ore processing facility, or sludge incinerator and drying plant 15 days to verify the validity of source test data prior to reporting these results to the Administrator. Currently, owners or operators of affected facilities are required to submit these data before the close of business of the next day after the data are available. The proposed change would provide the owner or operator a reasonable amount of time to determine the validity of the data. Extending the time limit for the submission of test data should have no environment, economic, or energy impacts.

Owners and operators of facilities covered by these standards should note that nonfederally permitted releases of hazardous substances might be covered by requirements developed under the Comprehensive Environmental

Response, Compensation, and Liability Act of 1980 (See 48 FR 23552, May 25, 1983).

Impacts of Reporting and Recordkeeping Requirements

The EPA believes that the proposed reporting and recordkeeping requirements for the chlor-alkali industry are necessary to assist the Agency in enforcing the standard after the initial compliance determination.

The information collection requirements associated with the rule which this notice proposes to amend (40 CFR 61.55) have been cleared previously by OMB under control number 2000-0243. The changes to the information requirements proposed in this notice have been submitted previously by OMB under control number 2000–0243. The changes to the information requirements proposed in this notice have been submitted to OMB for review under the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.* Comments on these information collection requirements should be submitted to the Office of Information and Regulatory Affairs of OMB—marked Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection requirements.

The average annual burden on mercury-cell chlor-alkali plants to comply with the reporting and recordkeeping requirements of the proposed standards over the first 3 years after the effective date is estimated to be about 9,200 person-hours, based on 24 respondents.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (RFA) requires that differential impacts of Federal regulations upon small entities be identified and analyzed. The RFA states that an analysis is required if a substantial number of small entities will experience significant impacts. Both measures, substantial numbers of small entities and significant impacts, must be met to require an analysis. If either measure is not met, then no analysis is required. Twenty percent or more of the small businesses in an affected industry is considered a substantial number. The EPA definition of significant impacts involves three tests, as follows: One, costs of production rise 5 percent or more, assuming costs are not passed on to consumers; or two, annualized investment costs are not passed on to consumers; or two, annualized investment costs for pollution control are greater than 20 percent of total capital spending; or three, costs as a percent of sales for small entities are 10 percent greater than costs as a percent of sales for large entities.

The additional monitoring, recordkeeping, and reporting requirements being proposed would affect only mercury-cell chlor-alkali plants. The small Business Administration (SBA) definition of a small business for Standard Industrial Classification (SIC) Code 2812, Chlor-Alkali Production, is 1,000 employees. The 24 chlor-alkali plants using the mercury-cell process are owned by 10 companies. All 10 have more than 1,000 employees. Therefore, none of the 10 companies meets the SBA definition of a small business, and thus no regulatory flexibility analysis is required.

Public Hearing

A public hearing will be held, if requested, to discuss the proposed revisions to the standard for mercury-cell chlor-alkali plants, sludge incineration and drying plants, and mercury ore processing in accordance with sections 112(b)(B) and 307(d)(5) of the Clean Air Act. If a hearing is requested, persons wishing to make oral presentations on the proposed revisions to the standards should contact the EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble and should refer to docket number A–82-41.

A verbatim transcript of any hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see **ADDRESSES** section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to, or otherwise considered by, the EPA in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties to readily identify and locate documents so that they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review.

Miscellaneous

In accordance with section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed amendments.

This regulation will be reviewed 5 years from the date of promulgation. This review will include an assessment of such factors as the need for integration with other programs, enforceability, improvements in emission control technology and health data, and reporting requirements.

Under Executive Order 12291, the EPA must judge whether a regulation is "major" and therefore subject to the requirement of a regulatory impact analysis. This regulation is not major because it will not have an annual effect on the economy of $100 million or more, result in a major increase in costs or prices, or have significant adverse effects on competition, employment, investment, productivity, or innovations.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because no small entities are affected.

List of Subjects in 40 CFR Part 61

Air pollution control, Asbestos, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

Dated: December 19, 1984.

William D. Ruckelshaus,

Administrator.

PART 61—[AMENDED]

It is proposed to revise 40 CFR 61.53–61.55 to read as follows:

§ 61.53 [Amended]

1. In § 61.53, paragraphs (a)(4), (b)(4), and (d)(5) are all revised to read exactly as follows:

All samples shall be analyzed and mercury emissions shall be determined within 30 days after the stack test. Each determination shall be reported to the Administrator by a registered letter dispatched within 15 calendar days following the date such determination is completed.

2. In § 61.53, paragraph (c)(4) is revised to read as follows:

An owner or operator may carry out approved design, maintenance, and housekeeping practices. A list of approved practices is provided in Appendix A of "Review of National Emission Standards for Mercury," EPA–450/3–84–014.

3. In § 61.54, paragraph (f) is revised to read as follows:

All sludge samples shall be analyzed for mercury content within 30 days after

the sludge sample is collected. Each determination shall be reported to the Administrator by a registered letter dispatched within 15 calendar days following the date such determination is completed.

4. In § 61.55, the title and paragraph (a) are revised to read as follows:

§ 61.55 Monitoring of emissions and operations.

(a) Wastewater treatment plant sludge incineration and drying plants. All the sources for which mercury emissions exceed 1,600 g per 24-hour period, demonstrated either by stack sampling according to § 61.53 or sludge sampling according to § 61.54, shall monitor mercury emissions at intervals of at least one per year by use of Method 105 of Appendix B or the procedures specified in § 61.53(d) (2) and (4). The results of monitoring shall be reported and retained according to § 61.53(d) (5) and (6) or § 61.54 (f) and (g).

5. In § 61.55, paragraphs (b) and (c) are added to read as follows:

(b) Mercury cell chlor-alkali plants—hydrogen and end-box ventilation gas streams.

(1) The owner or operator of an affected facility shall, within 1 year of the date of promulgation of these amendments, perform a mercury emission test on the hydrogen stream by Reference Method 102 and on the end-box stream by Reference Method 101.

(2) During tests specified in paragraph (b)(1) of this section, the following control device parameters shall be monitored, by devices certified by the manufacturer to be accurate within 10 percent, and manually or automatically recorded at least once every 15 minutes:

(i) The exit gas temperature from uncontrolled streams;

(ii) The outlet temperature of the gas stream for the final (i.e., the farthest downstream) cooling system where no control devices other than coolers and demisters are used;

(iii) The outlet temperature of the gas stream from the final cooling system where the cooling system is followed by a molecular sieve or carbon adsorber;

(iv) Concentration of available chlorine, pH, liquid flow rate, and inlet gas temperature of chlorinated brine scubbers and hypochlorite scrubbers;

(v) The liquid flow rate and exit gas temperature for water scrubbers;

(vi) The regeneration temperature of molecular sieves; and

(vii) The inlet gas temperature of carbon adsorption systems.

(viii) The recorded parameters shall be averaged over the test period (a minimum of 6 hours) to provide an average number.

(3) Subsequent to the monitoring and recording specified in paragraph (b)(2) of this section, the owner or operator of an affected facility shall monitor, by devices certified by the manufacturer to be accurate within 10 percent, and manually or automatically record at least once per hour the same parameters specified in paragraph (b)(2) of this section.

(4) When the hourly value of a monitored parameter exceeds, or, in the case of liquid flow rate and available chlorine, falls below, the value of that same parameter determined in paragraph (b)(2) of this section for 24 consecutive hours, the Administrator is to be notified within the next 10 days.

(5) Semiannual reports shall be submitted to the Administrator indicating (i) the time and date on which the hourly value of each monitored control device or process parameter fell outside the value of that same parameter determined under § 61.55(b)(2); and (ii) the corrective action taken, and the time and date of the corrective action.

(c) Mercury cell chlor-alkali plants—cell room ventilation system.

(1) Stationary sources using mercury chlor-alkali cells determining cell room emissions in accordance with § 6.53(c)(4) shall maintain daily records of any leaks or spills of mercury. The records shall indicate the location, time, and date the leaks or spills occurred, immediate step taken to minimize mercury emissions, steps taken to correct the problems, and the time and date corrective steps were taken.

(2) The results of monitoring shall be recorded, retained at the source, and made available for inspection by the Administrator for a minimum of 2 years.

(Approved by the Office of Management and Budget under Control Number 2000-0243)

[FR Doc. 84-33468 Filed 12-24-84; 8:45 am]

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Reader Aids

Federal Register

Vol. 49, No. 249

Wednesday, December 26, 1984

INFORMATION AND ASSISTANCE

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Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual	523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, DECEMBER

47189-47380.....3
47381-47472.....4
47473-47586.....5
47587-47818.....6
47819-48026.....7
48027-48174.....10
48175-48260.....11
48261-48528.....12
48529-48666.....13
48667-48904.....14
48905-49052.....17
49053-49278.....18
49279-49416.....19
49417-49580.....20
49581-49836.....21
49837-50016.....24
50017-50152.....26

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

305.....49837

3 CFR

Administrative Orders:
Memorandums:
December 10, 1984.....48263
Executive Orders:
11157 (Amended by EO 12494).....48175
12493.....47819
12494.....48175
Proclamations
5285.....47473
5286.....47587
5287.....48261
5288.....48667

4 CFR

21.....49417

5 CFR

532.....49841
890.....48905
1201.....48906
Proposed Rules:
890.....48193

7 CFR

1.....50017
2.....48669
53.....48669
54.....48669
180.....48676
272.....48677, 49581
273.....48677
274.....49581
285.....49581
301.....48681, 49279
330.....48681
402.....49279
413.....47589, 49280
420.....47821, 49053, 49585
421.....47821, 49058, 49585
424.....49063, 49585
425.....47821, 49067, 49280
431.....47821
432.....47821, 49073, 49585
434.....49585
435.....49585
436.....49585
437.....49585
445.....47590
800.....49586
810.....49423-49428
907.....47475, 48265, 49078
910.....48682, 49587
966.....47189
971.....48529
984.....49079
991.....47190
1930.....49587
1944.....49587
1965.....49587
Proposed Rules:
Ch. IX.....47271
51.....48194
52.....47402
416.....49297
428.....48729
433.....48733
434.....47612
435.....49095
447.....47617
448.....48738
810.....49474
920.....49302
966.....47495
989.....48194, 49304, 49834
1030.....49099
1126.....47495
1150.....47496

8 CFR

103.....49431
212.....48530
238.....48027
239.....50018

9 CFR

72.....49610
301.....47475, 49614
318.....47822
319.....47822
325.....47475, 49614
381.....47475, 49614
Proposed Rules:
92.....47402
113.....49478

10 CFR

1.....47823
20.....47823
30.....47823
40.....47823
50.....47823
55.....47823
70.....47823
73.....47823
110.....47191, 49841
430.....47479
960.....47714
Proposed Rules:
50.....48200, 49640, 50054
73.....48200

11 CFR

Proposed Rules:
2.....49306
3.....49306
114.....48201

12 CFR

201.....47825
265.....49281
304.....48906
346.....49614
506a.....48177
523.....47825
541.....47825
545.....47825
549.....47825
561.....47825
563.....47825, 50019
563b.....49080
564.....50019
584.....47825
614.....48909
795.....48910

Proposed Rules:

Ch. VII.....49432
205.....47405
226.....47406
332.....48552, 49309
500.....47410
561.....47499, 47852
563.....47499, 47852, 48743
563b.....47271, 47410
570.....47852
571.....47852, 47866
584.....47852, 48564
612.....48051

13 CFR

101.....47381
121.....50027
123.....50008, 50013

Proposed Rules:

107.....48201
121.....47412, 47414
122.....49106

14 CFR

1.....47594
11.....49260
27.....47594
29.....47594
39.....47381, 47382, 48027, 48029, 48531, 48911, 48913, 49282, 49432–49434
71.....48532, 48912, 48914, 49089, 49283, 49435, 49842
73.....49436
75.....49283
91.....47594, 48030, 49089
95.....47204
97.....48033, 49436
103.....49089
105.....49089
150.....49260
211.....50027
241.....48265
271.....49842
298.....48266
375.....48915
380.....49438
399.....49440

Proposed Rules:

Ch. I.....48759, 49579
25.....47358
27.....49852
29.....49852
33.....48760
39.....48761, 48566, 49480
71.....47415, 48053, 48054, 50054 48201, 48568, 48941, 49481 49852
73.....48569, 50054
75.....47621
91.....49643
221.....49111
375.....48569

15 CFR

Proposed Rules:

30.....48055
941.....47415

16 CFR

13.....48178, 48180, 48266, 48269
305.....47479
1610.....48683

Proposed Rules

424.....48059

17 CFR

210.....47594
229.....47594
231.....47594
241.....47594
270.....47208, 49441
274.....47208

Proposed Rules:

1.....48570
143.....48060
240.....47274
249.....48318

18 CFR

11.....49284
154.....49284
271.....47826, 49447, 49623
282.....48035
1302.....47383
389.....49284

Proposed Rules:

271.....48571, 48572, 48942

19 CFR

4.....48035
6.....48035
10.....47986, 47995, 49575
101.....49090

Proposed Rules:

10.....48003
151.....49853

20 CFR

404.....48036, 48181
410.....48036
416.....48036
422.....48036
632.....47384

Proposed Rules:

655.....48061

21 CFR

5.....48183
81.....47228, 47229
175.....47480
177.....49448
178.....49284
182.....48533
184.....47384, 48533
193.....47481, 48270
436.....47483, 47826, 48183
442.....47483, 47826, 48183, 49285
444.....49287
452.....47828, 49090, 49449
510.....47387, 47829, 48535, 49288, 50028
520.....47830, 49090, 49449
522.....47829, 48038
540.....48271
546.....47486
555.....48184, 49847
558.....47387, 48039, 48271, 49288, 49449
561.....47481, 49288
803.....48272
1020.....47387

Proposed Rules:

58.....47504
166.....47418
182.....47505, 48202
184.....47505, 48202, 48321
450.....47505
558.....49645
610.....47622
630.....47622

22 CFR

120.....47682, 48536
121.....47682, 48536
122.....47682
123.....47682
124.....47682, 48536
125.....47682
126.....47682
127.....47682
128.....47682
129.....47682
130.....47682, 48536
501.....48273
514.....48039

24 CFR

100.....49289
234.....47388
511.....49289

Proposed Rules:

813.....48006
880.....48006
881.....48006
882.....48006
913.....48006
960.....48006

26 CFR

1.....48273-48283, 49450
6a.....48292
301.....48536

Proposed Rules:

1.....47870, 48321-48323, 49112, 48573, 49310
35a.....47870
41.....47274, 47871
48.....47274, 47871
301.....48573, 49112

27 CFR

9.....47831

28 CFR

548.....48900

29 CFR

1610.....48039
1952.....48915
2610.....49091
2619.....48691
2621.....49847
2622.....49091

30 CFR

915.....47834

Proposed Rules:

Ch. II.....47624, 49112
Ch. VII.....49113
55.....49202
56.....49202
57.....49202
250.....48762
251.....47871
872.....50054
920.....47419
935.....48324
948.....48943

31 CFR

129.....48184, 48918
210.....48918

Proposed Rules:

391.....48945

32 CFR

142.....49450
250.....48040
706.....47602, 48539, 49625

33 CFR

100.....47230, 48046
110.....47602, 48539
117.....47231, 48540, 48923, 49452
207.....49452

Proposed Rules:

100.....48574
117.....47872, 49482, 50055 49854–49856
166.....48946
167.....48946

34 CFR

300.....48520
614.....50028

Proposed Rules:

668.....48494

35 CFR

121.....48924

36 CFR

251.....48541

Proposed Rules:

7.....49647
261.....47505
293.....47505
294.....47505

37 CFR

1.....48416
301.....49092
304.....47487

38 CFR

17.....50029
21.....48692

Proposed Rules:

21.....49858

39 CFR

10.....47389
111.....47231, 47232, 47389, 48541

Proposed Rules:

10.....47275
111.....49483, 49859

40 CFR

Ch. V.....49750

52.....47488, 47490, 47836, 48152, 48185, 48542, 49454–49461
60.....48692, 49290, 49964
61.....48692, 49290
65.....49462, 49463
81.....49464
86.....48128, 48474, 49830, 49832
180.....47491, 47493, 48298, 48299, 49092, 49290–49292, 49626
233.....49553
260.....47390
262.....49568
270.....47390
271.....47391, 48300, 48694 49092
463.....49026
600.....48128

Proposed Rules:
51.....48018, 48948, 49484
52.....48018, 48202, 48575, 48762, 48948, 49113, 49114, 49310, 49484
61.....50146
65.....47507
147.....48948
154.....47508
180.....47420, 47508, 47509
232.....48064
233.....48064
261.....47510, 49556, 49562, 49784
600.....48023
717.....49865
721.....47874, 49868
763.....49311

41 CFR

Ch. 101.....48544
101-25.....48546
101-41.....48547

Proposed Rules:
16-4.....48193

42 CFR

Proposed Rules:
52a.....49115

43 CFR

Proposed Rules:
Ch. II.....47624, 49112
3160.....48576
4700.....49252
5400.....47511

44 CFR

64.....48925
67.....47240

Proposed Rules:
61.....48652
62.....48652
67.....49485

45 CFR

96.....47603
233.....48547
617.....49627
801.....47392

Proposed Rules:
1340.....48160

46 CFR

340.....49630
500.....47393
501.....47393
502.....47393
503.....47393
504.....47393
505.....47393
572.....48550, 48927
580.....48927
585.....48927

Proposed Rules:
45.....48762
169.....49974
170.....49974
171.....49974
173.....49974
572.....48764

47 CFR

Ch. I.....50030
0.....47604
1.....49465
2.....48694
15.....48305, 48694
21.....48694
22.....48694, 48928, 48935, 49466
23.....48694
61.....47265, 49465
68.....48714
73.....47395, 47604–47608, 47837, 48046, 48186, 48305, 48935, 49848, 50045
74.....47837, 48305, 48694
76.....48313, 49635
78.....50045
81.....48694, 48935
83.....48187, 48694
87.....48694
90.....48694, 48935, 49637
95.....48694
97.....48551, 48694
99.....48694

Proposed Rules:
Ch. I.....48694, 47275
2.....50056, 50059
1.....48765
2.....47625, 47628
18.....47628
22.....49874
45.....48765
63.....48765, 48949
67.....48325
73.....47638, 50059
76.....48765, 48949
81.....47641
83.....47516, 47625, 47641
90.....48950, 50059
572.....48765

48 CFR

Ch. 5.....48726
750.....49472
752.....49472

Proposed Rules:
Ch. 5.....47516
18.....49648
1501.....47516
1502.....47516
1503.....47516
1505.....47516
1506.....47516
1513.....47516
1514.....47516
1515.....47516
1517.....47516
1527.....47516
1533.....47516
1536.....47516
1552.....47516
1827.....49875
1852.....49875

49 CFR

225.....48938
395.....47494
571.....47396
575.....49293
1002.....48314
1057.....47268, 47850
1182.....48314
1183.....48314
1186.....48314

Proposed Rules:
Ch. X.....48774
215.....48952
391.....49313
531.....48064
533.....48064
571.....47276, 47880, 48576, 49117
1039.....49314
1057.....48576
1063.....47277, 49117
1181.....48342
1186.....48342

50 CFR

17.....47397, 49639
32.....50049
258.....47611
611.....48316
645.....50049
652.....49093, 49473, 49639
655.....47269
672.....48049, 48316
675.....48316

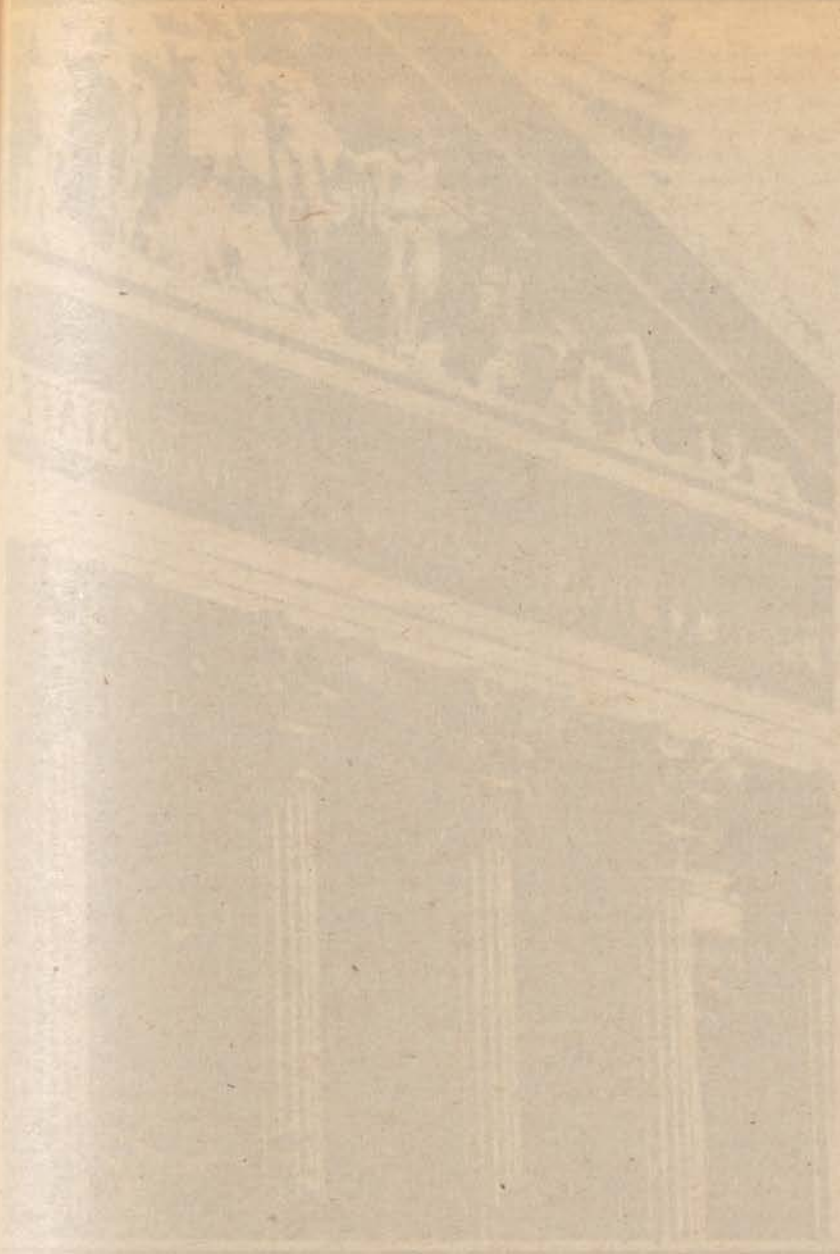
Proposed Rules:
Ch. II.....47421
17.....49118
23.....48775
80.....47420
217.....48777
222.....48777
652.....47278, 47422, 50060

LIST OF PUBLIC LAWS

Note: The President completed his consideration of acts and joint resolutions passed during the second session of the 98th Congress on November 8, 1984.

Last list November 16, 1984.

The list will be resumed when bills are enacted into public law during the first session of the 99th Congress which convenes on January 3, 1985.



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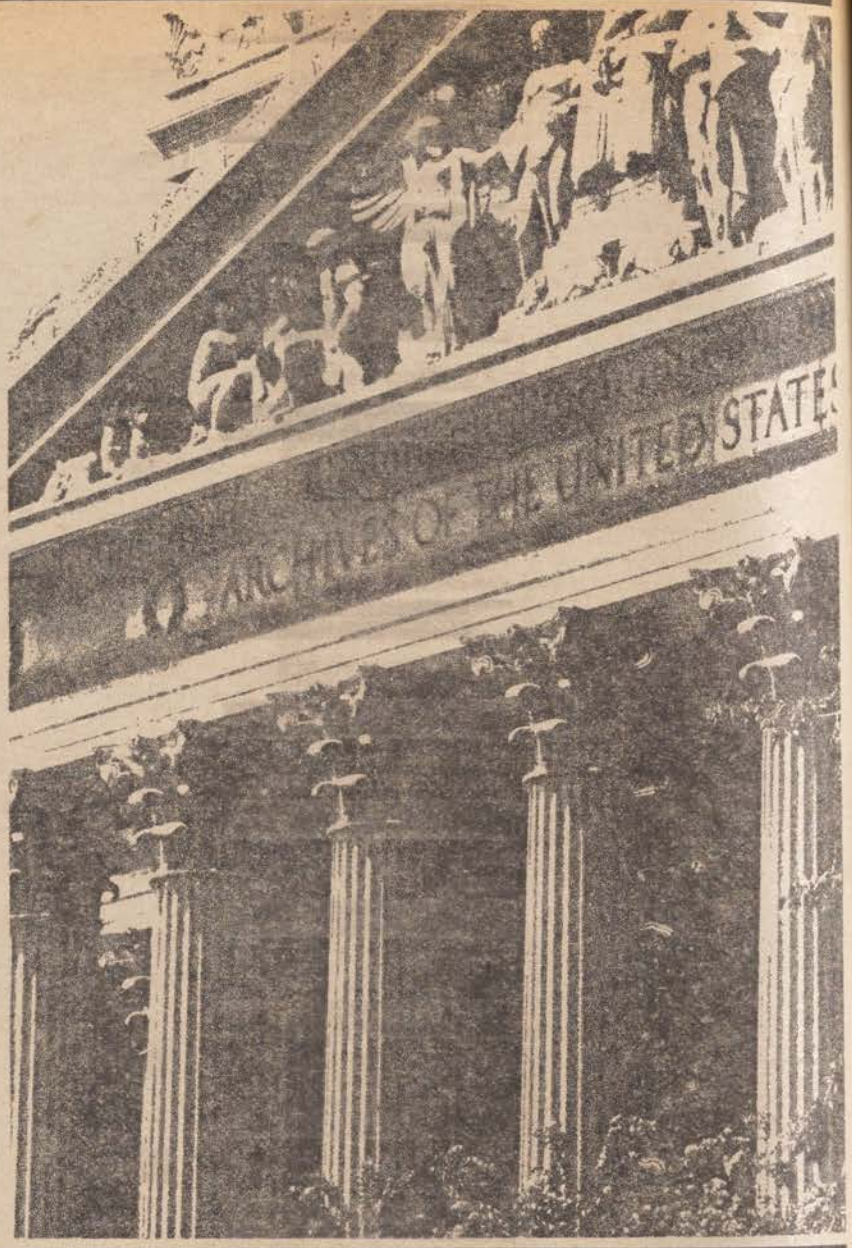

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