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Wednesday
October 9, 1985

Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

Selected Subjects

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Selected Subjects

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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How To Cite This Publication: Use the volume number and the page number. Example: 50 FR 12345.

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: November 15; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Call JoAnn Harte, Workshop Coordinator, 202-523-5239.

FUTURE WORKSHOPS: Additional workshops are scheduled bimonthly in Washington and on an annual basis in Federal regional cities. The January 1986 Washington, D.C. workshop will include facilities for the hearing impaired. Dates and locations will be announced later.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

Tobacco Inspection; Growers' Referendum Results

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This document contains the determination with respect to the referendum on the designation of the tobacco market of Farmville, Virginia, for the sale of Type 37, Virginia sun-cured tobacco. A referendum was conducted by mail during the period of July 15–19, 1985, among tobacco growers who sell Type 37 tobacco to determine producer approval of the designation of Farmville, Virginia, for the sale of this type. A majority of eligible producers voted in favor of the designation. Therefore, for the 1985 and succeeding marketing seasons, the Farmville, Virginia, tobacco market shall be so designated. The regulations are herein amended to reflect this new designated market.

EFFECTIVE DATE: October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Lioniel S. Edwards, Director, Tobacco Division, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–2567.

SUPPLEMENTARY INFORMATION: A notice was published in the July 2, 1985, issue of the **Federal Register** (50 FR 27288) advising that a referendum would be conducted among producers of Type 37, Virginia sun-cured tobacco, to ascertain if such producers favored the designation of Farmville, Virginia, as a market for this type.

The referendum was conducted among producers who were actually engaged in the production of Type 37, Virginia sun-cured tobacco, for calendar year 1984. Ballots for the July 15–19 referendum were mailed to 461 producers. Approval required votes in favor of the proposal by two-thirds of the eligible voters who cast valid ballots. The Department received a total of 163 responses: 151 eligible producers voted in favor of the designation of Farmville; 7 eligible producers voted against the designation and 5 ballots were determined to be invalid because they were not completed and/or signed, or were received after the close of the referendum.

Upon the basis of the results of the referendum, the market of Farmville, Virginia, is hereby designated as a tobacco auction market for the sale of Type 37, Virginia sun-cured tobacco, and this designated market shall receive mandatory, federal grading of tobacco sold at auction for the 1985 and succeeding seasons.

The referendum was held in accordance with the provisions of 7 U.S.C. 1312(c) and the regulations set forth in 7 CFR Parts 29 and 717.

This final rule has been reviewed under USDA procedures established to implement Executive Order 12291 and the Secretary's Memorandum 1512–1 and has been determined to be a "nonmajor" rule becuase it does not meet any of the criteria established for major rules under the executive order.

Additionally, in conformance with the provisions of Pub. L. 96–354, Regulatory Flexibility Act, full consideration has been given to the potential economic impact upon small business. Tobacco warehousemen and producers fall within the confines of "small business" as defined in the Regulatory Flexibility Act. A number of firms which are affected by these adopted regulations do not meet the definition of small business either because of their individual size or because of their dominant position in one or more marketing areas. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will have no significant economic impact upon all entities, small or large, and will in no way affect the normal competition in the market place.

Finally, minor typographic errors and errors of form are corrected in the citations of authority.

List of Subjects in 7 CFR Part 29

Administrative practices and procedures, Agricultural Marketing Service, Tobacco.

Accordingly, the Department amends the regulations under the Tobacco Inspection Act contained in 7 CFR Part 29, Subpart D, as follows:

PART 29—[AMENDED]

1. The authority citation for 7 CFR Part 29 is revised to read as follows:

Authority: Title II of Pub. L. 96–180, 49 Stat. 731, as amended (7 U.S.C. 511 *et seq.*), unless otherwise noted.

2. The authority citation for 7 CFR Part 29, Subpart D (7 CFR 29.8001) is removed.

§ 29.8001 [Amended]

3. The table contained in § 29.8001, entitled "Designated Tobacco Markets" is amended by adding a new item (yy) under (xx) at end of the table to read as follows:

* * * * *

Territory	Types of tobaccos	Auction markets	Order of designation	Citation
(yy) Virginia	Type 37	Farmville	Oct. 9, 1985	50 FR ———

Dated: October 2, 1985.

Alan T. Tracy,

Deputy Assistant Secretary, Marketing and Inspection Services

[FR Doc. 85–23969 Filed 10–8–85; 8:45 am]
BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 9

Minor Clarifying Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations pertaining to the availability of records under the Freedom of Information Act to clarify and conform them to existing case law and to reflect long-standing agency practice. In addition, the NRC is amending its regulations to conform the reproduction costs for Privacy Act records to those currently charged at the NRC's Public Document Room and other NRC offices of publicly available documents.

EFFECTIVE DATE: October 9, 1985.

FOR FURTHER INFORMATION CONTACT: J. M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301-492-7211.

SUPPLEMENTARY INFORMATION: On August 1, 1985 (50 FR 31192), the NRC published a proposed rule entitled "Minor Clarifying Amendments," and invited public comments. No public comments were received on this proposed rulemaking.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements, and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.)

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact upon a substantial number of small entities. It merely clarifies existing Commission practice regarding the availability of documents under the Freedom of Information Act.

List of Subjects in 10 CFR Part 9

Freedom of Information, Penalty, Privacy, Reporting and recordkeeping requirements, Sunshine Act.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Part 9.

PART 9—PUBLIC RECORDS

1. The authority citation for Part 9 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Subpart A also issued under 5 U.S.C. 552 and 31 U.S.C. 9710. Subpart B also issued under 5 U.S.C. 552a. Subpart C also issued under 5 U.S.C. 552b.

2. Section 9.4 is revised to read as follows:

§ 9.4 Availability of records.

Any identifiable record in the possession of the NRC shall be made available for inspection and copying, pursuant to the provisions of this part, upon request of any member of the public.

3. Section 9.85 is revised to read as follows:

§ 9.85 Fees.

Fees shall not be charged for search for or review of records requested pursuant to this subpart or for making copies or extracts of records in order to make them available for review. Fees established pursuant to 31 U.S.C. 483a and 5 U.S.C. 552a(f)(5) shall be charged according to the schedule contained in § 9.14 of this part for actual copies of records requested by individuals pursuant to the Privacy Act of 1974, unless the Director, Office of Administration, or designee, waives the fee because of the inability of the individual to pay or because making the records available without cost, or at a reduction in cost, is otherwise in the public interest.

Dated at Bethesda, Maryland, this 30th day of September, 1985.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 85-24201 Filed 10-8-85; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Part 50

Regional Licensing Program; Fort St. Vrain Nuclear Generating Station

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending Part 50 of its regulations concerning the domestic licensing of utilization facilities to provide information concerning the NRC's regional licensing program. This amendment states that authority and responsibility for implementing NRC's nuclear reactor licensing program pertaining to the Fort St. Vrain Nuclear Generating Station will be carried out by the Director of Nuclear Reactor Regulation and specifies where communications and applications relating to that facility should be sent. The amendment is necessary to inform the licensee and the public of current NRC practice and organization.

EFFECTIVE DATE: October 4, 1985.

FOR FURTHER INFORMATION CONTACT: Hugh L. Thompson, Jr., Director, Division of Licensing, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 492-9595.

SUPPLEMENTARY INFORMATION: The Commission has completed a pilot regionalization program to demonstrate that specific reactor licensing activities can be effectively accomplished in NRC regional offices. Since December 1, 1982, certain licensing activities for the Fort St. Vrain Nuclear Generating Station (Utility Licensee: Public Service Company of Colorado, License No. DPR-34, Docket No. 50-267) have been carried out by NRC's Region IV (RIV) as part of the pilot regionalization program. However, regionalization of the reactor licensing function will not occur in the near future. Consequently, all licensing responsibilities for the Fort St. Vrain Nuclear Generating Station should be returned to the Office of Nuclear Reactor Regulation. The delegation of authority to the Regional Administrator of NRC's Region IV will be rescinded effective October 4, 1985. Copies of the memorandum effecting the recentralization of Fort St. Vrain licensing responsibilities have been placed in the Commission's Public Document Rooms at 1717 H Street, NW., Washington, DC, at the RIV Office, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas, and at the Greeley Public Library, City Complex Building, Greeley, Colorado 80631 (the local public document room for the Fort St. Vrain Nuclear Generating Station) where they are available for inspection and copying by the public.

This amendment to 10 CFR 50.4, is necessary to inform licensees and the public of current NRC practices and organization. As amended, § 50.4 requires that inquiries concerning NRC regulation of all types of production and utilization facilities, including the Fort St. Vrain Nuclear Generating Station, be sent to the Director of Nuclear Reactor Regulation and specifies the proper address. The amendment deletes "paragraph" (c) and references to paragraph (c). The amendment does not

change the requirements for direct communication between the licensee and RIV. Since this amendment is nonsubstantive and relates to matters of agency organization and procedure, the notice and comment procedures of the Administrative Procedure Act (5 U.S.C. 553) do not apply and goods cause exists for making the amendment effective on October 4, 1985.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(3). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Officer of Management and Budget approval number 3105-0011.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by Reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendment to 10 CFR Part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Sec. 161, as amended (42 U.S.C. 2201); sec. 210, as amended 42 U.S.C. 5841).

2. Section 50.4 is revised to read as follows:

§ 50.4 Communications.

(a) Except where otherwise specified, any communication or report concerning the regulations in this part and any application filed under these regulations may be submitted to the Commission as follows:

(1) By mail addressed to—Director of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(2) By delivery in person to the Commission offices at—

(i) 1717 H Street, NW., Washington, DC; or

(ii) 7920 Norfolk Avenue, Bethesda, Marlyand.

(b) Before making any submittal in microform, the applicant or licensee shall contact the Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492-8585, to obtain specifications and copy requirements.

Dated at Bethesda, Maryland, this 30th day of September 1985.

For The Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 85-24198 Filed 10-8-85; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-101-AD; Amdt. 39-5148]

Airworthiness Directives; Boeing Model 727-300 Series Airplanes

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain Boeing Model 737-300 airplanes that requires a one-time inspection and corrective action, if necessary, for interference between the engine and engine support strut and loose cone bolts at the forward engine support. This action is prompted by the recent discovery, both in pre-delivery and in production, of improperly seated cone bolts at the forward engine mount. Loose cone bolts can fail prematurely due to fatigue and could result in separation of an engine from the airplane.

EFFECTIVE DATE: October 21, 1985.

ADDRESSES: The service information specified in this AD may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Carlton A. Holmes, Airframe Branch, ANM-120S; telephone (206) 431-2926. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: In August 1985, the manufacturer detected an unusual noise level in the nacelle strut area of a Model 737-300 airplane. Further investigation revealed loose cone bolts at the foward engine mount. This condition has been detected on production airplanes and has been corrected on those airplanes beginning at line position number 1147. It is attributed to an interference between the engine and insulation near the forward engine mount. Loose cone bolts can fail prematurely due to fatigue, which could result in separation of an engine from the airplane.

This AD requires inspection and corrective action, if necessary, for interference and loose cone bolts at the forward engine mounts on all Boeing Model 737-300 airplanes delivered prior to line position 1147.

Since this situation is likely to exist on other airplanes of the same type design, this AD requires inspection and corrective action, if necessary, in accordance with the Boeing Telegraphic Service Letter M-7272-2396, dated September 12, 1985.

Further, since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this is an emergency regulation that is not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration

amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 737-300 series airplanes delivered prior to line position 1147, certificated in any category. Line position 1147 was delivered September 13, 1985. To detect loose cone bolts and interference between the engine and engine support strut at the forward engine mount, accomplish the following within 30 days after the effective date of this AD, unless already accomplished:

A. Visually inspect for clearances between the engine and engine support strut in the vicinity of the forward engine mount as specified in Boeing Telegraphic Service Letter M-7272-2396, dated September 12, 1985.

B. If the required clearance cannot be confirmed at any location specified in Boeing Telegraphic Service Letter M-7272-2396, dated September 12, 1985, lower the engine in accordance with Boeing Maintenance Manual Section 71-00-02, revised June 25, 1985, sufficiently to accomplish the following:

1. Disassemble as required to inspect the forward cone bolts and forward mount cone bolt receptacles for pitting, galling, or wear and clearances in accordance with Boeing Maintenance Manual Section 71-21-00, revised October 25, 1984.

2. Penetrant-inspect the cone bolt threads as specified in Boeing Telegraphic Service Letter M-7272-2396, dated September 12, 1985.

3. Repair or replace any damaged cone bolts or cone bolt receptables.

C. Eliminate interference detected in paragraph A., above, in accordance with procedures specified in Boeing Telegraphic Service Letter M-7272-2396, dated September 12, 1985.

D. Following accomplishment of the above, reinstall the engine in accordance with instructions provided in Maintenance Manual Section 71-00-02, revised June 25, 1985, except that the cone bolts must be tightened to 1200-1400 inch-pounds of torque.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this Ad.

F. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this AD who have not already received copies of the service information cited herein may obtain copies upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 21, 1985.

Issued in Seattle, Washington, on September 26, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-24077 Filed 10-8-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-97-AD; Amdt. 39-5142]

Airworthiness Directives; Boeing Model 727-100, -100C, and -200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain Boeing Model 727 airplanes that requires repetitive visual inspection for cracks and repair, if necessary, of the aft pressure bulkhead (Body Station 1183) web and vertical beams. This action is prompted by recent reports of multiple vertical beam cracks with, in one case, a cracked web. Cracks, if allowed to grow in the vertical beam and bulkhead web, can result in rapid decompression during flight.

EFFECTIVE DATE: October 15, 1985.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stanton R. Wood, Airframe Branch, ANM-120S; telephone (206) 421-2924. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: On two airplanes (with 35,900 and 42,800 hours, and 26,500 and 48,500 flight cycles, respectively), three adjacent left-hand vertical beams were found to be cracked near floor level. On two of the beams, the beam webs were severed. On one of the airplanes, three cracks were also found in the bulkhead web, one of which was 6 inches long. Cracks, if allowed to grow in the vertical beam and bulkhead web, can result in rapid decompression during flight.

The recently detected cracks in the two airplanes prompted the Boeing Company to issue Alert Service Bulletin 727-53A0173 on July 12, 1985. The service bulletin calls for repetitive inspections of the bulkhead web and vertical beams.

Since crack growth may proceed rapidly in the bulkhead web, frequent visual inspections of the bulkhead web are necessary, until an inspection of the vertical beam is accomplished. Repetitive inspection of the vertical beam is then necessary until preventative modifications are accomplished.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires inspection for cracks of the pressure bulkhead, and repair if necessary, in accordance with the Boeing service bulletin previously mentioned.

Further, since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follow:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 727–100, –100C, and –200 series airplanes listed in Boeing Service Bulletin Number 727–53A0173, dated July 12, 1985, certificated in any category. To detect cracks in the Body Station 1183 pressure bulkhead web and vertical beams, accomplish the following:

A. On airplanes with less than 40,000 flight cycles on the effective date of this AD, visually inspect within the next 400 flight cycles after the effective date of this AD, or prior to the accumulation of 25,000 flight cycles, whichever, occurs later after the effective date of this AD, the aft pressure bulkhead web for cracks in accordance with Figure 1 of Boeing Service Bulletin 727–53A0173, dated July 12, 1985, or later FAA-approved revision:

1. If no cracks are detected, repeat the inspection in paragraph A., above, at intervals not to exceed 400 flight cycles until inspected in accordance with paragraph C., below.

2. If cracks are detected, inspect the vertical beams in accordance with Figures 2 and 3 of Boeing Service Bulletin 727–53A0173, dated July 12, 1985, or later FAA-approved revisions. Repair all cracks prior to further flight in accordance with the applicable provisions of paragraphs III.C., III.D., III.E., and III.F. of Boeing Service Bulletin 727–53A0173, dated July 12, 1985, or later FAA-approved revision, and Boeing Drawing Number 65C31492, Revision N/C, or later FAA-approved revision; or in a manner approved by the Manager, Seattle Aircraft Certification Office. Repeat the visual inspection required by paragraph A., above, at intervals not to exceed 400 flight cycles until inspected in accordance with paragraph C., below.

B. On airplanes with 40,000 or more flight cycles, visually inspect within the next 200 flight cycles after the effective date of this AD, the Body Station 1183 pressure bulkhead web for cracks in accordance with Figure 1 of Boeing Service Bulletin 727–53A0173, dated July 12, 1985, or later FAA-approved revision.

1. If no cracks are detected, repeat the inspection in paragraph A., above, at intervals not to exceed 200 flight cycles until in accordance with paragraph C., below.

2. If cracks are detected, inspect in accordance with Figures 2 and 3 of Boeing Service Bulletin 727–53A0173, dated July 12, 1985, or later FAA-approved revision. Repair all cracks prior to further flight in accordance with the applicable provisions of paragraphs III.C., III.D., III.E., and III.F. of Boeing Service Bulletin 727–53A0173, dated July 12, 1985, or later FAA-approved revision; and Boeing Drawing Number 65C31492, Revision N/C, or later FAA-approved revision; or in a manner approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region. Repeat the visual inspection required by a paragraph A., above, at intervals not to exceed 200 flight cycles until inspected accordance with paragraph C., below.

C. Within 3,800 flight cycles after the effective date of this AD or upon the accumulation of 25,000 flight cycles, whichever occurs later, visually inspect the Body Station 1183 pressure bulkhead vertical beams for cracks in accordance with Figure 2 of Boeing Service Bulletin 727–53A0173, dated July 12, 1985, or later FAA-approved revision. If cracks longer than 2 inches are detected, inspect the vertical beams and web in accordance with Figures 1 and 3 of Boeing Service Bulletin 727–53A0173, dated July 12, 1985, or later FAA-approved revision. Repair all cracks prior to further flight in accordance with the applicable provisions of paragraphs III.C., III.D., III.E. and III.F. of Boeing Service Bulletin 727–53A0173, dated July 12, 1985, or later FAA-approved revision; and Boeing Drawing Number 65C31492, Revision N/C, or later FAA-approved revision; or in a manner approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region. Repeat the visual inspection of this paragraph at intervals not to exceed 3,800 flight cycles.

D. To terminate the repetitive inspection requirements of this AD, incorporate the reinforcement of the Body Station 1,183 bulkhead vertical beams in accordance with Paragraph II.D. of Boeing Service Bulletin 727–53–55, Revisions N/C through 2; or Paragraph III.D. of Boeing Service Bulletin 727–53–55, Revision 3, or later FAA-approved revision; or in a manner approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this proposal who have not already received copies of the service bulletins may obtain copies upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 15, 1985.

Issued in Seattle, Washington, on September 20, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85–24076 Filed 10–4–85; 11:43 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 371, 377 and 399

[Docket No. 50841–5141]

Revisions to Short Supply Regulations

AGENCY: Office of Industrial Resource Administration, International Trade Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule revises certain provisions of the Short Supply Regulations to incorporate changes made to the Export Administration Act of 1979 by the Export Administration Amendments Act of 1985. This interim rule also makes certain technical and housekeeping changes to the regulations.

DATES: Effective October 9, 1985; Comments December 9, 1985.

ADDRESSES: Send written comments to Mr. Rodney A. Joseph, Acting Manager, Short Supply Program, Room 3876, Office Industrial Resource Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230.

Inspect public rulemaking docket at Freedom of Information Records Inspection Facility, International Trade Administration, Room 4104, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Rodney A. Joseph, Acting Manager, Short Supply Program, Telephone: 202/377–3984.

SUPPLEMENTARY INFORMATION: On July 12, 1985, President Reagan signed the Export Administration Amendments Act of 1985 (Amendments) which extended and amended the Export Administration Act of 1979 (EAA).

Section 110(b) of the Amendments amended section 7(e) of the EAA by eliminating the requirement for validated licenses for the export of refined petroleum products unless the President determines that it is necessary to impose export controls. In October 1981 (46 FR 49108), the Department of Commerce eliminated quantitative limitations on exports of refined petroleum products, stating that it had determined that foreign demand will not have a serious inflationary impact on the domestic economy, and that quantitative limitations were no longer necessary to protect domestic supply from the excessive drain of materials. However, validated licensing requirements were continued at that time because of the requirements contained in section 7(e) of the EAA.

Accordingly, this interim rule eliminates the validated licensing requirment for exports of refined petroleum products (Petroleum Commmodity Groups B, C, D, E, F, G, K, L, M, and N of Supplement No. 2 to Part 377 of the Export Administration Regulations (EAR)) and permits their export under general license G–NNR or one of several other special general licenses, provided they were not produced or derived from the Naval Petroleum Reserves or did not become

available for export as a result of an exchange of a Naval Petroleum Reserves-produced or derived commodity.

Section 110(b) also amended section 7(e) by eliminating the mandatory 30-day Congressional review period for export license applications that would result in the annual export of 250,000 barrels or more of refined petroleum products to any country. This review period now will be necessary only when short supply controls are imposed on refined petroleum products pursuant to Presidential determination. Accordingly, the Department has discontinued its routine notification to the Congress.

On January 15, 1985, the Department of Commerce published in the **Federal Register** (50 FR 2064) an advance notice of proposed rulemaking (ANPRM) with request for comment regarding a possible revision of the short supply provisions of the EAR covering "petroleum partly refined for further refining." Due to the recent statuatory changes, the ANPRM is being withdrawn.

Section 110(c) of the Amendments made certain definitional and technical changes to section 7(i) of the EAA relating to unprocessed red cedar. Section 377.7 (b) of the EAR is being revised to reflect these changes. The Amendments also provided that multiple validated export licenses should be used in lieu of validated licenses for exports under section 7. Accordingly § 377.7(i) is being revised to extend the validity period for validated licenses issued to export unprocessed red cedar to twelve months and to permit the submission of an application for an export license before the purchaser(s) or ultimate consignee(s) are known.

In April 1985, responsibility for the administration of the Short Supply Regulations was transferred within the International Trade Administration's Office of Industrial Resource Administration from the Resource Assessment Division to the National Security Preparedness Division. This interim rule revises the EAR accordingly.

A definition of crude oil is added at § 377.6(c).

Executive Order 12291

This rule is not a major rule within the meaning of section 1 of Executive Order 12291 because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or in the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, neither a preliminary nor final Regulatory Impact Analysis has been or will be prepared.

Administrative Procedure Act

Under section 13(a) of the Export Administration of 1979, as amended (50 U.S.C. app. 2412(a)), this rule is exempt from all requirements of section 553 of the Administrative Procedure Act (5 U.S.C. 553) including publication of a notice of proposed rulemaking, an opportunity for public comment, and a 30-day delay in effective date. Further, no other law requires that notice and an opportunity for comment be given for this rule.

Because the revisions made by this rule primarily are needed to conform the short supply regulations to the recent EAA amendments, it is not practicable to delay making these revisions pending notice of proposed rulemaking and an opportunity for comment. Accordingly, the rule is being issued without notice of proposed rulemaking and is effective upon publication.

Public Comments Invited

As previously stated, the revisions made by this rule primarily are needed to conform the short supply regulations to the recent EAA amendments. The Department of Commerce also is considering further revisions to the short supply regulations to update the statutory references, and to ensure that the regulations are as clear as possible, achieve legislative goals effectively and efficiently, and do not impose unnecessary burdens on the economy.

Accordingly, and consistent with the intent of Congress as expressed in section 13(b) of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2412(b)), these revisions are issued in interim-final rather than final form. Comments from the public on this interim rule and on ways to improve the short supply regulations are invited and will be considered in formulating a final rule, if received no later than December 9, 1985. Comments received after that date will be considered if possible. All public comments received will be placed in the public rulemaking docket and will be available for public inspection and copying.

In the interest of accuracy and completeness, written comments are preferred. Written comments (three (3) copies) should be sent to the address indicated in the address section above. Oral comments should be directed to Rodney A. Joseph, OIRA, (202) 377-3984. If oral comments are received, the Department of Commerce official receiving such comments will prepare a memorandum summarizing the substance of the comments and identifying the individual making the comments, as well as the person on whose behalf they purport to be made. All such memoranda will be placed in the public rulemaking docket and will be available for public review and copying.

Written comments accompanied by a request that part or all or the material contained be treated confidentially will not be considered in developing the final regulation. Such comments and materials will be returned to the submitter.

Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public rulemaking docket concerning this regulation will be maintained in the International Trade Administration's Freedom of Information Records Inspection Facility, at the address indicated in the address section above. Records in this facility may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information pertaining to the inspection and copying of records may be obtained from Ms. Patricia L. Mann, International Trade Administration's Freedom of Information Officer, at the Records Inspection Facility address, or by calling (202) 377-3031.

Regulatory Flexibility Act

Since notice and an opportunity for comment are not required to be given for this rule under section 553 of the Administrative Procedure Act (5 U.S.C. 553) and since no other law requires that notice and opportunity for comment be given for this rule, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

Paperwork Reduction Act

This rule contains collections of information requirements subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq*). The collection of the information required on export license applications has been approved by the Office of Management and Budget (OSMB control number 0625-0001). The reporting and recordkeeping requirements set forth in §§ 371.16, 377.6 and 377.7 have been submitted to the

Office of Management and Budget for review under the Act. These requirements are needed to implement effectively the requirements of the Export Administration Act of 1979, as amended. Comments from the public on these collections of information requirements are invited and should be addressed to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20530. Attention: Desk Officer, ITA, Department of Commerce. Copies of these comments should be sent to Mr. Rodney A. Joseph at the address indicated in the address section above.

List of Subjects in 15 CFR Parts 371, 377, and 399

Exports.

Accordingly, Parts 371, 377 and 399 of title 15, Code of Federal Regulations, are amended to read as follows:

PART 371—GENERAL LICENSES

1. The authority citation for Part 371 is revised to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.* as amended by Pub. L. 97-145, of Dec. 29, 1981 and by Pub. L. 99-64 of July 12, 1985, E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

2. Section 371.2(c)(10) is revised to read as follows:

§ 371.2 General provisions.

* * * * *

(c) * * *

(10) The commodity is listed in a Supplement to Part 377 as being subject to short supply licensing controls, unless the export is authorized under the provisions of general licenses G-NNR, GLV, SHIP STORES, PLANE STORES, RCS, GLR, G-FTZ, *or* GUS;

* * * * *

§ 371.7 [Amended]

3. In § 371.7, paragraph, paragraphs (c)(1) (i) and (ii) are amended by removing the words "Resource Assessment Division" and inserting in their place, the words "National Security Preparedness Division".

4. The introductory text and the last sentence of paragraph (b) of § 371.16 are revised to read as follows:

§ 371.16 General license G-NNR; Shipments of certain non-naval reserve petroleum commodities.

A general license designated G-NNR is established, subject to the provisions of this section, authorizing the export of any commodity listed in Petroleum Commodity Groups B, C, D, E, F, G, K, L, M, N, and Q (see Supplement No. 2 to Part 377) to any destination in Country Group Q, T, V, W, and Y, and Canada provided that both of the following conditions are met:

* * * * *

(b) * * * Any commodity listed in Petroleum Commodity Group B, C, D, E, F, G, K, L, M, N, or Q which does not meet the conditions for export under General License G-NNR, GLV, SHIP STORES, PLANE STORES, RCS, GLR, G-FTZ *or* GUS, may be exported only under a validated license issued pursuant to § 377.6(d)(3).

PART 377—SHORT SUPPLY CONTROLS AND MONITORING

5. The authority citation for Part 377 is revised to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.* as amended by Pub. L. 97-145, of Dec. 29, 1981 and by Pub. L. 99-64 of July 12, 1985, E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Sec. 103, Pub. L. 94-163, as amended, (42 U.S.C. 6212) as amended by Pub. L. 99-58 of July 2, 1985; Sec. 28 Pub. L. 93-153, (30 U.S.C. 185); Sec. 28 Pub. L. 95-372, (43 U.S.C. 1354); E.O. 11912 of April 3, 1976 (41 FR 15825, as amended); Sec. 101 and 201(11)(e) Pub. L. 94-258, (10 U.S.C. 7420 and 7430(e)); and Presidential Findings (50 FR 25189, June 18, 1985).

§§ 371.1, 377.4, 377.6, and 377.8 [Amended]

6. In § 377.1, paragraph (c)(3); § 377.4, paragraphs (d)(1), (h), and (i)(2); § 377.6, paragraph (d); and § 377.8, paragraph (d) are amended by removing the words "Resource Assessment Division" and inserting in their place, the words "National Security Preparedness Division".

7. In § 377.6, paragraph (c) is added, and the first sentence of the introductory text to paragraph (d)(1), and paragraph (d)(2) are revised to read as follows:

§ 377.6 Petroleum and petroleum products.

* * * * *

(c) *Definitions.* For the purposes of this section, crude oil is defined as follows:

Crude oil. A mixture of hydrocarbons that existed in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities and which has not been processed through a crude oil distillation tower. Included are reconstituted crude petroleum, and lease condensate and liquid hydrocarbons produced from tar sands, gilsonite, and oil shale. Drip gases are also included, but topped crude oil, residual oil, and other finished and unfinished oils are excluded.

(d) * * *

(1) *Group A* The export from the United States of crude petroleum, including reconstituted crude petroleum, tar sands and crude shale oil is permitted only as provided in this paragraph. * * *

(2) *Groups B, C, D, E, F, G, K, L, M, N, and Q.* The export of refined petroleum products listed in Spplement No. 2 to Part 377, which are not subject to paragraph (d)(1) or (d)(3) of this section, is permitted under the General Licenses G-NNR, GLV, SHIP STORES, PLANE STORES, RCS, GLR, G-FTZ or GUS as described in § 371.16.

* * * * *

8. In § 377.7, paragraph (b)(1)(i) and paragraph (i) are revised to read as follows:

§ 377.7 Unprocessed western red cedar.

* * * * *

(b) * * *

(1) * * *

(i) Lumber of American Lumber Standards Grades of Number 3 dimension or better or Pacific Lumber Inspection Bureau Export R-List Grades of Number 3 common or better.

* * * * *

(i) *Export Licenses for Western Red Cedar.* (1) A license issued pursuant to this section is subject to the same one year validity period limitations as other individual validated licenses (see § 372.9(d)).

(2) If the purchaser(s) or ultimate consignee(s) is unknown at the time of submission of the application for an export license, enter "Various" in Items 6, 7, or both, as appropriate, of Form ITA-622P.

(3) Any exporter, using a validated license with "Various" in Items 6 or 7 will be required to provide the specific information following each export shipment.

* * * * *

9. In Supplement No. 2 to Part 377, Group A is amended by revising the entry for 475.0710 to read as follows: Petroleum and Petroleum Products Subject to Short Supply Licensing Controls

* * * * *

GROUP A

475.0710	Crude petroleum, including reconstituted crude petroleum, tar sands and crude shale oil.	Bbl

* * * * *

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

10. The authority citation for Part 399 is revised to read as follows:

Authority: Pub. L. 96-72, 93 Stat 503, 50 U.S.C. app. 2401 *et seq.* as amended by Pub. L. 97-145, of Dec. 29, 1981 and by Pub. L. 99-64 of July 12, 1985, E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

11. In Supplement No. 1 to § 399.1 (the Commodity Control List), in Group 7—Chemicals, Metalloids, Petroleum Products and Related Materials, the heading to 4781B is revised as follows:

* * * * *

4781B Crude petroleum, including reconstituted crude petroleum, tar sands and crude shale oil listed in Supp. No. 2 to Part 377.

* * * * *

Issued October 7, 1985.

John A. Richards,

Director, Office of Industrial Resource Administration.

[FR Doc. 85-24258 Filed 10-8-85; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

Animal Drugs, Feeds, and Related Products; 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 change of name for the sponsor of several new animal drug applications (NADA's) from American Hoechst Corp., Animal Health Division, to Hoechst-Roussel Agri-Vet Co.

EFFECTIVE DATE: October 9, 1985.

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

SUPPLEMENTARY INFORMATION: Hoechst-Roussel Agri-Vet Co., Route 202-206 North, Somerville, NJ 08876, has informed FDA of a sponsor name change for several NADA's from American Hoechst Corp., Animal Health Division. The NADA's cover use of furosemide, fenbendazole, altrenogest, euthanasia solution, and bambermycins alone and in combination.

This is an administrative change that does not in any other way affect approval of the firm's NADA's. The agency is amending the regulations in Part 510 to reflect the change.

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 and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

2. In § 510.600 by removing the entry in paragraph (c)(1) for "American Hoechst Corp., Animal Health Division", and adding a new sponsor entry alphabetically, and in paragaph (c)(2) by revising the entry for "012799", to read as follows:

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

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Hoechst-Roussel Agri-Vet Co., Route 202-206 North, Somerville, NJ 08876	012799
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
012799	Hoechst-Roussel Agri-Vet Co., Route 202-206 North, Somerville, NJ 08876
* * * * *	

Dated: October 2, 1985.

Richard A. Carnevale,

Acting Associate Director for Scientific Evaluation, Center for Veterinary Medicine.

[FR Doc. 85-24073 Filed 10-8-85; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 510 and 540

Penicillin Antibiotic Drugs for Animal Use; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor of a new animal drug application (NADA) for penicillin G procaine in oil for bovine intramammary infusion from Masti-Kure Products Co., Inc., to Wendt Laboratories, Inc.

EFFECTIVE DATE: October 9, 1985.

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

SUPPLEMENTARY INFORMATION: Wendt Laboratories, Inc., 100 Nancy Dr., Belle Plaine, MN 56011, has informed FDA of a change in sponsor for NADA 65-383 from Masti-Kure Products Co., Inc., 1 Wisconsin Ave., Norwich, CT 06360. Masti-Kure has confirmed the change. The NADA covers use of two penicillin G procaine products, one for dry cow intramammary infusion, another for lactating cows. Masti-Kure Products Co. is no longer the sponsor of any approved NADA's. FDA is amending the regulations to reflect the change of sponsor.

The change is an administrative action which does not otherwise affect approval of the firm's NADA.

List of Subjects

21 CFR Part 510

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

21 CFR Part 540

Animal drugs, Antibiotics, Penicillin.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 510 and 540 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of*

approved applications is amended in paragraph (c)(1) by removing the entry for "Masti-Kure Products Co., Inc." and in paragraph (c)(2) by removing the entry for "011714."

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

3. The authority citation for 21 CFR Part 540 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 540.874a [Amended]

4. Section 540.874a *Procaine penicillin G in oil* is amended in paragraph (c)(3)(i) and (4)(i) by removing the sponsor number "011714" and inserting in its place "015579."

Dated: October 2, 1985.

Richard A. Carnevale,

Acting Associate Director for Scientific Evaluation, Center for Veterinary Medicine.

[FR Doc. 85-24072 Filed 10-8-85; 8:45 am]

BILLING CODE 4160-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

Handling of Employment Discrimination Charges; Texas

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations designating certain State and local fair employment practices agencies (706 Agencies) so that they may handle employment discrimination charges, within their jurisdictions, filed with the Commission. Publication of this amendment effectuates the designation of the Wichita Falls, Texas Human Relations Commission as a 706 Agency.

EFFECTIVE DATE: October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Hollis Larkins, Equal Employment Opportunity Commission, Office of Program Operations, Systemic Investigations and Individuals Compliance Programs, 2401 E Street, NW., Washington, DC 20507, telephone 202/634-6806.

SUPPLEMENTARY INFORMATION:

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

PART 1601—PROCEDURAL REGULATIONS

Accordingly, Title 29, Chapter XIV of the Code of Federal Regulations, 29 CFR 1601.74(a) is amended by adding in alphabetical order the following agency:

§ 1601.74 Designated and notice agencies.

(a) * * * Wichita Falls, Texas Human Relations Commission.

* * * * *

(Sec. 713(a) 78 Stat. 265 (42 U.S.C. 2000e 12(a))

Signed at Washington, DC this 4th day of October, 1985.

For the Commission.

James H. Troy,

Director, Office of Program Operations.

[FR Doc. 85-24223 Filed 10-8-85; 8:45 am]

BILLING CODE 6570-06-M

POSTAL SERVICE

39 CFR Part 10

Express Mail International Service to Iceland

AGENCY: Postal Service.

ACTION: Final action on Express Mail International Service to Iceland.

SUMMARY: Pursuant to an agreement with the postal administration of Iceland, the Postal Service intends to begin Express Mail International Service with Iceland at postage rates indicated in the tables below. Service is scheduled to begin on November 7, 1985.

EFFECTIVE DATE: November 7, 1985.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn, (202) 245-4414.

SUPPLEMENTARY INFORMATION: By a notice published in the **Federal Register** on August 30, 1985 (50 FR 35260), the Postal Service announced that it was proposing to being Express Mail International Service to Iceland. Comments were invited on published rate tables, which are proposed amendments to the International Mail Manual (incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1), and which are to become effective on the date service begins. No comments were received. Accordingly, the Postal Service states that it intends to begin Express Mail International Service with Iceland on November 7, 1985 at the rates indicated in the table below.

List of Subjects in 39 CFR Part 10

Postal Service, Foreign relations.

PART 10—[AMENDED]

The authority citation for Part 10 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

ICELAND; EXPRESS MAIL INTERNATIONAL SERVICE

Custom designed service[1] [2] up to and including—		On demand service[2] up to and including—	
Pounds	Rate	Pounds	Rate
1	$31.00	1	$23.00
2	35.90	2	27.90
3	40.60	3	32.60
4	45.70	4	37.70
5	50.60	5	42.60
6	55.50	6	47.50
7	60.40	7	52.40
8	65.30	8	57.30
9	70.20	9	62.20
10	75.10	10	67.10
11	80.00	11	72.00
12	84.90	12	76.90
13	89.80	13	81.80
14	94.70	14	86.70
15	99.60	15	91.60
16	104.50	16	96.50
17	109.40	17	101.40
18	114.30	18	106.30
19	119.20	19	111.20
20	124.10	20	116.10
21	129.00	21	121.00
22	133.90	22	125.90
23	138.80	23	130.80
24	143.70	24	135.70
25	148.60	25	140.60
26	153.50	26	145.60
27	158.40	27	150.40
28	163.30	28	155.30
29	168.20	29	160.20
30	173.10	30	165.10
31	178.00	31	170.00
32	182.90	32	174.90
33	187.80	33	179.80
34	192.70	34	184.70
35	197.60	35	189.60
36	202.50	36	194.50
37	207.40	37	199.40
38	212.30	38	204.30
39	217.20	39	209.20
40	222.10	40	214.10
41	227.00	41	219.00
42	231.90	42	223.90
43	236.80	43	228.80
44	241.70	44	233.70

[1] Rates in this table are applicable to each piece of International Customs Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

A transmittal letter making these changes in the pages of the International Mail Manual will be published in the **Federal Register** as provided in 39 CFR 10.3 and will be transmitted to subscribers automatically.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 85-24095 Filed 10-8-85; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Region II Docket No. 56; A-2-FRL-2909-1]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; New York State's 111(d) Plan for Controlling Sulfuric Acid Mist From Sulfuric Acid Plants

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces that the Environmental Protection Agency is approving a plan prepared by New York State for controlling sulfuric acid mist emissions from existing sulfuric acid plants. The plan substantially fulfills the requirements of section 111(d) of the Clean Air Act and regulations promulgated thereunder.

EFFECTIVE DATE: This action will be effective December 9, 1985 unless notice is received by November 8, 1985 that someone wishes to submit adverse or critical comments.

ADDRESSES: All comments should be addressed to: Christopher J. Daggett, Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the State's submittal are available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Air Programs Branch, Room 1005, Region II Office, 26 Federal Plaza, New York, New York 10278

New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, (212) 264-2517.

SUPPLEMENTARY INFORMATION: Under provisions of section 111(d) of the Clean Air Act and 40 CFR Part 60, Subparts B and C, states must submit plans to the Environmental Protection Agency (EPA) that establish standards for the control of the emissions of certain "designated pollutants" from certain existing sources. Included under these provisions is the requirement that there be a plan to control emissions of sulfuric acid mist from existing sulfuric acid plants. Elements of the plan must include regulations containing emission standards that meet EPA emission guidelines, an emission inventory, and certification of the opportunity for public comment.

On December 27, 1984 and March 29, 1985 EPA received from New York State such a plan for controlling sulfuric acid mist emissions from existing sulfuric acid plants. The New York plan includes a State regulation, Part 224, "Sulfuric and Nitric Acid Plants," of Title 6 of the New York Codes, Rules and Regulations (6NYCRR), which contains sulfuric acid mist emission limitations, visible emission limitations and stack monitoring requirements. The provisions of Part 224 apply to all existing sulfuric acid plants.

The emission limitations in Part 224 are consistent with the emission guidelines established by EPA for sulfuric acid mist (40 CFR 60.33). Part 224 limits the emissions of sulfuric acid mist to 0.5 pound per ton of sulfuric acid produced. However, §224.6(b) provides a general variance mechanism for sources that are not subject to EPA's New Source Performance Standards promulgated under section 111 of the Clean Air Act. It allows for variances from the requirements of Part 224 if it can be demonstrated to the satisfaction of the Commissioner of the New York State Department of Environmental Conservation that a particular source is unable to meet the required degree of control because of economic or technical reasons. Therefore, EPA is approving this section on the condition that each variance issued by the State must be submitted to EPA for approval as a section 111(d) plan revision. In addition, § 224.5 allows the Commissioner to extend the date for which sources must be in compliance with the requirements of Part 224. EPA is approving this section on the similar condition that each compliance date extension must also be submitted to EPA for approval as a section 111(d) plan revision.

On March 29, 1985 the State submitted addtional information associated with its plan. This information consists of a computer printout listing all existing emission points in sulfuric acid plants located within New York (as required by 40 CFR 60.25) and documentation that there had been an opportunity for public comment on Part 224 (as required by 40 CFR 60.23).

While the State did not specifically include test procedures for determining compliance with Part 224, another State regulation, Part 202, "Emissions Testing, Sampling and Analytical Determinations", relates to this. Part 202 sets standards for test procedures for determining compliance with emission standards. Specifically § 202.3 states that EPA reference methods contained in 40 CFR Part 60, Appendix A and Part 61, Appendix B can be used in source testing and sampling. Consequently, EPA finds that the State has adequate test methods to meet EPA requirements. Should the State desire to use an alternative test method, however, it would be necessary for that method to be submitted to EPA as a plan revision.

EPA is approving the New York plan for controlling sulfuric acid mist from existing sulfuric acid plants. This action is taken without prior proposal because it is viewed as noncontroversial and no adverse comments are anticipated. The public should be advised that this action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and the other will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under 5 U.S.C. 605(b), I certify that this rule will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

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

List of Subjects in 40 CFR Part 62

Air Pollution control, Sulfuric oxides, Sulfuric acid plants.

Dated: October 3, 1985.

Lee M. Thomas,

Administrator, Environmental Protection Agency.

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

Part 62 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

Subpart HH—New York

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. A new undesignated centerhead and § 62.8102 is added as follows:

Sulfuric Acid Mist Emissions From Existing Sulfuric Acid Plants

§ 62.8102 Identification of plan.

(a) [Reserved]

(b) The plan was officially submitted and approved as follows:

(1) Part 224—"Sulfuric Acid and Nitric Acid Plants" of Title 6 of the New York Code of Rules and Regulations effective May 10, 1984.

(2) Supplemental information submitted on March 29, 1985.

(c) Identification of Sources—The plan includes the following plants:

(1) PVS Chemicals, Inc., Buffalo.

(2) Eastman Kodak Company, Rochester.

(d) The plan is approved with the provision that for existing sources any variance or compliance date extension from the provisions of Part 224, "Sulfuric and Nitric Acid Plants," or any test method other than specified in 40 CFR Part 60, Appendix A, approved by the Commissioner of the New York State Department of Environmental Conservation must be submitted and approved as a plan revision.

[FR Doc. 85–24157 Filed 10–8–85; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 62

[A–5–FRL–2909–2]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Ohio

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: USEPA is approving a "negative declaration" from the Ohio Environmental Protection Agency (Ohio EPA) certifying that there are no phosphate fertilizer facilities in the State of Ohio.

Section 111(d) of the Clean Air Act requires that each State submit plans to control emissions of designated pollutants from designated facilities. Approval of this negative declaration, therefore, exempts the State from developing a plan for the control of fluoride emissions from phosphate fertilizer plants.

EFFECTIVE DATE: This action will be effective December 9, 1985 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the State's submittal and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Debra Marcantonio, at (312) 886–6088, before visiting the Region V Office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604.

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, (312) 886–6088.

SUPPLEMENTARY INFORMATION: On November 3, 1978 (43 FR 51393), USEPA established Part 62, "Approval and Promulgation of State Plans for Designated Facilities and Pollutants". Part 62 provides the procedural framework in which USEPA will approve or disapprove plans submitted by the State under section 111(d) of the Clean Air Act. Section 111(d) of the Act requires States to submit plans to control emission of designated pollutants from designated facilities. However, 40 CFR 63.06 provides that, if no designated facility is located within the State, the State may submit a letter or certification (negative declaration) to that effect to USEPA. Such certification shall exempt the State from the requirements of this subpart for that designated pollutant.

On December 1, 1977 (resubmitted on April 1, 1985 and April 25, 1985), the Ohio EPA submitted to USEPA a letter of certification stating that there are no existing phosphate fertilizer plants in the State of Ohio that are subject to 40 CFR Part 60 Subpart B. This negative declaration, therefore, exempts the State from developing a plan for the control of fluoride emissions from phosphate fertilizer plants. Based upon the certification in the State's negative declaration, USEPA is approving this negative declaration pursuant to Part 62 Subpart KK.

Because USEPA considers today's action noncontroversial and routine, we are applying it today without prior proposal. The action will become effective on December 9, 1985. However, if we receive notice by November 8, 1985, that someone wishes to submit critical comments, *then* USEPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

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

Under 5 U.S.C. 605(b), I certify that today's action does not have a significant economic impact on a substantial number of small entities because USEPA's approval applies no new requirements to any source.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 9, 1985. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 62

Air pollution control, Fluoride, Administrative practice and procedure, Intergovernmental relations, Reporting and recordkeeping requirements, Phosphate, Aluminum, Fertilizers, Paper and paper products industry, Sulfuric oxides, Sulfuric acids plants.

Dated: October 3, 1985.

Lee M. Thomas,

Administrator.

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

Title 40 of the Code of Federal Regulations, Chapter I, Part 62 is amended by adding § 62.8850 to Subpart KK—Ohio as follows:

Subpart KK—Ohio

Fluoride Emissions From Phosphate Fertilizer Plants

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Part 62 is amended by adding § 62.8850 to read as follows:

§ 62.8850 Identification of plan—Negative Declaration.

The Ohio Environmental Protection Agency submitted on December 1, 1977, (resubmitted on April 1, 1985, and April 25, 1985), a letter certifying that there are no existing phosphate fertilizer plants in the State subject to Part 60, Supart B of this Chapter.

* * * * *

[FR Doc. 85–24158 Filed 10–8–85; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 81

[A-5-FRL-2909-5]

Designations of Areas for Air Quality Planning Process; Attainment Status Designations; Ohio

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: On September 26, 1984, USEPA designated an area within Summit County, Ohio, as attaining the primary and secondary national ambient air quality standards (NAAQS) for sulfur dioxide (SO_2) (49 FR 37754). In response to a petition to reconsider that action filed by the Natural Resources Defense Council, Inc. (NRDC), USEPA has further studied emissions and ambient levels of SO_2 in that area, and has prepared a memorandum entitled "SO_2 Attainment Designation of Barberton, Summit County, Ohio". The memorandum confirms that the area attains the NAAQS, and USEPA hereby reaffirms the attainment designation.

EFFECTIVE DATE: This final rulemaking becomes effective on November 8, 1985.

ADDRESS: Copies of the information supporting this action are available at the following address: U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinios 60604.

FOR FURTHER INFORMATION CONTACT: Michael Koerber, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6061.

SUPPLEMENTARY INFORMATION: On September 26, 1984, USEPA designated an area within Summit County, Ohio, as attaining the primary and secondary national ambient air quality standards (NAAQS) for sulfur dioxide (SO_2), (49 FR 37754. In response to a petition to reconsider that action filed by the NRDC, USEPA has further studied emissions and ambient levels of SO_2 in that area, and prepared a memorandum entitled "SO_2 Attainment Designation of Barberton, Summit County, Ohio". The memorandum confirms that the area attains the NAAQS. As discussed below, USEPA reaffirms the attainment designation of the Barberton area of Summit County.

Redesignation Criteria

USEPA's redesignation criteria are summarized in an April 21, 1983, memorandum from the Director, Office of Air Quality Planning and Standards, entitled "Section 107 Designation Policy Summary" and a December 23, 1983, memorandum from the Chief, Control Programs Operations Branch, entitled "Section 107 Questions and Answers". In general, a SO_2 redesignation to attainment must be supported by: (1) Quality-assured representative ambient monitored data showing no violations over the most recent eight consecutive quarters, provided that the data reflect anticipated source operating rates; (2) a reference model attainment demonstration at the State Implementation Plan (SIP) allowable emission limitations; and (3) a demonstration that the SIP control strategy, or its equivalent, such as a permanent shutdown of major emitting sources, has been implemented.

USEPA's Review of Monitoring and Modeling Data

The most recent nine quarters of quality-assured air quality data collected in the Barberton area from 1982 through the first quarters, of 1984 show attainment of the 3 and 24-hour standards. Additionally, USEPA reviewed adjusted monitoring data for the period 1978–1981. These data were adjusted to reflect emissions at the maximum allowable emission rate under the SIP for PPG Industries, Inc., the dominant source in the Barberton area. The adjusted monitored data indicate attainment of the constraining standard, in this case the 24-hour NAAQS, assuming compliance with SIP emission limitations. All major sources in the Barberton area, including PPG, are in compliance with SIP emission limitations, or permanently shut down.

In addition to monitoring data, the Agency remodel emissions from PPG using CRSTER and MPTER reference models. The modeling demonstrates attainment of the SO_2 NAAQS in the Barberton area at the SIP allowable emission levels. USEPA's modeling analyses are discussed in detail in the Technical Support Documents at the regional USEPA Office listed in the front of this notice.

The NRDC petition raised the issue of whether the NAAQS should be interpreted as "running" or "block" average standards. See *PPG Industries, Inc.* v. *Costle*, 659 F. 2d 1239 (D.C. Cir. 1981). The findings discussed above hold under either interpretation. Therefore, this issue is not relevant to the attainment designation.

USEPA's Proposed Action

The attainment status of the Barberton area is supported by both monitored and modeled data. Thus, after reconsideration, on April 1, 1985 (50 FR 12840), USEPA proposed to reaffirm the statement designation for SO_2 for Barberton, Summit County, Ohio. In that notice, USEPA discussed the results of its review of the redesignation and provided an opportunity for the public to comment.

Public Comments

One set of comments from the NRDC was received by USEPA during the public comment period. The comments and USEPA's responses are discussed below.

Comment: NRDC maintained that the SO_2 NAAQS must be interpreted, based on running average concentrations. NRDC requested that USEPA notify States that running averages must be used for purposes of new source permitting, § 107 designations, and attainment demonstrations.

Response: The issue at hand is the attainment designation of the Barberton area. USEPA has determined that the SO_2 NAAQS in the Barberton area are being attained and will be maintained based on both block and running averages. Thus, for this case, the issue of whether the NAAQS should be interpreted as "running" or "block-average" standards is not relevant to the attainment designation.

Comment: NRDC was concerned that the monitoring analysis data from 1982–1984 reflects the shutdown of several sources at PPG and other Barberton area sources that may not be permanent and enforceable.

Responses: USEPA maintains that these shutdowns are permanent. According to USEPA's redesignation policy, the permanent closing of major emitting sources carries the same weight as a SIP and is creditable for redesignation purposes. However, USEPA intends to promulgate 0.0 lbs/MMBTU limits for all SO_2 sources in Ohio that are permanently shut down. For Summit County, this includes PPG's coal-fired boilers, the Midwest Rubber Co., and the Sieberling Rubber Co. The record for today's action includes letters indicating that these sources are permanently closed.

Comment: NRDC noted that USEPA's reaffirmation ignores the discrepancy between the existing federally approved SIP limit of 3.8 lbs/MMBTU and the existing State approved limit of 7.8 lbs/MMBTU for PPG facilities.

Responses: USEPA acknowledges that the existing State-approved limit is 7.8 lbs/MMBTU and that USEPA has proposed to approve this limit. For Federal designations; however, the only applicable limit is the current federally approved limit of 3.8 lbs/MMBTU. It should be noted that Ohio withdrew its request for USEPA's approval of the 7.8

lbs/MMBTU emission limit on April 4, 1985. It should also be noted that, in a separate **Federal Register** notice, USEPA will withdraw its proposed approval of the State limit and will, instead, approve a 0.0 lbs/MMBTU limit for PPG (to reflect its shutdown status).

Comment: NRDC claimed that USEPA's modeling underpredicted maximum concentrations and that, if the concentrations are adjusted accordingly, then violations would be predicted.

Response: USEPA also identified this apparent underprediction and attempted to determine its causes, as discussed in the TSD. USEPA concluded that several factors were responsible for the model not being able to predict concentrations as great as those being monitored in the area. Using the approximate 2.5 adjustment factor cited by NRDC, the highest, second high 24-hour modeled concentration (running average) at the existing Federal limit of 3.8 lbs/MMBTU is 267 $\mu g/m^3$, which shows attainment.

Comment: NRDC questioned the use of the physical stack height for PPG's sources in USEPA's modeling. NRDC claimed that the modeled height is unlawful if the stacks are not "grandfathered" as provided by Section 123 of the Clean Air Act.

Response: The 91-meter stack for Boiler 11, the 91-meter stack for Boiler 12, and 99-meter stack for the spreader stokers are "grandfathered", i.e., the stack parameters and configurations have not changed since 1970. USEPA previously investigated the applicability of Section 123 on Summit County sources during an analysis of the County in 1978. As noted in the technical support document (TSD) for that analysis, no sources at that time were affected by Section 123. The record for this action includes miscellaneous information indicating that PPG's stacks were in existence prior to 1970 and are, thus, "grandfathered".

Conclusion

As discussed above, the attainment status of the Barberton area is supported by both monitored and modeled data. Thus, after reconsideration, USEPA is reaffirming the attainment designation for the following area as designated on September 26, 1984 (49 FR 37754): Area bounded by the following lines—North—Interstate 76, East—Route 83, South—Vanderhoof Road, West—Summit County line. The designations at all other areas in Summit County remain the same.

List of Subjects in 40 CFR Part 81

Intergovernmental relations, Air pollution control.

Dated: October 3, 1985.

Lee M. Thomas,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSE—OHIO

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

§ 81.336 Ohio.

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 81.336—Ohio, the attainment status designation table for sulfur dioxide is amended by revising the designation for Summit County, Ohio, as follows:

OHIO—SULFUR DIOXIDE (SO_2)

Designation	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
* * *	*	*	*	*
Summit:				
Area bounded by the following lines—North—Interstate 76, East—Route 83, South—Vanderhoof Road, West—Summit County line.				X
Entire area northwest of the following line: Route 80 east to Route 91, Route 91 north to County line and the entire area bounded by the following lines—North—Bath Road, (48 east to Route 8, Route 8 north Barlow Road, Barlow Road east to county line, East—Summit/Portage County line, South—Interstate 76 to Route 93 south to Route 619, Route 619 east to county line, West—Summit/Medina County line.	X[1]			
The remainder of the Summit County				X[1]
* * *	*	*	*	*

[1] This area remains undesignated at this time as a result of a Sixth Circuit Court remand.

[FR Doc. 85-24159 Filed 10-8-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[A-5-FRL-2908-9]

Designations of Areas for Air Quality Planning Process; Attainment Status Designations; Wisconsin

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: This final rulemaking action addresses the air quality attainment status designations of four cities located within the State of Wisconsin. The four cities and the final revisions are as follows:

1. The three Cities of Rhinelander, Peshtigo, and Rothschild are being revised from attainment to primary and secondary nonattainment for sulfur dioxide (SO_2).

2. The City of Milwaukee is being revised from primary and secondary nonattainment to secondary nonattainment for total suspended particulates (TSP). The revision eliminates the designation of primary nonattainment and narrows the boundaries of the remaining secondary nonattainment area.

These final redesignations are based on requests dated March 27, 1984, and March 14, 1983, respectively, from the Wisconsin Department of Natural Resources (WDNR), and on supporting technical data submitted by the WDNR. Under the Clean Air Act, an attainment status designation can be changed if sufficient data are available to warrant a redesignation. In today's action, USEPA is approving the redesignations as requests by the State of Wisconsin.

EFFECTIVE DATE: This final rulemaking becomes effective on November 8, 1985.

ADDRESSES: Copies of the redesignation requests, the technical support documents, and the supporting air quality data are available at the following addresses:

U.S. Environmental Protection Agency, Region V, Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604

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

FOR FURTHER INFORMATION CONTACT: Colleen W. Comerford, (312) 886-6034.

SUPPLEMENTARY INFORMATION:

Rhinelander, Peshtigo, and Rothschild—SO_2

The Cities of Rhinelander (Oneida County), Peshtigo (Marinette County), and Rothschild, including portions of the Towns of Weston and Rib Mountain (Marathon County), are currently designated as attainment areas for SO_2.

On March 27, 1984, the WDNR requested that USEPA revise the air quality attainment status designations for these areas from attainment to primary and secondary nonattainment of the SO_2 National Ambient Air Quality Standards (NAAQS). This request was based on modeling and monitoring data that showed violations of the primary and secondary NAAQS in these three areas. Modeling results were used by the WDNR to determine the boundaries of the proposed nonattainment areas, and these boundaries were submitted with the redesignation requests. Public hearings on these redesignations were conducted by the WDNR on November 14 and 15, 1983.

On October 12, 1984 (49 FR 40053), USEPA published a notice in the **Federal Register** proposing to approve the redesignation to nonattainment for Rhinelander, Peshtigo, and Rothschild. In that notice, USEPA requested comments on the proposed approval which would be considered by USEPA prior to taking final action.

During the 30-day public comment period, no comments were submitted. Therefore, USEPA is taking final action to approve the redesignation requests submitted by the WDNR. A detailed discussion of the basis for USEPA's action can be found in the October 12, 1984, notice of proposed rulemaking (49 FR 40053). A brief synopsis of this discussion is given below for each city.

Rhinelander: On March 27, 1984, the WDNR requested that USEPA revise the SO_2 designation for a sub-city area of Rhinelander from attainment to primary and secondary nonattainment. To support its request, the WDNR submitted a technical support document that included a summary of the SO_2 ambient air monitoring data collected in Rhinelander from April 1981 to December 1983. A violation of the primary 24-hour SO_2 NAAQS was recorded during 1981. Modeling performed by the WDNR predicted violations of the primary 24-hour and the secondary 3-hour SO_2 NAAQS. These violations provide the justification for the redesignation from attainment to primary and secondary nonattainment.

Modeling data showed that the violation area was localized to the area surrounding the Rhinelander Paper Company, so the nonattainment area boundaries were limited to this area as opposed to the entire City of Rhinelander. The boundaries of the nonattainment area are as follows:

North—A line ENE from the intersection of Lynne and Maple Streets to the W end of Abner.
Abner Street from W end to intersection of Abner and Thayer Streets.
East—S on Thayer Street from intersection of Abner and Thayer Streets to intersection of Thayer and Anderson Streets.
Anderson Street S from intersection of Anderson and Thayer Streets to intersection of Anderson and Davenport Streets. Davenport Street W from intersection of Anderson and Davenport Streets to W bank of Wisconsin River. W bank of Wisconsin River S from Davenport Street to Norway Street.
South—Norway Street W from Wisconsin River extended to intersection of High View Parkway and Hillside Road.
High View Parkway W from intersection of High View Parkway and Hillside Road to intersection of High View Parkway and Davenport Street.
West—Davenport Street ENE from intersection of Davenport Street and High View Parkway to intersection of Davenport and Maple Streets.
Maple Street N from intersection of Davenport and Maple Streets to intersection of Maple and Lynne Streets.

Peshtigo: On March 27, 1984, the WDNR also requested that USEPA revise the SO_2 designation for the City of Peshtigo from attainment to primary and secondary nonattainment. To support its request, the WDNR submitted a technical support document that included a summary of the SO_2 ambient air monitoring data collected in Peshtigo at one site from June 1983 to December 1983. Violations of both the primary 24-hour and secondary 3-hour SO_2 NAAQS were recorded during this time period, providing justification for the redesignation to nonattainment. (Violations of the primary 24-hour NAAQS have also been measured at this site and another site during 1984.)

The modeling data indicated that the violation area extended over much of Peshtigo. Therefore, the WDNR determined that the boundaries of the nonattainment area should coincide with the Peshtigo City boundaries. These boundaries include the Badger Paper Mill.

Rothschild: On March 27, 1984, the WDNR requested that USEPA revise the SO_2 designation of several portions of Marathon County (the City of Rothschild, part of the Town of Weston, part of the Town of Rib Mountain) from attainment to primary and secondary nonattainment. To support its request, the WDNR submitted a technical support document that included a summary of the SO_2 ambient air monitoring data collected in the Rothschild area from January 1982 to December 1982. Violations of the primary 24-hour SO_2 NAAQS were recorded during this time period, providing the justification for the redesignation to nonattainment.

The WDNR's modeling analysis used emissions data from the three major SO_2 sources located in the Rothschild area, the Weyerhaeuser Company Paper Mill, Reed Lignin, and the Wisconsin Public Service Weston Power Plant. The results of the analysis were used to determine the following boundaries:

Primary Nonattainment Area

Rothschild

North—State Highway 29 from E bank of Wisconsin River E to Volkman Street.
East—Volkman Street from State Highway 29 S to Lemke Avenue.
South—Lemke Avenue from Volkman Street W to Becker Avenue, Becker Avenue from Lemke Avenue W to Francis Street. Weston Avenue from Frances Street extended to E bank of Wisconsin River.
West—E bank of Wisconsin River, Weston Avenue extended N to State Highway 29.

Secondary Nonattainment Area

Rothschild

Same as primary.

Weston

North—State Highway 29 from Volkman Street N to Jelinck Avenue E to Alderson Street.
East—Alderson Street from Jelinck Avenue S to Weston Avenue.
South—Weston Avenue from Alderson Street W to Volkman Street.
West—Volkman Street from Weston Avenue N to State Highway 29.

Rib Mountain

The NW ¼ of Section 23.
The SW ¼ of Section 23.
The NW ¼ of Section 25.

Milwaukee—TSP

On March 14, 1983, the WDNR requested that USEPA revise the air quality attainment status deignation for the City of Milwaukee from primary and secondary nonattainment to secondary nonattainment only for the TSP NAAQS. Three sub-city areas of Milwaukee, as identified at 40 CFR 81.350, are currently designated as nonattainment areas for TSP. One of these areas is designated as primary nonattainment, and two are designated as secondary nonattainment. The State requested that the secondary nonattainment area identified as Area 2 at 40 CFR 81.350, and the primary nonattainment area, be eliminated completely. The State requested that the remaining secondary nonattainment area, indentified as Area 1 at 40 CFR 81.350, be reduced to the approximate size of the current primary nonattainment area.

To support its request, the WDNR submitted a technical support document that included a summary of the TSP ambient air monitoring data collected in Milwaukee from 1979 to 1983. These

data showed attainment of the primary TSP NAAQS, but not the secondary TSP NAAQS. Additional technical information was submitted on May 12, July 29, and September 13, 1983. On March 13, 1984, the WDNR revised its redesignation request, enlarging the size of the remaining secondary nonattainment area. The boundaries of the remaining secondary nonattainment area are as follows:

North—Michigan Avenue from corner of 35th Street to Lake Michigan
West—35th Street S from Michigan Avenue to National Avenue, east on National Avenue to 6th Street, S on 6th Street to Becher Street
South—Becher Street E from 6th Street to Lake Michigan
East—Lake Michigan.

In addition to the TSP ambient air monitoring data submitted on March 14, 1983, the WDNR cited several factors that the Department believes have contributed to the decrease in monitored TSP concentrations. These include the installation of sample savers on all TSP monitors, an abnormally high precipitation level (April–November 1981), and local economic conditions. The City of Milwaukee, in their public comments, cited all of the above factors as well as a decrease in construction/demolition activity, source compliance with the TSP SIP, and filter bias at some of the critical monitors. USEPA has investigated each of these factors to determine which ones were responsible for the improvement in measured TSP concentrations. USEPA has concluded that the permanent shutdown of many sources located in and near the Milwaukee nonattainment area, and source compliance with the federally approved TSP SIP, are the major causes of the decrease in TSP concentrations. USEPA found no evidence indicating that the air quality improvement was influenced by other more transient economic conditions, such as a decline in industry production levels or a decrease in construction activity. The State and City of Milwaukee have provided evidence of source shutdown and source compliance, as well as the implementation of other control measures such as road paving. This evidence is creditable under USEPA's redesignation policy because these measures are permanent and will ensure maintenance of the primary standard in Milwaukee.

USEPA is taking final action to approve the redesignation of Milwaukee as requested by the WDNR. A detailed discussion of the basis for USEPA's action can be found in the September 26, 1984, notice of proposed rulemaking (49 FR 37807).

Public Comment

During the public comment period, USEPA received several public comments on the proposed approval of the Milwaukee redesignation. These comments and USEPA's evaluation of these comments are summarized below.

Comment: Representatives from two industries objected to a comment made by USEPA in the notice of proposed rulemaking (49 FR 37807). USEPA had stated that the emission reductions resulting from the shutdown of several large TSP sources located in, or near, the primary nonattainment area (Milwaukee Solvay Coke, Marquette Cement, Minerals Reclamation) were a necessary condition of the redesignation, which meant that these emission reductions could not be credited to another firm because they had been relied upon to show attainment of the primary TSP NAAQS. The two representatives claimed that the shutdown of Milwaukee Solvay Coke had essentially no effect on air quality in Milwaukee. Therefore, the emission reduction credits from the closure of Milwaukee Solvay Coke should be applicable to another company. The two commentors submitted technical data, and cited various economic and environmental benefits to Milwaukee, to support their position.

Response: USEPA's policy on the use of emission reduction credits, and their impact on redesignations to attainment, is contained in a December 21, 1983, memorandum from John R. O'Conner, Acting Director, Office of Air Quality Planning and Standards, to David Kee, Director, Air Management Division—Region V, entitled "Banked Emission Reduction Credits (ERC's): Clarification of Section 107 Designation Policy". The policy states that emission reductions are creditable only if they have not been relied on to show attainment of an ambient standard. Therefore, if attainment of the TSP standard can be shown with the inclusion of Milwaukee Solvay Coke's emissions, then these emissions are not necessary to attain the standard and would be creditable to another firm.

USEPA reviewed the ambient monitoring data, and Milwaukee Solvay Coke's production and emission control data, to determine whether the downturn in the firm's production and the installation of pollution control equipment correlated with the improvement in ambient TSP concentrations. These events did correlate, indicating, in general, that the emission reductions from Solvay Coke are necessary for attainment of the TSP NAAQS and, therefore, are an important basis for the redesignation.

Note: To determine whether any of the reduction is creditable, it would be necessary for the State, or the commentors, to perform a dispersion modeling analysis to quantify the amount of emissions that would preserve a demonstration of primary attainment, and to make this emission level enforceable through State or federally approved SIP/permit conditions.

Comment: The City of Milwaukee and the Office of the Mayor both supported the redesignation of Milwaukee, but suggested that the remaining secondary nonattainment area bounderies be narrowed. To support their suggestion, the City of Milwaukee claimed that the violations at some of the critical monitors were due to temporary fugitive emissions, and/or sulfate and nitrate artifact error. The City of Milwaukee suggested that these violations were, thus, invalid.

The WDNR rebutted the City's arguments concerning the validity of the violations at these critical monitors. The WDNR disagreed that there was sufficient evidence to waive these exceedances for attainment/nonattainment purposes.

Response: USEPA agrees with the WDNR's analysis, which supports the validity of the violations that were questioned by the City of Milwaukee. Both agenices have reviewed the data, which indicates that these violations reflect the ambient air quality of the area and are not influenced by the identified temporary fugitive emissions. Concerning the sulfate-nitrate artifact issue, no evidence was provided which quantified the amount of the sulfate-nitrate error, if any.

Construction Moratorium

As noted above, on March 14, 1983, Wisconsin requested that USEPA redesignate the City of Milwaukee as secondary nonattainment only. The State has submitted evidence that the TSP levels in this area have decreased due to compliance with the federally approved control strategy (48 FR 9860), and to the permanent shutdown of several large TSP sources, including the only coke battery in the State (Milwaukee Solvay Coke). This final approval of the redesignation lifts the TSP construction moratorium in Milwaukee, because the construction moratorium only applies in primary nonattainment areas, as stated in a policy memorandum from Michael A. James, Associate General Counsel, Office of General Counsel, to Richard G. Rhodes, Director, Control Programs Development Division, Office of Air

Quality Planning and Standards, entitled" Growth Restrictions in Secondary NAAQS Nonattainment Areas." Elsewhere in this **Federal Register**, USEPA is proposing to fully approve Wisconsin's plan to meet the Part D requirements for primary TSP nonattainment areas.

The State of Wisconsin has one year from the date of this final action to develop a Part D plan pursuant to sections 171–77 of the Clean Air Act, 42 U.S.C. 7501–07, for the newly designated SO_2 nonattainment areas in Rhinelander, Peshtigo and Rothschild. To obtain approval the plan must provide for attainment as expeditiously as practicable, but no later than five years from the date of this final redesignation action. Under 40 CFR 52.24(k) (1984), a ban on construction under section 110(a)(2)(I) of the Clean Air Act (42 U.S.C. 7410(a)(2)(I)) will automatically go into effect eighteen months from the date of this final Action unless a Part D plan has been approved or conditionally approved by EPA. In the interim, the Emission Offset Interpretative Ruling, 40 CFR Part 51, App. S. (1984), will govern permits to construct and operate applied for after the date of this final action and before the date the Part D plan is approved, or the date the construction ban applies, whichever is earlier. *See* EPA's notice on "Compliance With The Statutory Provisions of Part D of the Clean Air Act, Final Rule", 48 FR 50686, 50691, 50695–50696 and 50697 (Nov. 2, 1983); and EPA's "Guidance Document For Correction of Part D SIP's For Nonattainment Areas" at 22–24, Dated Jan. 27, 1984.

Conclusion

USEPA is today approving the redesignation of Rhinelander, Peshtigo, and Rothschild from attainment to primary and secondary nonattainment for SO_2. USEPA is also approving the redesignation of Milwaukee from primary and secondary nonattainment to secondary nonattainment only for TSP. These redesignations are based on modeling and monitoring data that showed violations of the primary and secondary SO_2 NAAQS, and attainment of the primary TSP NAAQS, respectively.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 9, 1985. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 81

Intergovernmental relations, Air pollution control, National Parks, Wilderness Areas.

Dated: October 3, 1985.

Lee M. Thomas,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES—WISCONSIN

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 81.350—Wisconsin, the attainment status designation table for Total Suspended Particulates is amended by revising the designation for the City of Milwaukee as follows:

§ 81.350 Wisconsin.

WISCONSIN—TSP

Designated Area	Does not meet Primary standards	Does not meet Secondary standards	Cannot be classified	Better than national standards
* * *	*	*	*	*
AQCR 239: * * *	*	*	*	*
Milwaukee County: Milwaukee Sub-city area defined as follows.		X		
Area 1:				
North: Michigan Avenue from corner of 35th Street to Lake Michigan.				
West: 35th Street S from Michigan Avenue to National Avenue, east on National Avenue to 6th Street, S on 6th Street to Becher Street.				
South: Becher Street E from 6th Street to Lake Michigan.				
East: Lake Michigan				
Reminder of Milwaukee County				X
* * *	*	*	*	*

3. Section 81.350—Wisconsin, the attainment status designation table for Sulfur Dioxide is amended by revising the designation for Marinette County, Marathon county, and Oneida County, as follows:

§ 81.350 Wisconsin.

* * * * *

WISCONSIN—SO_2

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
* * *	*	*	*	*
AQCR 237: * * *	*	*	*	*
Marinette County: Peshtigo—city Limits of Peshtigo	X	X		
* * *	*	*	*	*
AQCR 238: * * *	*	*	*	*
Marathon County:				
Brokaw—corporate limits of Brokaw	X	X		
Rothschild Sub-city area defined as follows:	X	X		
North: State Highway 29 from E bank of Wisconsin River E to Volkman Street.	X	X		
East: Volkman Street from State Highway 29 S to Lemke Avenue.	X	X		
South: Lemke Avenue from Volkman Street W to Becker Avenue, Becker Avenue from Lemke Avenue W to Francis Street, Weston Avenue from Frances Street extended to E bank of Wisconsin River.				
West: E Bank of Wisconsin River, Weston Avenue extended N to State Highway 29.				
Town of Rib Mountain, Sub-town area defined as follows:		X		
The NW ¼ of Section 23				
The SW ¼ of Section 23				
The NW ¼ of Section 25				
Town of Weston, Sub-town area defined as follows:		X		
North: State Highway 29 from Volkman Street N to Jelinck Avenue E to Alderson Street.				

WISCONSIN—SO_2—Continued

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
East: Alderson Street from Jelinck Avenue S to Weston Avenue. South: Weston Avenue from Alderson Street W to Volkman Street. West: Volkman Street from Weston Avenue N to State Highway 29. Remainder of Marathon County				X
Oneida County: Rhinelander Sub-city area defined as follows: North: A line ENE from the intersection of Lynne and Maple Streets to the W end of Abner. Abner Street from W end to intersection of Abner and Thayer Streets. East: S on Thayer Street from intersection of Abner and Thayer Streets to intersection of Thayer and Anderson Streets. Anderson Street S from intersection of Anderson and Thayer Streets to intersection of Anderson and Davenport Streets. Davenport Street W from intersection of Anderson and Davenport Streets to W bank of Wisconsin River. W Bank of Wisconsin River S from Davenport Street to Norway Street. South: Norway Street W from Wisconsin River extended to intersection of High View Parkway and Willside Road. High View Parkway W from intersection of High View Parkway and Hillside Road to intersection of High View Parkway and Davenport Street. West: Davenport Street ENE from intersection of Davenport Street and High View Parkway to intersection of Davenport and Maple Streets. Maple Street N from intersection of Davenport and Maple Streets to intersection of Maple and Lynne Streets.	X	X		
Remainder of Oneida County				X

[FR Doc. 85-24156 Filed 10-8-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 152, 163, 164, 165, 166, 167, 169, 170, 171, 172, and 173

[OPP-00000/R789; FRL-2908-1]

Authority Citations; Format Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical Amendments.

SUMMARY: EPA is amending the format for blanket authority citations in various parts of Title 40 of the Code of Federal Regulations to comply with Office of the Federal Register (OFR) regulations.These changes are nonsubstantive.

EFFECTIVE DATE: October 9, 1985.

FOR FURTHER INFORMATION CONTACT: John A. Richards, Chief, Federal Register Staff (TS-788B), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, (202-382-2253).

SUPPLEMENTARY INFORMATION: EPA is amending the format of various CFR Part authorities to comply with 1 CFR 21.52, which published in the **Federal Register** of March 28, 1985 (50 FR 12469). Section 21.52 states that citations to titles of the United States Code shall be cited "without Public Law or U.S. Statutes at Large citation." To comply with this requirement, EPA is removing the Public Law and U.S. Statutes at Large citations from the blanket authority citations to the CFR Parts designated below. The authority citations are not being changed; they are merely being rewritten to comply with 1 CFR 21.52. Also, authority citations following 40 CFR 171.11 and in 40 CFR Part 172, Subpart B, that already appear in the Parts' blanket authorities are being removed.

The amendments below are nonsubstantive; they are merely technical. Therefore advance notice and public procedures are unnecessary, and the amendments are effective on the date of publication in the **Federal Register.**

Dated: September 25, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Program.

Therefore, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 152—PESTICIDE REGISTRATION AND CLASSIFICATION PROCEDURES

1. The authority citation for Part 152 is revised to read as follows:

Authority: 7 U.S.C. 136 through 136y.

PART 163—CERTIFICATION OF USEFULNESS OF PESTICIDE CHEMICALS

2. The authority citation for Part 163 is revised to read as follows:

Authority: 21 U.S.C. 346a.

PART 164—RULES OF PRACTICE GOVERNING HEARINGS, UNDER THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT, ARISING FROM REFUSALS TO REGISTER, CANCELLATIONS OF REGISTRATIONS, CHANGES OF CLASSIFICATIONS, SUSPENSIONS OF REGISTRATIONS, AND OTHER HEARINGS CALLED PURSUANT TO SECTION 6 OF THE ACT

3. The authority citation for Part 164 is revised to read as follows:

Authority: 7 U.S.C. 136d.

PART 165—REGULATIONS FOR THE ACCEPTANCE OF CERTAIN PESTICIDES AND RECOMMENDED PROCEDURES FOR THE DISPOSAL AND STORAGE OF PESTICIDES AND PESTICIDES CONTAINERS

4. The authority citation for Part 165 is revised to read as follows:

Authority: 7 U.S.C. 136q and 136w.

PART 166—EXEMPTION OF FEDERAL AND STATE AGENCIES FOR USE OF PESTICIDES UNDER EMERGENCY CONDITIONS

5. The authority citation for Part 166 is revised to read as follows:

Authority: 7 U.S.C. 136w.

PART 167—REGISTRATION OF PESTICIDE-PRODUCING ESTABLISHMENTS, SUBMISSION OF PESTICIDES REPORTS, AND LABELING

6. The authority citation for Part 167 is revised to read as follows:

Authority: 7 U.S.C. 136e and 136w.

PART 169—BOOKS AND RECORDS OF PESTICIDE PRODUCTION AND DISTRIBUTION

7. The authority citation for Part 169 is revised to read as follows:

Authority: 7 U.S.C. 136f and 136w.

PART 170—WORKER PROTECTION STANDARDS FOR AGRICULTURAL PESTICIDES

8. The authority citation for Part 170 is revised to read as follows:

Authority: 7 U.S.C. 136w.

PART 171—CERTIFICATION OF PESTICIDE APPLICATORS

9. The authority citation for Part 171 is revised to read as set forth below, and the authority citation following all the sections in Part 171 are removed.

Authority: 7 U.S.C 136b and 136w.

PART 172—EXPERIMENTAL USE PERMITS

10. The authority citation for Part 172 is revised to read as set forth below, and the authority citation following Subpart B is removed.

Authority: 7 U.S.C. 136c, 136v, and 136w.

PART 173—PROCEDURES GOVERNING THE RESCISSION OF STATE PRIMARY ENFORCEMENT RESPONSIBILITY FOR PESTICIDE USE VIOLATIONS

11. The authority citation for Part 173 is revised to read as follows:

Authority: 7 U.S.C. 136w and 136w-2.

[FR Doc. 85-23890 Filed 10-8-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 4E3049/R790; FRL-2907-8]

Pesticide Tolerance for Cyano(3-Phenoxyphenyl) Methyl-4-Chloro-Alpha-(1-Methylethyl)Benzeneacetate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide cyano(3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the raw agricultural commodities radish roots and tops. This regulation, to establish maximum permissible levels for residues of the insecticide in or on the commodities, was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: October 9, 1985.

ADDRESS: Written objections, identified by the document control number [PP 4E3049/R790], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Donald Stubbs, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of August 7, 1985 (50 FR 31893), which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, submitted pesticide petition 4E3049 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the agricultural experiment stations of California, Florida and Oklahoma. The petition proposed the establishment of tolerances for the residues of the insecticide cyano(3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the raw agricultural commodities radish roots at 0.3 part per million (ppm) and radish tops at 8.0 ppm.

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

The data submitted in the petition and other relevant material have been evaluated and discussed in the proposed rule. The pesticide is considered useful for the purpose for which the tolerances are sought. There are no regulatory actions pending against the continued registration of the pesticide. Based on the data submitted, the Agency has determined that the establishment of the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

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

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

List of Subjects in 40 CFR Part 180

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

Dated: September 25, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.379 is amended by adding and alphabetically inserting the commodities radish roots and radish tops to read as follows:

§ 180.379 Cyano(3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Radish, roots	0.3
Radish, tops	8.0
* * * * *	

[FR Doc. 85-23892 Filed 10-8-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 421

[FRL-2872-1]

Nonferrous Metals Manufacturing Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

Correction

In FR Doc. 85-21288, beginning on page 38276 in the issue of Friday, September 20, 1985, make the following corrections:

1. On page 38342, second column, below the authority citation for Part 421, add the following amendatory instruction: "2. Section 421.4 is revised as follows:

2. On page 38359, third column, § 421.233, beneath the first table, "(d) Nickel wash water" should read "(b) Nickel wash water".

3. On page 38364, first column, § 421.254(h), below the table headings, "mercury condenses" should read "mercury condensed".

BILLING CODE 1505-01M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-20

[FPMR Temp. Reg. D-69, Supp. 4]

Federal Employee Parking

AGENCY: Public Buildings Service, GSA.

ACTION: Temporary Regulation.

SUMMARY: This supplement extends to March 31, 1986, the expiration date of FPMR Temporary Regulation D-69. D-69 sets forth revised policies and procedures concerning Federal employee parking. The regulation was developed as part of an effort to review and streamline GSA's property management regulations.

DATES:

Effective date: October 1, 1985

Expiration date: March 31, 1986

FOR FURTHER INFORMATION CONTACT: Judy Kraft, Acting Director, Assignment Division (202-566-0059).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purpose of E.O. 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101 this temporary regulation is added to the appendix at the end of Subchapter D.

General Services Administration,
Washington, DC 20405
September 17, 1985.

Federal Property Management Regulations Temporary Regulation D-69 Supplement 4

To: Heads of Federal agencies

Subject: Federal Employee Parking

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation D-69.

2. *Effective date.* October 1, 1985.

3. *Expiration date.* This supplement expires on March 31, 1986.

4. *Explanation of changes.* The expiration date in paragraph 3 of FPMR Temporary Regulation D-69 is revised to March 31, 1986.

Paul Trause,

Acting Administrator of General Services.

[FR Doc. 85-24112 Filed 10-8-85; 8:45 am]

BILLING CODE 6820-23-M

41 CFR Part 101-45

[FPMR Amendment H-156]

Sale of Personal Property

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) amends its regulations to apply the Governmentwide policies, procedures, and requirements of Federal Acquisition Regulation (FAR) Subpart 9.4 on debarment, suspension and ineligibility to contractors who purchase Federal personal property. The changes are expected to provide a unified system to exclude nonresponsible firms and individuals from purchasing Federal personal property.

EFFECTIVE DATE: October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb, Procurement Analyst, Office of GSA Acquisition Policy and Regulations (202-566-1224).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of E.O. 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and the consequence of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101-45

Government property management, Reporting requirements, Surplus Government property.

PART 101-45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

1. The authority citation for Part 101-45 continues to read as follows:

Authority: Sec. 205(c) 63 Stat. 390; 40 U.S.C. 486(c).

2. The table of contents for Part 101-45 of Subchapter H is amended by revising the title of Subpart 101-45.6, and recaptioning and revising three entries to read as follows:

Subpart 101-45.6 Debarred, Suspended, and Ineligible Contractors

3. The title of Subpart 101-45.6 is revised as follows:

Subpart 101-45.6—Debarred, Suspended, and Ineligible Contractors

4. Section 101-45.600 is revised as follows:

§ 101-45.600 Scope of subpart.

This subpart prescribes policies and procedures governing the debarment or suspension of contractors for contracts involving the sale by the Government of personal property.

5. Sections 101-45.601 and 101-45.602 are recaptioned and revised as follows:

§ 101-45.601 Policy.

(a) Agencies shall solicit offers from, award contracts to, and consent to subcontracts only with responsible contractors, as defined by Federal Acquisition Regulation (FAR) 9.104-1.

(b) The policies, procedures, and requirements of FAR Subpart 9.4 are incorporated by reference and made applicable to contracts for, and to contractors who engage in the purchase of Federal personal property.

(c) The debarment or suspension of a contractor from the purchase of Federal personal property has Governmentwide effect and precludes any agency from entering into a contract for purchase of personal property with that contractor unless the agency's head or a designee responsible for the disposal action determines that there is a compelling reason for such action. (See FAR 9.405(a).)

(d) When the debarring/suspending official has authority to debar/suspend contractors from both contracts for the purchase of Federal personal property pursuant to FPMR 101-45.6 and acquisition contracts pursuant to FAR 9.4, that official shall consider simultaneously debarring/suspending the contractor from the purchase of Federal personal property and the award of acquisition contracts. When debarring/suspending a contractor from the purchase of Federal personal property and the award for acquisition

contracts, the debarment/suspension notice shall so indicate and the appropriate FPMR and FAR citations shall be included.

§ 101-45.602 Listing debarred or suspended contractors.

(a) Contractors which have been debarred or suspended by agency debarring/suspending officials will be included on the Consolidated List of Debarred, Suspended, and Ineligible Contractors (FAR 9.404) in accordance with the procedures established at FAR 9.404.

(b) Agencies shall establish procedures for the use of the consolidated list to ensure that the agency does not solicit offers from, award contracts to, or consent to subcontracts with listed contractors, except as provided in FAR 9.405(a).

§ 101-45.603 [Removed]

6. Section 101-45.603 is removed.

Dated: August 26, 1985.

Paul K. Trause,

Acting Administrator of General Services.

[FR Doc. 85-24116 Filed 10-8-85; 8:45 am]

BILLING CODE 6820-61-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

National Flood Insurance Administration

44 CFR Part 64

[Docket No. FEMA 6679]

List of Communities Eligible for the Sale of Flood Insurance; Tennessee et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities lised.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 457, Lanham, Maryland 20706, Phone: (800) 638-7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, 500 C Street, Southwest, Donohoe Building, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future following. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition of construction of buildings in the special flood hazard area shown on the map.

The Director finds that delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subject in 44 CFR Part 64

Flood insurance—floodplains.

The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et. seq., Reorg. Plan No. 3 of 1978, E.O. 12127.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified
Tennessee: Jefferson	New Market, city of	470365	Aug. 5, 1985, emerg	Oct. 22, 1978.
New Hampshire: Hillsborough	Brookline, town of	330180	Aug. 12, 1985, emerg	Apr. 4, 1975.
Texas: Liberty	Dayton Lakes, city of [1]	481593—New	do	
New York: Saratoga	Victory, village of	360733B	Aug. 12, 1985, emerg., Aug. 12, 1985, reg	Apr. 5, 1974 and June 1, 1984.
Missouri: Howell	Willow Springs, city of	290167B	July 2, 1974, emerg., Aug 15, 1979, reg., Aug. 15, 1979, susp., Aug. 12, 1985, rein.	May 24, 1974, Dec. 5, 1975 and Aug. 15, 1979.
New Jersey: Monmouth	Aberdeen, township of	340312A	Apr. 12, 1974, emerg., Mar. 18, 1985, reg., Mar. 18, 1985, susp., Aug. 21, 1985, rein.	Feb. 28, 1975 and Mar. 18, 1985.
Pennsylvania:				
Westmoreland	Youngwood, borough of	420906B	Mar. 24, 1975, emerg., Dec. 15, 1981, reg., Dec. 15, 1981, susp., Aug. 21, 1985, rein.	June 21, 1974, Aug. 6, 1976, and Dec. 15, 1981.
McKean	Sergeant, township of [2]	422474B	Aug. 5, 1975, emerg., July 3, 1985, reg., July 3, 1985, susp., Aug. 22, 1985, rein.	Feb. 14, 1975, July 4, 1980, and July 3, 1985.
Kentucky: Bath	Unincorporated areas	210008A	Aug. 23, 1985, emerg	Apr. 1, 1977.
Ohio: Auglaize	Unincorporated areas	390761A	Aug. 29, 1985, emerg	May 12, 1978.
Pennsylvania: Wayne	South Canaan, township of [3]	422174	July 29, 1975, emerg., Aug. 19, 1985, reg., Aug. 19, 1985, susp., Aug. 27, 1985, rein.	Dec. 20, 1974.
		Region I		
Maine: York	Shapleigh, town of	230198B	Aug. 5, 1985, suspension withdrawn	Jan. 17, 1975, June 15, 1979, and Aug. 5, 1985.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified
Massachusetts:				
Middlesex	Billerica, town of	250183	do	Sept. 20, 1974, Sept. 17, 1976, Nov. 5, 1980, and Aug. 5, 1985.
Plymouth	Kingston, town of	250270B	do	June 28, 1974, Oct. 29, 1976, and Aug. 5, 1985.
Norfolk	Millis, town of	250244C	do	July 19, 1974, July 2, 1980, and Aug. 5, 1985.
Essex	Salem, city of	250102B	do	July 26, 1974, Mar. 15, 1977, And Aug. 5, 1985.
Region II				
New Jersey: Passaic	Totowa, borough of	340408B	Aug. 5, 1985, suspension withdrawn	June 28, 1974, Sept. 10, 1976, and Aug. 5, 1985.
New York:				
Madison	Oneida, city of	360408B	do	Mar. 1, 1974, May 28, 1976, and Aug. 5, 1985.
Ulster	Saugerties, village of	361504C	do	Nov. 15, 1974, June 18, 1976, Sept. 10, 1982, and Aug. 5, 1985.
Region IV				
Kentucky: Marshall	Calvert City, city of	210164D	do	July 18, 1980, and Aug. 5, 1985.
North Carolina:				
Tyrrell	Columbia, town of	370233A	do	Feb. 8, 1974, and Aug. 5, 1985.
Pasquotank and Camden	Elizabeth City, city of	370185D	do	Nov. 9, 1973, Oct. 3, 1975, and Aug. 5 1985.
Beaufort	Pantego, town of	370016	do	Sept. 6, 1974, Apr. 3, 1978, and Aug. 5, 1985.
Washington	Roper, town of	370421B	do	
Region VII				
Missouri: Livingston	Chillicothe, city of	290216B	do	Jan. 9, 1974, Apr. 16, 1976, and Aug. 5, 1985.
Region II Minimal Conversions				
New York: Montgomery	Monawk, town of	360452B	Aug. 5, 1985, suspension withdrawn	Feb. 2, 1974, Apr. 2, 1976, and Aug. 5, 1985.
Region III				
Pennsylvania: Lebanon	Cornwall, borough of	420968A	do	Nov. 12, 1976, and Aug. 5, 1985.
Region I				
Connecticut: New London	New London, city of	090100C	Aug. 19, 1985, suspension withdraw	June 28, 1974, May 2, 1977, Oct. 1, 1983, and Aug. 19, 1985.
Massachusetts:				
Barnstable	Barnstable, town of	25001C	do	Feb. 7, 1975,
April 3, 1978, Oct. 1, 1983, and Aug 19, 1984.				
3Norfolk	Norfolk, town of	255217C	do	
Aug. 7, 1975, July 1, 1974, Oct. 29, 1976, and Aug. 19, 1985.				
Region II				
New York: Ulster	Saugerties, town of	360663B	Aug. 19, 1985, suspension withdrawn	May 31, 1974, May 21, 1976, and Aug. 19, 1985.
Region IV				
Georgia: Glynn	Brunswick, city of	130093B	do	May 24, 1974, Jan. 9, 1976, June 19, 1985, and Aug. 19, 1985.
North Carolina:				
Carteret	Unincorporated areas	370043C	do	Feb. 14, 1975, May 15, 1980, Oct. 1, 1983, and Aug. 19, 1985.
Washington	Plymouth, town of	260177B	do	May 20, 1977, and Aug. 19, 1985.
Tyrrell	Unincorporated areas	370232B	do	Jan. 10, 1975, July 22, 1977, and Aug. 19, 1985.
Washington	do	370247B	do	June 9, 1978, and Aug. 19, 1985.
Bertie	Windsor, town of	370019C	do	Sept. 20, 1974, Aug. 20, 1976, July 18, 1977, and Aug. 19, 1985.
Region V				
Illinois: LaSalle	Peru, city of	170406	Aug. 15, 1985, suspension withdrawn	Apr. 5, 1974, Oct. 31, 1975, Nov. 9, 1979, and Aug. 19, 1985.
Ohio				
Medina	Brisrwood Beach, village of	390379B	do	Mar. 15, 1974, Apr. 23, 1976, and Aug. 19, 1985.
Do	Gloria Glens Park, village of	390381B	do	Mar. 15, 1974, Apr. 23, 1976 and Aug. 19, 1985.
Jackson	Unincorporated areas	390290B	do	Jan. 10, 1975, Dec. 30, 1977 and Aug. 19, 1985.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified
Region VII				
Iowa: Johnson	Unincorporated areas	190882B	do	Nov. 29, 1977 and Aug. 19, 1985.
Kansas: Butler	El Dorado, city of	200039C	do	Apr. 21, 1972, Apr. 30, 1976 and Aug. 19, 1985.
Region X				
Washington:				
Snohomish	Darrington, town of	530233A	do	Aug. 19, 1985.
Gray, Harbor	Elma, city of	530060B	do	Do.
Regional Minimal Conversions				
Maine:				
Somerset	Detroit, town of	230357A	Aug. 19, 1985, suspension withdrawn	Feb. 21, 1975 and Aug. 19, 1985.
Do	New Portland, town of	230365B	do	Dec. 27, 1974, Dec. 10, 1977 and Aug. 19, 1985.
Aroostook	Orient, town of	s230029B	do	Sept. 7, 1979 and Aug. 19, 1985.
Somerset	Palmyra, town of	230366B	do	Nov. 29, 1974, Jan. 14, 1977 and Aug. 19, 1985.
Kennebec	Vienna, town of	230349B	do	Feb. 28, 1975, Jan. 7, 1977 and Aug. 19, 1985.
Region II Minimal Conversions				
New York: Fulton	Northampton, town of	361400B	Aug. 19, 1985, suspension withdrawn	Jan. 31, 1975, Aug. 6, 1976 and Aug. 19, 1985.
Region III				
Pennsylvania:				
Berks	District, township of	421378A	Aug. 19, 1985, suspension withdrawn	Nov. 15, 1974 and Aug. 19, 1985.
Somerset	Jefferson, township of	422050A	do	Dec. 13, 1974 and Aug. 19, 1985.
Wayne	South Canaan, township of	422174A	do	Dec. 20, 1974 and Aug. 19, 1985.
Somerset	Stonycreek, township of	422524B	do	Jan. 3, 1975, Dec. 24, 1976 and Aug. 19, 1985.
Region IV				
Alabama:				
Bibb	Centreville, city of	010369A	Aug. 19, 1985, suspension withdrawn	Oct. 15, 1976 and Aug. 19, 1985.
Greene	Eutaw, city of	010093A	do	Nov. 8, 1974 and Aug. 19, 1985.
Region V				
Illinois:				
Jefferson	Bonnie, village of	170306B	Aug. 19, 1985, suspension withdrawn	Feb. 15, 1974, May 21, 1976 and Sept. 19, 1985.
Clinton	Keyesport, village of	170860B	do	Mar. 21, 1975, Jan. 7, 1977 and Aug. 19, 1984.
Montgomery	Litchfield, city of	170514B	do	May 17, 1974, July 18, 1975 and Aug. 19, 1985.
McHenry	McCullom Lake, village of	170829A	do	Mar. 28, 1975 and Aug. 19, 1985.
Region V, Minimal Conversions				
Illinois:				
Putnam	McNabb, village of	170573	Aug. 19, 1985, suspension withdrawn	Sept. 13, 1974, May 28, 1976, Oct. 15, 1976, Apr. 3, 1984 and Aug. 19, 1985.
Mercer	Seaton, village of	170881A	do	Mar. 21, 1975 and Aug. 19, 1985.
Vermilion	Westville, village of	170671B	do	June 28, 1974, Mar. 19, 1976 and Aug. 19, 1985.
Indiana:				
St. Joseph	North Liberty, town of	180228B	do	Nov. 30, 1973, Mar. 26, 1976 and Aug. 19, 1985.
Wabash	North Manchester, city of	180269B	do	Dec. 21, 1973, Sept. 19, 1975 and Aug. 19, 1985.
Scott	Scottsburg, city of	180234B	do	Nov. 23, 1973, Mar. 5, 1976 and Aug. 19, 1985.
Whitley	South Whitley, town of	180310B	do	Dec. 21, 1973, Oct. 31, 1975 and Aug. 19, 1985.
Minnesota:				
Lyon	Lynd, city of	270584A	do	Feb. 14, 1975 and Aug. 19, 1985.
Waseca	Unincorporated areas	270647B	do	Aug. 19, 1985.
Wisconsin:				
Shawano	Birnamwood, village of	550413B	do	May 31, 1974, May 14, 1976 and Aug. 19, 1985.
Dodge	Reeseville, village of	550105B	do	Nov. 15, 1974, Aug. 29, 1975 and Aug. 19, 1985.
Region VI				
Oklahoma: Caddo	Gracemont, Town of	400023A	Aug. 19, 1985, suspension withdrawn	Dec. 6, 1974 and Aug. 19, 1985.
Region VII				
Iowa:				
Audubon	Brayton, city of	190920A	Aug. 19, 1985 suspension withdrawn	Oct. 29, 1976 and Aug. 19, 1985.
Cedar	Lowden, city of	190054B	do	June 28, 1974, Feb. 27, 1976 and Aug. 19, 1985.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified
Fremont	Thurman, city of	190394A	do	Apr. 16, 1976, and Aug. 19, 1985.
Missouri:				
Stoddard	Bell City, city of	290421B	do	Oct. 18, 1974, Nov. 21, 1975 and Aug. 19, 1985.
St. Francois	Bonne Terre, city of	290321B	do	May 31, 1974, Nov. 7, 1975 and Aug. 19, 1985.
Dekalb	Stewartsville, city of	290117A	do	Dec. 20, 1974 and Aug. 19, 1985
Region VIII				
South Dakota: Miner	Howard, city of	460183	Aug. 19, 1985, suspension withdrawn	July 11, 1975 and Aug. 19, 1985.
Region X				
Washington: Snohomish	Mountlake Terrace, city of	530170	do	Sept. 26, 1975 and Sept. 18, 1985.
Idaho: Franklin	Weston, city of	160156A	do	July 18, 1975 and Aug. 19, 1985.
Region V				
Illinois:				
Monroe	Fults, village of	170511C	Sept. 4, 1985, suspension withdrawn	Dec. 17, 1973, Jan. 30, 1976, July 13, 1979 and Sept. 4, 1985.
Gallatin	Old Shawneetown, village of	170247B	do	Dec. 17, 1973, Apr. 16, 1976, and Sept. 4, 1985.
LaSalle	Ottawa, city of	170405B	do	Apr. 5, 1974, Jan. 3, 1975 and Sept. 4, 1985.
Monroe	Valmeyer, village of	170780C	do	Mar. 29, 1974, June 4, 1976, Feb. 16, 1979, and Sept. 4, 1985.
Ohio: Medina	Wadsworth, city of	390386B	do	Mar. 1, 1974, June 4, 1976, and Sept. 4, 1985.
Region I, Minimal Conversions				
Maine:				
Oxford	Byron, town of	230330A	Sept. 4, 1985, suspension withdrawn	Dec. 6, 1974 and Sept. 4, 1985
Oxford	Greenwood, town of	230332A	do	Feb. 21, 1975 and Sept. 4, 1985.
Somerset	Smithfield, town of	230370B	do	Jan. 24, 1975, Sept. 24, 1976 and Sept. 4, 1985.
do	Roxbury, town of	230181A	do	Feb. 14, 1975 and Sept. 4, 1985.
Hancock	Sullivan, town of	230295A	do	Mar. 14, 1975 and Sept. 4, 1985.
Region II				
New York: Madison	Lincoln, town of	360405B	Sept. 4, 1985, suspension withdrawn	Apr. 12, 1974, Apr. 23, 1976 and Sept. 4, 1985.
Region III				
Pennsylvania:				
Cambria	Allegheny, township of	422265A	Sept. 5, 1985 suspension withdrawn	Jan. 24, 1975 and Sept. 4, 1985.
Chester	East Nottingham, township of	421482B	do	Sept. 13, 1974, Nov. 28, 1975 and Sept. 4, 1985.
Somerset	Jenner, township of	422051B	do	Jan. 24, 1975, Nov. 23, 1979, and Sept. 4, 1985.
Monroe	Tunkhannock, township of	421898B	do	Jan. 31, 1975, June 20, 1980, and Sept. 4, 1985.
Region IV				
Alabama:				
Conecuh	Evergreen, city of	010051A	Sept. 4, 1985, suspension withdrawn	Aug. 8, 1975 and Sept. 4, 1985.
Clarke	Grove Hill, town of	010039A	do	Apr. 25, 1975 and Sept. 4, 1985.
Kentucky: Montgomery	Mt. Sterling, city of	210234B	do	May 10, 1974, Apr. 9, 1976 and Sept. 4, 1985.
Region V				
Illinois:				
Clinton	Carlyle, city of	170047B	Sept. 4, 1985, suspension withdrawn	Dec. 7, 1973, Jan. 23, 1976 and Sept. 4, 1985.
Vermilion	Catlin, village of	170661B	do	June 28, 1974, Feb. 20, 1976 and Sept. 4, 1985.
Sangamon	Loami, village of	170795B	do	Mar. 29, 1974, Dec. 12, 1975 and Sept. 4, 1985.
LaSalle	Oglesby, city of	170404B	do	May 24, 1974, July 16, 1976 and Sept. 4, 1985.
Richland	Olney, city of	170581D	do	Feb. 22, 1974, Mar. 26, 1976, June 25, 1976, Sept. 24, 1976 and Sept 4, 1985.
Bureau	Princeton, city of	170014B	do	June 7, 1974, July 30, 1976 and Sept. 4, 1985.
Indiana: Kosciusko	Wilona Lake, town of	180124B	do	May 3, 1974, Apr. 30, 1976 and Sept. 4, 1985.
Michigan: Washtenaw	Augusta, township of	260627B	do	Apr. 15, 1977 and Sept. 4, 1985.
Minnesota: Carlton	Barnum, city of	270040B	do	Aug. 23, 1974, Apr 11, 1975 and Sept. 4, 1985.
Wisconsin:				
Walworth	Genoa City, village of	550465B	do	Jan. 9, 1974, May 15, 1976 and Sept. 4, 1985.
Clark	Greenwood, city of	550051C	do	Jan. 9, 1974, Apr 23, 1976, Mar 30, 1979 and Sept. 4, 1985.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified
Shawano	Bowler, village of	550415B	do	Nov. 30, 1973, May 28, 1976 and Sept. 4, 1985.
Columbia	Fall River, village of	550060B	do	Apr. 15, 1974, June 4, 1976 and Sept. 4, 1985.
Sauk	Lake Delton, village of	550394C	do	Dec. 17, 1973, Apr. 30, 1976, July 23, 1976 and Sept. 4, 1985.
Waupaca	Iola, village of	550497B	do	June 7, 1974, May 14, 1976 and Sept. 4, 1985.
Fond Du Lac	Fairwater, village of	550135D	do	Nov. 8, 1974 and Sept 4, 1985.
Region VII				
Iowa:				
Cedar	Bennett, city of	190051A	Sept 4, 1985, suspension withdrawn	Dec. 27, 1974, Sept 4, 1985.
Tama	Gladbrook, city of	190516A	do	July 25, 1975 and Sept. 4, 1985.
Mills	Silver City, city of	190207B	do	Nov. 8, 1974, Mar. 19, 1976, and Sept. 4, 1985.
Cedar	Tipton, city of	190057B	do	Mar. 29, 1974, Aug. 13, 1976, and Sept. 4, 1985.
Tama	Traer, city of	190668A	do	Sept. 19, 1975 and Sept. 4, 1985.
Harrison	Woodbine, city of	190152B	do	June 28, 1974, Jan. 16, 1976, and Sept. 4, 1985.
Kansas: Hodgeman	Hanston, city of	200136A	do	Dec. 27, 1974 and Sept. 4, 1985.
Missouri:				
Worth	Denver, village of	290453A	do	Nov. 22, 1974 and Sept. 4, 1985.
Camdan	Macks Creek, village of	290054B	do	Oct. 18, 1974, Nov. 28, 1975, and Sept 4, 1985.
Washington	Potosi, city of	290447B	do	Dec. 28, 1973, December 26 1975 and Sept. 4, 85.
Newton	Saginaw, village of	290466B	do	Aug. 30, 1974, and June 4, 1976 and Sept. 4, 1985.
Mississippi	Bertrand, city of	290230B	do	April 12, 1974, Nov. 7, 1975 and Sept. 4, 1985.
Region VIII				
South Dakota: Moody	Unincorporated areas	460235B	Sept. 4, 1985, suspension withdrawn	April 15, 1977 and Sept. 4, 1985.
Region X				
California: Inyo	Unincorporated areas	060073B	Sept. 4, 1985, Suspension withdrawn	Jan. 10, 1975, Jan. 10, 1978 and Sept. 4, 1985.
Nevada: Humboldt	Winnemucca, city of	320012A	do	April 23, 1976 and Sept. 4, 1985
Region IV				
Alabama:				
Fayette	Unincorporated areas	010219B	Sept. 18, 1985, suspension withdrawn	Jan. 10, 1975 May 21, 1976 and Sept. 18, 1985.
Lamar	Millport, town of	010137B	do	June 28, 1974, Jan. 2, 1976 and Sept. 18, 1985.
Florida: St. Johns	Unincorporated areas	125147D	do	July 6, 1973, May 1, 1974, June 28, 1976, Oct. 1, 1983 and Sept. 18, 1985
Region V				
Wisconsin: Sauk	Rock Springs, village of	550403C	Sept. 18, 1985 suspension withdrawn	Dec. 17, 1973, June 21, 1976 Dec. 28, 1979 and Sept 18, 1985.
Region X				
Oregon: Lane	Creswell, city of	410121A	Sept. 18, 1985 suspension withdrawn	Sept. 18, 1985
Region I, Minimal Conversions				
Maine:				
Washington	Danforth, town of	230136B	Sept 18, 1985, suspension withdrawn	Aug. 9, 1974, Sept. 17, 1976 and Sept 18, 1984.
Do	Patten, town of	230115C	do	Nov. 1, 1974, Aug. 21, 1981, Oct. 8, 1976 and Sept. 18, 1985.
Vermont: Windsor	Weathersfield, town of	500156B	do	July 14, 1974, Oct. 29, 1976 and Sept. 18, 1985.
Region IV				
Kentucky: Wayne	Monticello, city of	210221B	Sept. 18, 1985, suspension withdrawn	June 24, 1974, July 4, 1976 and Sept. 18, 1985.
Mississippi: Itawamba	Montachie, town of	280082C	do	July 21, 1974, Aug. 13, 1976, Feb. 8, 1980 and Sept. 18, 1985.
Region V				
Illinois:				
Williamson	Bush, Village of	170784	Sept. 18, 1985, suspension withdrawn	Mar. 29, 1974, July 11, 1976 and Sept. 18,1985.
Do	Hurst, city of	170792B	do	Mar. 15, 1974 May 7, 1976, and Sept. 18, 1985.
Moultrie	Lovington, village of	170523C	do	June 7, 1974, May 21, 1976, Mar. 11, 1977 and Sept. 18, 1985.
Gallatin	Omaha, village of	170243B	do	May 10, 1974, June 6, 1976 and Sept. 18, 1985.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified
Vermilion	Potomac, village of	170799B	do	Mar. 22, 1974, Aug. 27, 1976 and Sept. 18, 1985.
Do	Rankin, village of	170668B	do	May 17, 1974, Oct. 31, 1975 and Sept. 18, 1985.
Moultrie	Sullivan, city of	170524B	do	Sept. 20, 1974, Oct. 17, 1975 and Sept. 18, 1985.
Indiana: Newton	Kentland, town of	180182A	do	May 24, 1974, Aug. 13, 1976, Sept. 28, 1985 and Sept. 18, 1985.
Michigan: Monroe	Summerfield, township of	260156B	do	Feb. 15, 1974, July 9, 1976 and Sept. 18, 1985.
Minnesota:				
Benton	Foley, city of	270020B	do	Mar. 29, 1974, June 4, 1976, April 2, 1982 and Sept 18, 1985.
Ramsey	White Bear, township of	270688B	do	Mar. 17, 1978 and Sept. 18, 1985.
Wisconsin:				
Bayfield	Bayfield, city of	550017A	do	July 16, 1976 and Sept. 18, 1985.
Shawano	Bonduel, village of	550414A	do	July 16, 1976 and Sept. 18, 1985.
Columbia	Cambria, village of	550057C	doDApril 12, 1974, June 11, 1976, April 6, 1979 and Sept. 18, 1985.	
Marathon and Clarke	Colby, city of	550049C	do	May 31, 1974, Mar. 19, 1976, Mar. 23, 1979 and Sept. 18, 1985.
Columbia	Doylestown, village of	550059B	do	May 17, 1974, June 11, 1976 and Sept. 18, 1985.
Shawano	Gresham, village of	550418B	do	Jan. 9, 1974, May 14, 1976 and Sept. 18, 1985.
Oconto	Lena, village of	550296B	do	June 28, 1974, Feb. 21, 1976 and Sept. 18, 1985.
Columbia	Poynette, village of	550064	do	May 3, 1974, May 23, 1976, Mar. 30, 1979 and Sept. 18, 1985.
Taylor	Rib Lake, village of	550439B	do	May 24, 1974, May 28, 1976 and Sept. 18, 1985.
Jefferson	Sullivan, village of	550197B	do	Apr. 12, 1974, July 2, 1976 and Sept. 18, 1985.
Jefferson	Waterloo, city of	550198B	do	Dec. 26, 1973, July 30, 1976 and Sept. 18, 1985.
		Region VII		
Iowa:				
Lyon	Alvord, city of	190197B	Sept. 18, suspension withdrawn	Sept. 13, 1974, Jan. 16, 1976 and Sept. 18, 1985.
Audubon	Exira, city of	190013B	do	May 10, 1974, Mar. 26, 1976 and Sept. 18, 1985.
Dallas	Redfield, city of	190361A	do	Mar. 26, 1976, and Sept. 18, 1985.

[1] The City of Dayton Lakes has adopted Liberty County's FHBM dated 5-24-77 for flood insurance and floodplain management purposes. (County's Comm. No. 480438).
[2] Minimal conversions.
Code for reading 4th column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Issued: September 27, 1985.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 85-23974 Filed 10-8-85; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 43

[CC Docket No. 85-117; FCC 85-523]

Elimination of Annual Report of Holding Companies (FCC Form H)

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: The Commission hereby eliminates the Form H, which is the annual report filed by holding companies that do not file copies of the Securities and Exchange Commission Form 10-K. This recordkeeping and reporting requirement is no longer needed for the Commission's regulatory purposes because it largely duplicates information filed by the holding companies' subsidiaries and parent corporations. The elimination of this requirement will reduce common carrier recordkeeping and reporting burdens.

EFFECTIVE DATE: October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Alan Feldman, Industry Analysis Division, Common Carrier Bureau (202) 632-0745.

List of Subjects in 47 CFR Parts 1 and 43

Communications common carriers, Reporting and recordkeeping requirements.

Report and Order (Proceeding Terminated)

In the matter of elimination of annual report of holding companies (FCC Form H), CC Docket No. 85-117.

Adopted: September 24, 1985.
Released: October 3, 1985.

By the Commission:

Introduction

1. Earlier this year the Commission issued a *Notice of Proposed Rulemaking* [1] (*Notice*) that proposed to eliminate the requirement that certain holding companies of communications common carriers file Annual Report Form H with this Commission. In that *Notice* we reasoned that Form H duplicated information already provided to the Commission and thus unnecessarily burdened both the companies and the Commission staff. Based upon the comments submitted to that *Notice*, [2] all of which supported our proposal, the Commission hereby amends its rules to eliminate the filing requirements for the holding company annual FCC Form H.[3]

[1] FCC 85-195, released April 25, 1985.

[2] Comments were received from ITT Corp. Affiliates (ITT), Pacom, Inc. and Willamette Development Corporation (Pacom and Willamette), MCI International, Inc. (MCII) and the United States Telephone Association (USTA).

[3] Sections 1.785 and 43.21. of the Commission's Rules, which set forth the filing requirements for Form H, are founded upon section 219(a) of the Communications Act, which gives the Commission discretionary authority to require annual reports. No section of the Communications Act requires the Commission to receive annual reports from holding companies or their carriers.

2. Section 43.21 of the Commission's Rules (47 CFR 43.21) currently requires that companies that are not common carriers and that directly or indirectly control common carriers having annual revenues in excess of $2,500,000, must file with this Commission either two copies of the Form 10–K, a form prescribed by the Securities and Exchange Commission (SEC), or another form prescribed by this Commission. Section 1.785 (47 CFR 1.785) of the Commission's Rules further specifies that holding companies that do not file Form 10–K with the SEC must file Annual Form H with this Commission. Form H is a forty-five page document that requests detailed information on the stock and stockholders; officers and directors; funded debt; property, franchises, and equipment; employees and their salaries; and financial operations of the reporting companies.[4]

Discussion

3. Information from holding companies of common carriers is only important to the Commission insofar as it assists us in fulfilling our statutory obligations regarding the carriers we regulate. Form H, however, provides the Commission with minimal new or useful information concerning these carriers. The majority of the information provided in Form H duplicates information contained in other reports filed with the Commission. The Commission already receives from every regulated common carrier annual reports that include more detailed information than Form H provides.[5] In addition, each of the holding companies to which the Form H requirement applies are currently controlled by parent companies that file Forms 10–K with the SEC and with this Commission. Thus, the information submitted by the holding companies on Form H is largely contained in their subsidiary common carriers' annual reports and in their parent companies' Forms 10–K.

4. The Commission uses all of these reports primarily to determine the financial health of the common carrier and occasionally to assist in rate case proceedings. Detailed examination of the intermediary holding companies' financial data is seldom necessary for either of these purposes. Thus, even if the Forms H did not duplicate material found in the other reports, there would be little need to examine the data of the intermediary holding company when information from the subsidiary and the parent are already available. As a result, Form H has seldom been used by the Commission staff in carrying out its duties.

5. The Form H requirement places significant burdens on both the Commission staff and on the companies to whom the regulation applies. As we stated in the *Notice*, eliminating Form H will "reduce the Commission's costs associated with redesigning, printing, mailing, reviewing and analyzing the reports."[6] Since Form H has not been updated since it was created in the 1930's, continuing the filing obligation would require the staff to revise the form completely, a project that is not worth the time and cost that would be necessary.

6. Completing Form H also involves a waste of time and resources for the holding companies. While much of the information required by Form H is simply transferred from other reports, the company must retrieve or create a small amount of information specifically for the purposes of this report. It was estimated that it would take ten to fifteen person-days to complete each form.[7] Especially as the communications arena becomes more competitive, it becomes increasingly important for firms not to be tied down by such unproductive and unnecessary reporting requirements.

7. Finally, we note that the Commission retains the authority to undertake special studies requesting detailed information if necessary.[8] A special study could be designed so as to acquire the specific information necessary in the least costly manner possible. Eliminating the Form H filing requirement thus will reduce the burdens on both the industry and the Commission without impairing the Commission's ability to regulate effectively.

Conclusion and Ordering Clauses

8. The requirements of §§ 1.785 and 43.21 that holding companies of common carriers file Form H when they do not file Form 10–K is both unnecessary and burdensome. The information filed in Form H largely duplicates material already submitted on other forms and is not used by the Commission staff for any regulatory purpose. Further, the Form H filing requirement taxes the resources of both the Commission and the holding companies without any substantive benefit. Eliminating Form H will benefit the public by saving time and money, thereby allowing the companies and the Commission to serve the public most efficiently. Eliminating Form H will also be consistent with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), which requires agencies to revoke rules that serve no beneficial function.

9. Accordingly, it is ordered, that, pursuant to the provisions of Sections 4(i), 219, 220, 403 and 404 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 219, 220, 403 and 404, and Section 553 of the Administrative Procedure Act, 5 U.S.C. § 553, the policies discussed herein are adopted, and that §§ 1.785 and 43.21 of the Commission's Rules, 47 CFR 1.785 and 43.21 are amended as set forth in the Appendix.

10. It is further ordered, that the Secretary shall publish this Report and Order in the **Federal Register**, and that the policies and amendments adopted herein shall become effective upon publication.

11. It is further ordered, that this proceeding is hereby terminated.

Federal Communications Commission

William J. Tricarico,

Secretary.

Appendix

PART 1—[AMENDED]

A. 1. The authority citation for Part 1 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement. 5 U.S.C. 552, unless otherwise noted.

2. Section 1.785 is amended as follows:

§ 1.785 [Amended]

(a) Section 1.785(a)(1) is removed

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[4] Three companies filed Form H for 1983. They were American Cable and Radio Corporation (now ITT Communications Services, Inc.), FI Holdings, Inc. (formerly FTC Industries, Inc.), and U.S. Telephone and Telegraph Corporation (not ITT Communications and Information Services, Inc.). Four other companies requested and received waivers of the Form H filing requirement. They were Pacific Telecom, Inc., Willamette Development Corporation, Pacom, Inc., and MCI International Inc. On March 20, 1985, the Commission issued an *Order* granting waivers of the Form H filing requirement for 1984 to all subject carriers until September 30, 1985. *See*, Extension of Filing Date for Annual Report of Holding Companies (FCC Form H), *Order*, Mimeo No. 3268, released March 20, 1985.

On March 29, 1985, ITT Communications Services, Inc., and ITT Communications and Information Services, Inc., each petitioned the Commission for a waiver of the Form H filing requirement for 1984. *See*, letter from Mr. Peter M. Andersen to Mr. Albert Halprin, Chief, Common Carrier Bureau, dated March 29, 1985. By eliminating the Form H filing requirement completely, this *Report and Order* moots those petitions.

[5] Currently, common carriers annually file either Form M, which is 93 pages in length, or Form O/R, which is 117 pages in length.

[6] *Notice*, para. 6.

[7] See comments of Pacom and Willamette, p. 2.

[8] Section 219(b) of the Communications Act authorizes the Commission "to require any [holding companies of common] carriers . . . to file periodical and/or special reports concerning any matters with respect to which the Commission is authorized or required by law to act."

(b) Section 1.785(a)(2) through 1.785(a)(4) are renumbered § 1.785(a)(1) through § 1.785(a)(3).

PART 43—[AMENDED]

B. 1. The authority citation for Part 43 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 211, 219, 48 Stat. 1073, 1077, as amended; 47 U.S.C. 211, 219, 220, unless otherwise noted.

2. Section 43.21(c) is revised to read as follows:

§ 43.21 Annual reports of carriers and certain affiliates.

* * * * *

(c) Each company, not of itself a communication common carrier, that directly or indirectly controls any communication common carrier having annual revenues in excess of $2,500,000 shall file annually with the Commission, not later than the date prescribed by the Securities and Exchange Commission for its purposes, two complete copies of any annual report Forms 10–K (or any superseding form) filed with that Commission.

* * * * *

[FR Doc. 85–24070 Filed 10–8–85; 8:45 am]
BILLING CODE 6712–01–M

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47 CFR Parts 1 and 43

[CC Docket No. 85–118; FCC 85–522]

Elimination of Monthly Consolidated System Report 901

AGENCY: Federal Communications Commissions.

ACTION: Report and Order.

SUMMARY: The Commission hereby eliminates the Consolidated System Report 901, which is the monthly report filed by companies controlling a system of two or more telephone communications common carrier subsidiaries, all of which are subject to the Commission's Rules. This recordkeeping and reporting requirement is no longer needed for the Commission's regulatory purposes, because it largely summarizes information in other reports submitted by the subsidiary carriers. The elimination of this requirement will reduce common carrier recordkeeping and reporting burdens.

EFFECTIVE DATE: October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Alan Feldman, Industry Analysis Division, Common Carrier Bureau, (202) 632–0745.

List of Subjects in 47 CFR Parts 1 and 43

Communications common carriers, Reporting and recordkeeping requirements.

Report and Order (Proceeding Terminated)

In the matter of elimination of monthly Consolidated System Report 901, CC Docket No. 85–118.

Adopted: September 24, 1985.
Released: October 3, 1985.

By the Commission.

Introduction

1. Earlier this year the Commission issued a *Notice of Proposed Rulemaking* (*Notice*) [1] that proposed to eliminate monthly consolidated system FCC Report 901. The Commission reasoned that the report largely summarized information contained in other reports submitted to the Commission and was thus unnecessary and burdensome. After reviewing the comments submitted to that *Notice*,[2] we confirm our tentative findings in the *Notice* and hereby amend our rules to eliminate the filing requirements for consolidated Form 901.[3]

2. Section 43.31(b) of the Commission's Rules (47 CFR 43.31(b)) requires that companies that control two or more common carriers, all of which are subject to the Commission's Rules, must file two copies of a consolidated system report each month. Section 1.786 (47 CFR 1.786) of the Commission's Rules specifies that this consolidated system report should be filed on FCC Form 901. Form 901 contains summary information on operating revenues, expenses, taxes, other operating and income items, messages and selected balance sheet items. Currently, the twenty-two Bell Operating Companies each submit individual Forms 901 every month (as prescribed by §43.31(a) of the Commission's Rules, 47 CFR 43.31(a)). The Commission also receives monthly consolidated system report Forms 901 from six of the seven regional holding companies (RHCs).[4] A completed consolidated report Form 901 essentially summarizes the financial operations of the individual operating companies that each holding company owns. The consolidated system report Form 901 does not contain any information from the holding companies pertaining to their non-regulated operations or pertaining to their intracorporate transactions.

Discussion

3. The consolidated system report that AT&T submitted before the divestiture (the only consolidated report received by the Commission at that time) provided a useful summary of the operations of the Bell System because it eliminated intercompany duplications. Since the divestiture, however, the consolidated system reports submitted by the regional holding companies provide virtually no new information that is not already filed in the independent operating company monthly reports. For the most part, the holding companies obtain the figures that they enter on their consolidated Form 901 simply by totaling the figures entered on their operating companies' individual Forms 901. The Commission can readily perform this calculation on its own.

4. The consolidated 901 filing requirement is thus a waste of resources, consuming the time and expenses of both the Commission and the holding companies for no useful purpose.[5] By eliminating the consolidated Form 901 filing requirement the Commission will save the costs of receiving, processing and reviewing the Form 901 data, and will save the costs of mailing the reports back to the companies.

5. The holding companies will also reduce their costs. As one commenter explained,[6] in order to satisfy this filing

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[1] FCC 85–194, released April 25, 1985.

[2] Comments were submitted by American Information Technologies Corporation (Ameritech), BellSouth Corporation (BellSouth), New York Telephone Company and New England Telephone and Telegraph Company (NYNEX Companies), Pacific Telesis Group (Pacific Telesis), and United States Telephone Association (USTA). The North American Telecommunications Association (NATA) filed its comments one day late. If filed a motion to accept its late-filed comments together with its comments. In light of our desire to address all relevant issues, and especially since NATA was the only commenter to oppose our proposal, NATA's motion is granted. Reply comments were filed by Ameritech, the Bell Atlantic telephone companies (Bell Atlantic), BellSouth, NYNEX, Pacific Telesis, US West, Inc., and NATA.

[3] Sections 1.786 and 43.31 of the Commission's Rules, which set forth the filing requirements for the consolidated system report Form 901, are founded upon section 219(b) of the Communications Act, which gives the Commission discretionary authority to require monthly reports. No section of the Communications Act requires the Commission to received monthly reports from holding companies or their carriers.

[4] Southwestern Bell does not file a consolidated report because it controls only one common carrier. Other holding companies, such as GTE, do not file consolidated reports because not all of their subsidiaries are subject to FCC Rules.

[5] While the Commission totals and publishes the individual 901 reports on a quarterly basis, the consolidated 901 is neither published nor used internally by Commission staff.

[6] See Comments of Ameritech, pp. 2–3.

requirement, the holding company must receive the data from each of its operating companies, enter the data in its own computer system, review the data for accuracy, compile the summary, send the report to the Commission, receive a printout back from the Commission confirming receipt of the report, and review the printout for accuracy. The costs of this process to the companies far outweigh the costs to the Commission of simply totaling the operating companies' figures that were already entered into the Commission's computer system. Several commenters pointed out that the holding companies would not prepare this consolidated report if not for the Commission's filing requirement. Thus, eliminating the consolidated 901 filing requirement would directly relieve the firms of the cost of preparing this report.

6. Only one commenter, NATA, objected to our proposal to eliminate the report. NATA argues that during this period of uncertainty engendered by the divestiture, it is especially important for the Commission to monitor the monopoly activities of the BOCs closely and to gather as much information as possible to carry out this function. NATA claims that the Commission's monitoring ability has already suffered due to the decline in the number of monthly reports (MRs) filed by the carriers. NATA fears that eliminating the consolidated Form 901 filing requirement will further erode the Commission's supervisory powers. We agree that the communications arena is changing rapidly and we intend to monitor the actions of all the regulated carriers closely. For this reason the Commission, contrary to NATA's claim, continues to require and to receive monthly reports from all the regulated carriers. The consolidated Form 901, however, does not help us to monitor the carriers since it provides little information that the Commission does not already receive.

7. NATA also argues that even if the consolidated Form 901 only summarizes the individual 901 reports, the figures on the two forms do not always add up as they should. NATA cites a consolidated Form 901 submitted by NYNEX on which three of eight figures did not equal the total of the figures on the separate New York Telephone and New England Telephone individual Forms 901. NATA argues that requiring the RHCs to fill out the consolidated form and to submit it for public review provides an incentive for the RHCs to conduct their bookkeeping honestly and accurately. As the majority of the commenters point out, however, the RHCs subject themselves to numerous internal and external audits, some of which are made available to the public and to the Securities and Exchange Commission. Although errors may occur, it is likely that the companies themselves would locate them well before the Commission would.[1] Retaining the consolidated Form 901 simply in order to check on the accounting accuracy of the holding companies would constitute an unnecessary and wasteful use of the Commission's resources, as well as a burden on the RHCs.

Conclusion and Ordering Clauses

8. The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq.*) ordered agencies to review their rules and regulations to determine which of them serve a practical purpose and which simply impose unnecessary burdens. The consolidated system report filing requirement is a prime example of the type of unnecessary and burdensome government regulation that should be eliminated. Removing this filing requirement will save time and money for both the Commission and the holding companies without producing any net information loss.

9. Accordingly, it is ordered, that, pursuant to the provisions of Sections 4(i), 219, 220, 403 and 404 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 219, 220, 403 and 404, and section 553 of the Administrative Procedure Act, 5 U.S.C. 553, the policies discussed herein are adopted, and that §§ 1.786 and 43.31 of the Commission's Rules, 47 CFR 1.786, 43.31, are amended as set forth in the Appendix.

10. It is further ordered, that the Secretary shall publish this Report and Order in the **Federal Register**, and that the policies and amendments adopted herein shall become effective upon publication.

11. It is further ordered, That this proceeding is hereby terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 1—[AMENDED]

Appendix

A. 1. The authority citation for Part 1 continues to read as follows:

[1] In fact, in the example cited by NATA regarding the discrepancy in NYNEX's consolidated Form 901, NYNEX itself was the first to notice the error and to correct it.

Authority: Secs 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement. 5 U.S.C. 552, unless otherwise noted.

§ 1.786 [Amended]

2. Section 1.786 is amended by removing paragraph (b) and the "(a)" designator.

PART 43—[AMENDED]

B. 1. The authority citation for Part 43 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 211, 219, 48 Stat. 1073, 1077, as amended; 47 U.S.C. 211, 219, 220 unless otherwise noted.

§ 43.31 [Amended]

a. Section 43.31(b) is removed.

b. Section 43.31(c) is redesignated § 43.31(b).

FR Doc. 85-24069 Filed 10-8-85; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 21

[General Docket No. 82-334]

Establishment of a Spectrum Utilization Policy for the Fixed and Mobile Services' use of Certain Bands Between 947 MHz and 40 GHz

AGENCY: Federal Communications Commission.

ACTION: Final rules; correction.

SUMMARY: This document corrects several errors contained in the Final Rule (2nd R & O), in the proceeding concerning the establishment of a spectrum utilization policy, published on February 22, 1985, 50 FR 7338.

FOR FURTHER INFORMATION CONTACT: Donald Campbell, Office of Science and Technology, (202) 653-8171.

Erratum

In the matter of establishment of a spectrum utilization policy for the fixed and mobile services' use of certain bands between 947 MHz and 40 GHz; Gen. Doc. 82-334.

Released: October 3, 1985.

1. On February 8, 1985, the Commission issued a *Second Report and Order* in Gen. Doc. 82-334, 50 FR 7338 (February 22, 1985). Several inadvertent typographical errors have been detected in this Order. Those errors are addressed in the following paragraphs

by rule section affected.

2. Section 21.107 is corrected by replacing the phrase "above 10,000 . . . 10 [2, 3]" in the Table in paragraph (b) as follows:

§ 21.107 Transmitter power.

* * * * *

(b) * * *

10,000 to 31,000	10 [2, 3]
31,000 to 31,300	0.05
Above 31,300	10 [2]

3. Section 21.701 is corrected to indicate that Note [16] and paragraph (f) are added in lieu of Note [15] and paragraph (e) as follows:

§ 21.701 Frequencies

(a) * * *

31,000–31,300 MHz [16]

* * * * *

[16] Frequencies in this band are co-equally shared with stations in the Auxiliary Broadcasting (Part 74), Cable Television Relay (Part 78), Private Operational-Fixed Microwave (Part 94) and General Mobile Radio (Part 95) Services.

* * * * *

4. Section 21.801 is corrected to indicate that Note [7] is added in lieu of Note [6] as follows:

§ 21.801 Frequencies.

(a) * * *

31,000 to 31,300 MHz [7]

* * * * *

[7] Frequencies in this band are co-equally shared with stations in the Auxiliary Broadcasting (Part 74), Cable Television Relay (Part 78), and Private Operational-Fixed Microwave (Part 94) and General Mobile Radio (Part 95) Services.

* * * * *

Federal Communications Commission

William J. Tricarico,

Secretary.

[FR Doc. 85–24182 Filed 10–8–85; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 84–718; RM–4662; RM–4866]

FM Broadcast Station in Rutland, West Rutland, VT, and Plattsburgh, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein allocates Channel 233A to Rutland, Vermont, as that community's third local FM service, at the request of Howard M. Ginsberg and John O. Kimel, and Channel 298A to West Rutland, Vermont, as that community's first local service, at the request of Brian Dodge.

EFFECTIVE DATE: November 7, 1985.

DATES: Comments must be filed on or before November 8, 1985, and reply comments on or before December 9, 1985.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083 as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order (Proceeding Terminated)

In the matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Rutland and West Rutland,[1] Vermont, and Plattsburgh, New York); MM Docket No. 84–718, RM–4662, RM–4866.

Adopted: September 19, 1985.

Released: October 1, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making and Order to Show Cause*, 49 FR 31305, published August 6, 1984, proposing the allocation of Channel 261A to Rutland, Vermont, as that community's third local FM service, at the request of Howard M. Ginsberg and John O. Kimel ("G&K"). In order to comply with the Commission's mileage separation requirements, it was also proposed to modify the license of Station WGFB, Plattsburgh, New York to specify Channel 260C2 in lieu of its present Channel 260. Comments and reply comments were filed by G&K and by Plattsburgh Broadcasting Corporation, licensee of Station WGFB ("WGFB"). Rumford Communications, Inc. ("RCI"), licensee of FM Station WJYY, Concord, New Hampshire, filed comments and a motion to consolidate this proceeding with Docket 83–357 concerning FM allotments at Killington, Vermont, Lake George, New York, and Kittery, Maine, to which WGFB responded.[2]

2. Brian Dodge ("Dodge") filed a counterproposal requesting the allocation of Channel 261A to West Rutland and Channel 298A to Rutland, Vermont (RM–4866). West Rutland (population 2,169),[4] in Rutland County (population 58,347), is located approximately 3 miles west of Rutland. The Community has no local aural service. Dodge states that allocating an FM channel to West Rutland would help it to grow.

3. Timothy Allen ("Allen") also filed a counterproposal requesting the allocation of Channel 282A to North Clarendon, Vermont, Channel 298A or Channel 298B1 to Rutland, and Channel 283A to West Rutland (RM–5039). An alternate channel has been found for North Clarendon which does not conflict with either the Rutland or West Rutland proposals. Therefore, Allen's request will be the subject of a separate Notice of Proposed Rule Making.

4. WGFB filed comments objecting to the reclassification of its operation to specify Channel 260C2 stating that it desires to upgrade its operation to full Class C facilities. It also argues that Station WGFB, as a Class C, is entitled to the three year period granted in Docket 80–90[5] in which to decide whether to increase its facilities before being downgraded. However, WGFB states that because of the proposals herein, it has already examined its situation and believes that it can indeed upgrade to full Class C facilities, complying with both the minimum spacings required to all domestic allocations as well as with its limitations toward Canadian stations. To this end, it has submitted an application proposing facilities of 100 kW power and 300 meters above average terrain antenna height (BPH–840927AL).

5. G&K reiterate their intention to apply for either Channel 261A or any other channel which is allocated to Rutland. They argue that the Commission should not consider Dodge's counterproposal in that he neglected to provide any technical data in support of his claim that the channels could be allocated to Rutland and West Rutland, as required by the Commission's rules, coupled with the fact that at the time the proposal was submitted, the Commission was not yet

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

[2] Rumford's request to upgrade its Class A Station WJYY, Concord, New Hampshire, operation to a B1 and its Motion to Consolidate have been resolved in the Docket 83–357 proceeding. Therefore, it will not be discussed herein. See, *Report and Order*, 50 FR 34700, published August 27, 1985.

[3] *Public Notice* of the counterproposal was given on October 15, 1984, Report No. 1482.

[4] All population figures are taken from the 1980 U.S. Census, unless otherwise indicated.

[5] *Modification of FM Broadcast Station Rules to Increase the Availability of Commercial FM Broadcast Assignments*, 94 F.C.C. 2d 152 (1983).

accepting petitions based on the new Docket 80-90 allocation rules.

6. We believe that Rutland could benefit from the provision of an additional FM service. Likewise, we believe that West Rutland deserves its first local FM service. Therefore, in an effort to provide new service to both communities, the Commission staff performed a channel search and found that there are alternate channels available to both communities. Additionally, neither channel requires any change in the status of Station WGFB at Plattsburgh, New York. Channel 233A can be allocated to Rutland and Channel 298A can be allocated to West Rutland without the imposition of a site restriction. Canadian concurrence in these allotments has been obtained as both communities are located within 320 kilometers (200 miles) of the U.S.-Canadian border.

PART 73—[AMENDED]

7. We believe the public interest will be served by allocating Channel 298A to West Rutland, as its first local FM service, and Channel 233A to Rutland, as its third local FM service. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective November 7, 1985, the FM Table of Allotments, § 73.202(b) of the Rules, is amended with respect to the communities listed below, to read as follows:

City	Channel No
Rutland, Vermont	233A, 246, and 251.
West Rutland, Vermont	298A.

8. The filing window for applications on these channels will open on November 8, 1985, and close on December 9, 1985.

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

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

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85-24081 Filed 10-8-85; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Parts 208 and 252

Department of Defense Federal Acquisition Regulation Supplement; Precious Metals

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The DoD Supplement Parts 208 and 252 is amended at 208.77 and 252.208-7004 with respect to Precious Metals. This change recognizes the rule of the Defense Department's precious metals recovery program in acquisition and contracting. The change requires bidders to bid items with precious metal content with two prices: "one price with contractor's furnished precious metals and another price without contractor's furnished precious metals".

EFFECTIVE DATE: October 15, 1985.

FOR FURTHER INFORMATION CONTACT: Charles W. Lloyd, Executive Secretary, Defense Acquisition Regulatory Council, ODASD(P)/DARS, the Pentagon, Washington, DC, 20301-3062, telephone (202) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Public Comments

The revisions to the DoD FAR Supplement Parts 208 and 252 concerning Precious Metals are significant revisions as defined in FAR 1.501-1. Accordingly, public comments were requested in a notice at 50 FR 28227, July 11, 1985, and were considered in the formulation of the revisions. No public comments were received.

B. Regulatory Flexibility Act

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 6705(b)), it has been determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, and, therefore, no regulatory flexibility analysis has been prepared.

C. Background

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The October 1, 1984 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1984 edition of the DoD FAR Supplement made by Defense Acquisition Circulars 84-1 through 84-3.

Interested parties may submit proposed revisions to this Supplement directly to the DAR Council.

List of Subjects in 48 CFR Parts 208 and 252

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Adoption of Amendments

Therefore, the DoD FAR Supplement contained in 48 CFR Chapter 2 is amended as set forth below.

1. The authority for 48 CFR Parts 208 and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 208—REQUIRED SOURCES OF SUPPLY AND SERVICES

2. Subpart 208.77, consisting of §§ 208.7701 through 208.7703, is added to read as follows:

Subpart 208.77—Utilization of Government-Owned Precious Metals

Sec.

Subpart 208.77—Utilization of Government-Owned Precious Metals

208.7701 Definitions.

"Refined precious metal" means recovered silver, gold, platinum, palladium, iridium, rhodium, or ruthenium in bullion, granulation or sponge form which has been purified to at least .999 percentage of fineness.

"Defense Industrial Supply Center (DISC)" means the Defense Logistics Agency field activity which is the assigned Commodity Integrated Materiel Manager for refined precious metals and is responsible for the storage and issue of such materiel.

208.7702 Policy.

(a) This section establishes uniform policy, guidance, and procedures for implementing requirements of the Department of Defense Precious Metals Recovery Program (PMRP) concerning the utilization of PMRP recovered precious metals as Government-furnished material (GFM) in contracts as provided in DoD Directive 4160.22, "Recovery and Utilization of Precious Metals", December 1, 1976, and the related DoD instruction 4140.41, "Government-Owned Materiel Assets Utilized as Government-furnished Materiel for Major Acquisition Programs", July 26, 1974.

(b) It is the policy of the Department of Defense that DoD Components participate in the PMRP to the maximum

extent and promote optimum economic utilization of available Government-owned precious metals as Government-furnished material in lieu of contractor-furnished precious metals in production contracts.

(c) In order to realize more cost-effective contracting, DoD-refined precious metal assets shall be utilized in lieu of open market contracting in acquisition programs for military-designed or commercial material when use of Government-furnished material (GFM) is the more cost-effective manner to accomplish the task, or is otherwise in the Government's best interest. The DISC issue price of GFM precious metals is normally significantly lower than the commercial market price.

208.7703 Applicable procedures.

(a) To assure maximum utilization of PMRP recovered precious metals as GFM in contracts for items which require those precious metals cited in (d) below in their manufacture, the provision in 252.208-7004 in shall be inserted in solicitations for items in the Federal Supply Groups listed in (c) below or any subassembly, component, or part thereof except when: using small-purchase procedures; the contracting officer has determined, through the end item inventory manager, in accordance with the procedures in Chapter XVII of the Defense Utilization and Disposal Manual, DoD 4160.21-M, that the required precious metals are not available from DISC; or when the contracting officer knows that the supplies being acquired do not require precious metals in their manufacture.

(b) When an offeror advises of a precious metals requirement in accordance with 252.208-7704, the contracting officer shall have the end item inventory manager contact the DISC Precious Metal Inventory Manager (IM), in accordance with the procedures in Chapter XVII of the Defense Utilization and Disposal Manual, DoD 4160.21-M, to determine availability of required precious metal assets and current GFM unit prices. If the precious metals are available, the contracting officer shall evaluate offers and award the contract on the basis of that offer which is in the best interests of the Government.

(c) *Federal Supply Groups.* Acquisition of items in the following Federal Supply Groups are subject to the above-prescribed policy and procedures:

FS Groups and Description

12 Fire Control Equipment
14 Guided Missiles
15 Aircraft and Airframe Structural Components
16 Aircraft Components and Accessories
17 Aircraft launching, Landing, and Ground Handling Equipment
18 Space Vehicles
20 Ship and Marine Equipment
28 Engines, Turbines and Components
29 Engine Accessories
31 Bearings
34 Metalworking Machinery
58 Communications, Detection, and Coherent Radiation Equipment
59 Electrical and Electronic Equipment Components
61 Electric Wire and Power and Distribution Equipment
65 Medical, Dental, and Veterinary Equipment and Supplies
66 Instruments and Laboratory Equipments
67 Photographic Equipment
68 Chemicals and Chemical Products
84 Clothing, Individual Equipment, and Insignia
95 Metal Bar, Sheets, and Shapes

(d) *Refined Precious Metals.* The following refined precious metals are currently managed by DISC:

Precious Metal and National Stock Number (NSN)

Silver Bullion/Granules—9660-00-106-9432
Gold Bullion/Granules—9660-00-042-7733
Platinum Granules—9660-00—042-7768
Platinum Sponge—9660-00-151-4050
Palladium Granules—96600-00-042-7765
Rhodium Sponge—96600-01-011-2625
Iridium Sponge—9600-01-011-1937
Ruthenium Sponge—96600-01-039-0313

PART 252—CONTRACT CLAUSES AND SOLICITATION PROVISIONS

3. Section 252.208-7004 is added to read as follows:

252.208-7004 Notice of Intent To Furnish Precious Metals as Government-Furnished Material.

As prescribed at 208.7703(a), insert the following provision.

Notice of Intent To Furnish Precious Metals as Government-Furnished Material (Date)

(a) It is the Government's intent to furnish precious metal(s) required in the manufacture of contractually-deliverable items by the Offeror in performance of any contract resulting from this solicitation pursuant to the clause "Government-Furnished Property" herein (except that use of Government-furnished silver is mandatory only when the quantity required is one hundred (100) troy ounces of more), if such action is determined to be in the Government's best interest.

(b) To facilitate such determination the Offeror shall cite below the type (silver, gold, platinum, palladium, iridium, rhodium, and ruthenium) and quantity (in whole troy ounces) of precious metal(s) required in the performance of this contract (including precious metal required for any first article or production sample), and shall also cite in what contractually-deliverable item the precious metal(s) will be used, specifying National Stock Number and Nomenclature, if known.

Type of precious metal required [1]	Quantity (in whole troy ounces)	Contractually-deliverable item in which precious metals will be used (cite NSN and nomenclature)

[1] If platinum or palladium, specify whether sponge or granules are required.

(c) Offerors shall submit two prices for each contractually-deliverable item containing precious metal: one based on the Government's furnishing precious metals, and one based on the Contractor's furnishing precious metals; and award will be made, considering the Government-furnished material unit price which is in the best interest of the Govermnent.

(d) The contractor agrees to insert this provision, including this paragraph (d), in solicitations for subcontracts and purchase orders issued in performance or any contract resulting from this solicitation unless the Contractor knows that the item being purchased contains no precious metals.

(End of provision)

[FR Doc. 85-24082 Filed 10-8-85; 8:45 am]
BILLING CODE 3810-01-M

48 CFR Parts 213, 217, and 252

Department of Defense Federal Acquisition Regulation Supplement; Identification of Sources of Supply

AGENCY: Department of Defense.

ACTION: Interim rule and request for comment.

SUMMARY: The Defense Acquisition Regulatory Council is directing immediate departmental implementation of a new section 217.7204, Identification of Sources of Supply, and a new implementing clause for Part 252 of the Defense Federal Acquisition Regulation Supplement.

DATE: Comments should be submitted in writing to the Executive Secretary, DAR Council, at the address shown below, on before December 9, 1985, to be considered in the formulation of the final rule. Please cite DAR Case 85-66 in all correspondence related to this subject.

ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, ODASD(P)/DARS, c/o OUSDRE(MRS), Room 3D139, The Pentagon, Washington, DC 20301-3062.

FOR FURTHER INFORMATION CONTACT: MR. Charles W. Lloyd, Executive Secretary, DAR Council (202) 697-7268.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS section 217.7204 is added to require the delivery of information identifying the sources of supplies purchased under supply contracts issued by the Department of Defense as required by section 1231 of Pub. L. 98-525. Coverage provides for identification of the actual manufacturer or producer of items and all sources of supplies; identification of sources of technical data to be delivered under contract is also required. Coverage allows for identification of sources at the deliverable item level or at the purchased part/subcontract level.

B. Determination to Issue a Temporary Regulation

A determination has been made under the authority of the Secretary of Defense that the regulations promulgated by the Military Departments must be issued as temporary regulations in compliance with section 22 of the Office of Federal Procurement Policy Act, as amended.

C. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), this rule may have a significant impact on a substantial number of small entities. The extent of the impact is uknown. The rule contains information collection requirements which require approval of OMB under 44 U.S.C. 3501 et seq. The collection of information requirements have been submitted to OMB for review under Section 3504(h) of the Act. Comments should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for DoD.

List of Subjects in 48 CFR Parts 213, 217, and 252

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

48 CFR Parts 213, 217, and 252 are amended as follows:

1. The authority for 48 CFR Parts 213, 217, and 252 continues to read as follows:

Authority: 5 U.S.C. 301 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 213—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

2. Section 213.203-2 is amended by adding paragraph (a)(1)(v) to read as follows:

213.203-2 Clauses.

(a) * * *

(1) * * *

(v) The Identification of Sources of Supply clause at 252.217-7270 (see 217.7204)

* * * * *

3. Section 213.505-2 is amended by revising paragraph (S-73)(1)(x) to reads as follows:

213.505-2 Agency Order Forms in Lieu of Optional Forms 347 and 348.

(S-73) * * *

(1) * * *

(x) When required by 217.7204(b), the clause Identification of Sources of Supply at 252.217-7270

* * * * *

PART 217—SPECIAL CONTRACTING METHODS

4. Section 217.7204 is added to read as follows:

217.7204 Identification of Sources of Supply.

(a) 10 U.S.C. 2384(a) requires that, whenever practicable, each contract requiring the delivery of supplies shall require that the contractor identify:

(1) The actual manufacturer or producer of the item or all sources of supply of the contractor for that item;

(2) The national stock number of the item (if there is such a number), and the identification number of the actual manufacturer or producer of the item or of each source of supply of the contractor for the item; and

(3) The source of any technical data delivered under the contract.

This enables contracting officers to obtain sufficient information to allow solicitation of all actual manufacturer(s) of end items, parts, subassemblies and/or components, thereby allowing for enhancing competition and avoiding payment where no significant value is added by dealers, distributors and manufacturers other than the actual manufacturer.

(b) The contracting officer shall include the clause at 252.217-7270 in all supply contracts exept when:

(1) The contracting officer already has the information required by this clause (for example, the information was obtained as part of the offer or under other acquisitions);

(2) The contract is for subsistence, clothing or textiles, fuels, or supplies purchased and used outside the United States; or

(3) The contracting officer determines that it would not be practicable to require the contractor to provide the information.

(c) The contracting officer may include the clause at 252.217-7270 in service contracts requiring the delivery of supplies when appropriate.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 252.217-7270 is added to read as follows:

252.217-7270 Identification of Sources of Supply.

As prescribed in 217.7204(b), insert the following clause:

Identification of Sources of Supply (Oct 85)

The Contractor shall provide to the Contracting Officer with respect to each line item for supplies the following information: The corresponding national stock number (NSN) (if any), the item nomenclature, the name and address of the actual manufacturer, producer, or each source of supply of the Contractor for the item and the identification number assigned by the actual manufacturer, producer or each source of supply. With respect to each line item for technical data, the Contractor shall identify, by appropriate line item number, the name and address of each source of the data. The list shall be provided at the time and in the quantities specified elsewhere in the contract.

(End of clause)

[FR Doc. 85-24083 Filed 10-8-85; 8:45 am]

BILLING CODE 3810-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1002

[Ex Parte No. 246 (Sub-No. 3)]

Regulations Governing Fees for Services Performed in Connection With Licensing and Related Service—1985 Update

AGENCY: Interstate Commerce Commission.

ACTION: Final rules: Correction.

SUMMARY: On October 1, 1985 at 50 FR 40024, the Interstate Commerce Commission published final rules which updated the Commission's user fee schedule to reflect the Commission's current cost of providing services and benefits. The purpose of this document

is to correct certain typographical errors that appear in that decision.

EFFECTIVE DATE: October 9, 1985.

FOR FURTHER INFORMATION CONTACT:
Kathleen M. King, (202) 275–7428
Paul Meder, (202) 275–5360

SUPPLEMENTAL INFORMATION: In this notice we are correcting the errors which appear in our October 1, 1985 decision. The first change corrects the hourly rate for records, searches, copying, certifications, and related services performd by a GS–4 employee. The proper rate for a GS–4 is $6.99 an hour. The other change involves fee item 23(i) a significant amendment for a non-rail rate bureau agreement. The correct fee for that item should be $3,700. Both of these corrections are set forth in the appendix to this notice.

Decided: October 7, 1985.

By the Commission.

James H. Bayne,

Secretary.

Appendix

PART 1002—FEES

The following corrections are made in the document that was published at 50 FR 40024, 10–1–85:

§ 1002.1 [Amended]

(1) In § 1002.1 in the table that appears in paragraph (f)(1) at 50 FR 40026 the figure "6.94" which appears after the phrase GS–4 is corrected to read "6.99".

§ 1002.2 [Amended]

(2) In § 1002.2 paragraph (f)(23)(i) which appears at 50 FR 40026 the figure "3,500 is corrected to read "3,700".

[FR Doc. 85–24299 Filed 10–8–85; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 630, 654, 661, and 671

[Docket No. 41049–5104]

Fishery Conservation and Management; Domestic Regulations

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

ACTION: Final rule; technical amendment; correction.

SUMMARY: This document corrects a technical amendment issued to replace sections concerning penalties throughout the domestic fishing regulations that were published September 30, 1985, 50 FR 39696. Two of the sections listed no longer exist, and two were listed incorrectly.

FOR FURTHER INFORMATION CONTACT:
William Jackson (Fishery Management Officer), 202–634–7432.

Dated: October 4, 1985.

Carmen J. Blondin,

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

In FR Doc. 85–23258, page 39696, column 3, paragraph 2, the following corrections are made to item 2:

1. Sections 630.8 and 661.9 are removed.

2. Section 654.9 is corrected to read § 654.8.

3. Section 671.9 is corrected to read § 671.7.

[FR Doc. 85–24167 Filed 10–8–85; 8:45 am]

BILLING CODE 3510–22–M

50 CFR Part 663

[Docket No. 41155–4175]

Pacific Coast Groundfish Fishery

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

ACTION: Notice of fishing restriction and request for comments.

SUMMARY: NOAA issues this notice modifying restrictions on fishing for the *Sebastes* complex of rockfish caught north of Coos Bay, Oregon and seeks public comment on this action. This action is authorized under regulations implementing the Pacific Coast Groundfish Fishery Management Plan and supersedes those provisions published on July 24, 1985, for these species. The intended effect is to allow fishing at levels that will achieve the harvest goal for 1985 and extend the fishery as long as possible throughout the year.

EFFECTIVE DATE: 0001 hours (Pacific Daylight Time) October 6, 1985 until modified, superseded, or rescinded. Comments will be accepted through October 24, 1985.

ADDRESSES: Submit comments on this action to Mr. Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Seattle, Washington 98115; or Mr. E.C. Fullerton, Director, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

FOR FURTHER INFORMATION CONTACT:
R.A. Schmitten at 206–526–6150, E.C. Fullerton at 213–548–2575, or the Pacific Fishery Management Council at 503–221–6352.

SUPPLEMENTARY INFORMATION:
Implementing regulations at §§ 663.22 and 663.23 for the Pacific Coast Groundfish Fishery Management Plan (FMP) provide for inseason adjustments of fishing levels by notice published in the **Federal Register**. The Pacific Fishery Management Council (Council) reviewed the progress of the groundfish fishery at its September 1985 meeting in Portland, Oregon, and recommended increasing the trip limit for the *Sebastes* complex of rockfish (all species of rockfish in the Scorpaenidae family except widow, Pacific ocean perch *(S. alutus)*, shortbelly *(S. jordani)*, and *Sebastolobus* species of rockfishes). This action supersedes those provisions in the notice published July 24, 1985 (50 FR 30195) which limited landings of the *Sebastes* complex.

The Council's recommendations for the remainder of 1985 and actions taken by the Secretary on those recommendations are presented below. Because the vast majority of groundfish caught off Washington, Oregon, and California are taken from the fishery conservation zone (FCZ) 3–200 nautical miles offshore, all groundfish taken in ocean waters off Washingon, Oregon, and California and retained or landed in violation of these restrictions will be treated as though they were taken in the FCZ, the same as in 1984.

Council Recommendation: The Council recommended that the weekly trip limit for the *Sebastes* complex north of Coos Bay, Oregon should be increased from 15,000 pounds to 20,000 pounds while maintaining all other current trip limit provisions, including the 5,000 pound trip limit for yellowtail rockfish. The trip limit north of Coos Bay then would be one landing a week of up to 20,000 pounds of the *Sebastes* complex, of which no more than 5,000 pounds may be yellowtail rockfish, and any other landings of the *Sebastes* complex must be less than 3,000 pounds in that week. Biweekly or twice-weekly landing options still may be chosen and the trip limit south of Coos Bay would remain at 40,000 pounds per trip with no limit on the number of trips.

Rationale: The fishery for the *Sebastes* complex of rockfish north of Coos Bay, Oregon is managed by trip limits designed to produce landings close to the annual harvest goal ("harvest guideline") of 10,100 metric tons (mt), ten percent above the sum of the 1985 estimates of acceptable biological catch for the species in the complex. Data available in late August indicate that landings are lower than previously projected and could be increased by one-third until the end of

the year without exceeding the harvest guideline. Accordingly, the trip limit poundage for the *Sebastes* complex is also increased by one-third assuming landings will increase proportionately. This increase also appears in the biweekly and twice-weekly trip limit options.

This increase does not, however, apply to yellowtail rockfish, the only species in the complex documented as biologically stressed and which, because it is caught with other species in the complex, may comprise no more than 5,000 pounds in the weekly *Sebastes* trip limit. The data available in August indicate that landings of yellowtail rockfish will be close to its acceptable biological catch level of 3,000 mt by the end of the year if current rates continue. Further adjustment to the trip limit for yellowtail rockfish is not necessary at this time. Catches of yellowtail are not expected to increase significantly as a result of the increased trip limit for the other species in the complex.

Secretarial Action: The Secretary concurs with the Council's recommendations and therefore adjusts the trip limit provisions published in the **Federal Register** on July 24, 1985 (50 FR 30195) by increasing the poundage limits for the *Sebastes* complex in paragraphs (4)(a) (weekly trip limit), (4)(b) (biweekly trip limit), and (4)(c) (twice weekly trip limit). All other specifications in these paragraphs remain unchanged. For the convenience of the public, the complex text of the July 24, 1985, provisions are repeated here, unchanged except as noted above.

(1) Definitions

(a) *Sebastes* complex means all rockfish managed by the FMP except Pacific ocean perch (*Sebastes alutus*), widow rockfish (*S. entomelas*), shortbelly rockfish (*S. jordani*), and *Sebastolobus* species of rockfish (which includes idiot rockfishes). The *Sebastes* complex includes yellowtail rockfish (*Sebastes flavidus*).

(b) "One-week period" means seven consecutive days beginning 0001 hours Sunday and ending 2400 hours Saturday, local time.

(c) "Two-week period" means 14 consecutive days beginning at 0001 hours Sunday and ending 2400 hours Saturday, local time.

(d) All weights are round weights, the weight of the whole fish.

(2) General

(a) These restrictions apply to all fish of the *Sebastes* complex taken and retained in ocean waters (0–200 nautical miles) offshore of, or landed in, Washington, Oregon, and California.

(b) There is no limit on the number of landings under 3,000 pounds of the *Sebastes* complex allowed per week.

(c) It will be presumed that all fish of the *Sebastes* complex which are possessed or landed north of the north jetty at Coos Bay, Oregon (43°22' N. latitude), hereafter referred to as Coos Bay, were caught north of Coos Bay unless compliance with paragraph (3) can be demonstrated.

(3) Operating Both North and South of Coos Bay in a Trip

Unless compliance with this paragraph can be demonstrated, fishing for any groundfish species during a single fishing trip must occur either north or south, but not on both sides, of Coos Bay if more than 3,000 pounds of the *Sebastes* complex is landed from that trip. The vessel owner or operator must notify the State of Oregon before leaving port on a fishing trip of intent to fish in one area and possess or land in the other, in which case fishing may occur both north and south of Coos Bay. If fishing occurs both north and south of Coos Bar during a single fishing trip, then the restrictions on the *Sebastes* complex caught north of Coos Bay apply.

This notification, submitted by telephone or in writing, should be made to the Oregon Department of Fish and Wildlife, Marine Regional Office, Marine Science Drive, Building No. 3, Newport, OR 97365, telephone 503–867–4741; or P.O. Box 5430, Charleston, OR 97420, telephone 503–888–5515, between 8:00 a.m. and 4:30 p.m., and other times at 503–269–5000 or 503–269–5999; or 53 Portway Street, Astoria, OR 97103, telephone 503–325–2462.

(4) Restrictions on the Sebastes Complex Caught North of Coos Bay

(a) *Weekly trip limit.* Except for the biweekly and twice-weekly trip limits provided in paragraphs (4)(b) and (4)(c), no more than 20,000 pounds of the *Sebastes* complex, including no more than 5,000 pounds of yellowtail rockfish, may be taken and retained, possessed, or landed, per vessel per fishing trip in a one-week period north of Cape Blanco. Only one landing of the *Sebastes* complex above 3,000 pounds may be made per vessel in that one-week period.

(b) *Biweekly trip limit.* If the appropriate agency is notified as required by this paragraph, up to 40,000 pounds of the *Sebastes* complex, including no more than 10,000 pounds of yellowtail rockfish, may be taken and retained, possessed, or landed, per vessel per fishing trip in a two-week period north of Cape Blanco. Only one landing of the *Sebastes* complex above 3,000 pounds may be made per vessel in that two-week period, and only if compliance with this paragraph can be demonstrated. The vessel owner or operator must notify the fishery agency of the State where the fish will be landed in order to make one landing of the *Sebastes* complex above 3,000 pounds every *two* weeks, which obligates the vessel owner and operator to use only the biweekly trip limit unless rescinded in writing.

The State of Oregon or California must receive a written notice declaring intent to use the biweekly limits before the first day of the first two-week period in which such landings are to occur; the notice is binding for entire one-month periods (defined as two consecutive two-week periods). This notice of intent may be cancelled by notifying the appropriate State in writing prior to the two-week period in which this recission is to occur. The State of Washington must receive written notice declaring intent to use the biweekly limits postmarked at least seven days before the first day of the first two-week period in which such landings are to occur. This notice of intent may be cancelled by notifying the State in writing postmarked at least seven days before the calendar month in which this recission is to occur.

Notifications must be submitted to the Oregon Department of Fish and Wildlife, Marine Regional Office, Marine Science Drive, Building No. 3, Newport, OR 97365, telephone 503–867–4741; P.O. Box 5430, Charleston, OR 97420, telephone 503–888–5515; between 8:00 a.m and 4:30 p.m., and other times at 503–269–5000 or 503–269–5999; 53 Portway Street, Astoria, OR 97103, telephone 503–325–2462; or to the Washington Department of Fisheries, 115 General Administration Building, Olympia, WA 98504; or to the California Department of Fish and Game, Branch Office, 619 Second Street, Eureka, CA 95501.

(c) *Twice weekly trip limit.* If the appropriate agency is notified as required by this paragraph, up to 10,000 pounds of the *Sebastes* complex, including no more than 3,000 pounds of yellowtail rockfish, may be taken and retained, possessed, or landed, per vessel per fishing trip north of Cape Blanco. Only two landings of the *Sebastes* complex above 3,000 pounds may be made per vessel in a one-week period, and only if compliance with this paragraph can be demonstrated. The vessel owner or operator must notify the fishery agency of the State where the

fish will be landed in order to make two landings of the *Sebastes* complex above 3,000 pounds in a one-week period, which obligates the vessel owner and operator to use only the twice weekly trip limit unless rescinded in writing.

The State of Oregon or California must receive a written notice declaring intent to use the twice weekly limits before the first day of the first one-week period in which such landings are to occur; the notice is binding for entire one-month periods (defined as two consecutive two-week periods). This notice of intent may be cancelled by notifying the appropriate State in writing prior to the week in which this recission is to occur. The State of Washington must receive a written notice declaring intent to use the twice-weekly limits postmarked at least seven days before the first day of the first week in which such landings are to occur. This notice of intent may be cancelled by notifying the State in writing postmarked at least seven days before the calendar month in which this recission is to occur. Notifications must be submitted to the same addresses given in paragraph (4)(b) of this section for biweekly trip limits.

(5) Restrictions on the Sebastes Complex Caught South of Coos Bay

No more than 40,000 pounds of the *Sebastes* complex may be taken and retained, possessed, or landed, per vessel per fishing trip south of Coos Bay. There is no limit on the number of landings allowed per week of the *Sebastes* complex caught south of Coos Bay.

Other Fisheries

These limits for the *Sebastes* complex apply to vessels of the United States, incuding those vessels delivering groundfish to foreign processors. Retention of these species by foreign processing vessels is limited by separate incidental detention allowances established under 50 CFR 611.70.

U.S. vessels operating under an experimental fishing permit issued under 50 CFR 663.10 also are subject to these restrictions except as may be otherwise specified in the permits.

Landings of groundfish in the pink shrimp and spot and ridgeback prawn fisheries are governed by regulations at § 663.28.

Classification

The determination to impose these fishing restrictions is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Director, Northwest Region (see **ADDRESSES**) during business hours until the end of the comment period.

These actions are taken under the authority of §§ 663.22 and 663.23, and are in compliance with Executive Order 12291. The actions are covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations.

Section 663.23 of the groundfish regulations states that the Secretary will publish a notice in the **Federal Register** in proposed form unless he determines that prior notice and public review are impracticable, unnecessary, or contrary to the public interest. If current fishing rates continue, the harvest guideline for the *Sebastes* complex will not be reached by the end of 1985. Prompt action to increase those fishing rates is necessary to allow fishermen the opportunity to achieve the harvest guideline for these species in 1985. Consequently, further delay of this action is impracticable and contrary to the public interest, and this action therefore is taken in final form effective October 6, 1985.

The public has had opportunity to comment on this action at the Groundfish Management Team and Council meetings in August and September 1985. Further public comments will be accepted for 15 days after publication of this notice in the **Federal Register.**

List of Subjects in 50 CFR Part 663

Fisheries, Fishing, Reporting and recordkeeping requirements.

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

Dated: October 4, 1985.

Carmen J. Blondin,

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

[FR Doc. 85-24170 Filed 10-4-85; 3:09 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 50, No. 196
Wednesday, October 9, 1985

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.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 240, 249 and 260

[Release Nos. 33-6605; 34-22483; 39-1038; File No. S7-43-85]

Reporting by Small Issuers

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendments, and proposed amendments to form description.

SUMMARY: The Commission is publishing proposals for comment which would expand the number of issuers relieved from the registration and reporting requirements of the Securities Exchange Act of 1934 by increasing the total assets reporting threshold from $3 million to $5 million. These proposals represent a continuing effort by the Commission to alleviate the burdens to the smallest issuers of complying with such registration and reporting provisions to the greatest extent possible consistent with the protection of investors. Conforming amendments are also being proposed to Form 15 and to certain of the Commission's definitions of small entity under the Regulatory Flexibility Act.

DATE: Comments must be received on or before December 6, 1985.

ADDRESSES: All communications on the matters discussed in the release should be submitted in triplicate to John Wheeler, Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Comments should refer to File No. S7-43-85 and will be available for public inspection and copying in the Commission's Public Reference Room, 450 5th Street NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Mary M. Jackley or Michael T. Cronin, (202) 272-2644, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is proposing several amendments to rules which would increase the total asset threshold for registration and reporting under the Securities Exchange Act of 1934 (the "Exchange Act")[1] from $3 million to $5 million. The proposals include: an amendment to Rule 12g-1 (17 CFR 240.12g-1) which, when read together with section 12 (g)(1) of the Exchange Act, would provide that an issuer is not required to register under that section unless on the last day of its fiscal year it has 500 or more record holders of a class of equity securities and total assets exceeding $5 million; and amendments to Rules 12g-4 (17 CFR 240.12g-4) and 12h-3 (17 CFR 240.12h-3) which would increase the asset criterion for terminating registration under section 12(g) or suspending the duty to file reports under section 15(d) from $3 million to $5 million under certain conditions.

The proposed amendments are part of the Commission's continuing efforts to provide rational adjustments to the criteria for entry into or exit from the Exchange Act registration and reporting system and to eliminate the costs to the smallest issuers of complying with the provisions of that Act.

The Commission is also proposing conforming amendments to Form 15 (17 CFR 249.323)[2] and to certain of the Commission's definitions of the term "small entity" under the Regulatory Flexibility Act.

I. Present Requirements and Proposed Revisions

Although Section 12(g) provides that an issuer which has 500 or more record holders of a class of equity securities and total assets of $1 million must register its securities under the Exchange Act,[3] Rule 12g-1 currently exempts from that registration requirement any issuer whose total assets do not exceed $3 million. Rules 12g-4 and 12h-3 currently allow for termination of registration of a class of securities under section 12(g) and suspension of the duty to file reports under Section 15(d)[4] when such class of securities is held of record by less than 300 persons or by less than 500 persons where the total assets of the issuer have not exceeded $3 million on the last day of each of the issuer's three most recent fiscal years.[5]

Under the proposed revision to Rule 12g-1, an issuer would not be required to register under section 12(g) until it has 500 or more record holders of a class of equity securities and total assets of $5 million or more.[6] The proposed revisions to Rules 12g-4 and 12h-3 would allow for termination of registration of a class of securities under section 12(g) and suspension of the duty to file reports under Section 15(d) of the Exchange Act when such class of securities is held of record by less than 300 persons or by less than 500 persons where the total assets of the issuer have not exceeded $5 million on the last day of each of the issuer's three recent fiscal years.[7]

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[1] 15 U.S.C. 78a-78jj (1976 and Supp. V. 1981), as amended by Act of June 6, 1983, Pub. L. 98-38.

[2] Form 15 is filed by an issuer to notify the Commission that it is terminating its registration under section 12(g) or suspending its reporting under section 15(d).

[3] If an issuer has a class of securities registered under section 12 of the Exchange Act, the issuer and, where applicable, specified persons are required to comply with the periodic reporting provisions of section 13, the proxy requirements of section 14, the Williams Act and the short swing profit provisions of Section 16 of the Exchange Act.

[4] Section 15(d) of the Exchange Act requires every issuer which has had a registration statement declared effective under the Securities Act of 1933 [15 U.S.C. 77a-77aa (1976 and Supp. v. 1981), as amended by Bus. Regulatory Reform Act of 1982, Pub. L. 97-261, 19(d), 96 Stat. 1121 (1982)] (the "Securities Act") to comply with the periodic reporting requirements.

[5] Release No. 34-20263 (October 5, 1983) [48 Fr 46245] and Release No. 34-20784 (March 22, 1984) [49 FR 12688]. The principal difference between termination under Rule 12g-4 and suspension under Rule 12h-3 is that the suspension provided by Rule 12h-3 from section 15(d) does not apply to an issuer with respect to any fiscal year in which the registration statement became effective or is required to be updated pursuant to section 10(a)(3) of the Securities Act. This distinction is based on the concept that generally, the investing public should have available current information about the issuer's activities at least through the end of the year in which it makes a registered offering.

[6] The proposed modification to Rule 12g-1 would retain the standard with respect to foreign private issuers which provides that if a foreign private issuer has securities quoted in an automated interdealer quotation system it would remain subject to registration under section 12(g).

[7] In the case of foreign issuers the criteria for the number of security holders is based on the security holders resident in the United States.

The proposals are predicated on the Commission's continuing belief that a classification system based on shareholder number and asset size is consistent with the present statutory framework. In the Commission's view, the 500 shareholders of record criterion remains an appropriate indicator of investor interest, one which balances the concerns of cost of compliance with adequate investor protection.[8]

The present total asset criterion of $3 million, which was established in 1982, represented an inflation adjustment to the $1 million criterion enacted by Congress in Exchange Act Amendments of 1964.[9] The Commission is proposing an increase of the total asset criterion to $5 million for several reasons.

First, it will implement one of the recommendations of the 1984 SEC Government-Business Forum on Small Business Capital Formation which specifically proposed that the threshold for commencing or terminating Exchange Act reporting requirements be increased to $5 million with no change in the number of shareholders.[10]

Second, the Commission recognizes that the cost of compliance with Exchange Act reporting requirements is relatively greater for small companies than for larger issuers.[11] This cost must be weighed against the need for continuous reporting. The Commission believes that compliance with its reporting requirements is particularly necessary when there is a trading market since the reports furnish information to that market and its participants, in addition to existing shareholders.[12] Since many companies with assets under $5 million have no active trading market for their securities, the combination of the relatively high cost to these companies for preparing the reports and the absence of a trading market supports the conclusion that such small companies should be given the opportunity to avoid the cost of continuous reporting. On the other hand, if a small company wishes to continue reporting in order to maintain or develop a trading market, it would have the option to do so.[13]

The third reason for increasing the asset test to $5 million is to make the Exchange Act reporting requirements somewhat parallel to section 3(b) of the Securities Act of 1933. This section grants to the Commission the authority to adopt exemptions from the registration provisions of the Securities Act for offerings up to $5 million. Exemptions adopted under section 3(b) include Regulation A (17 CFR 230.251–264) and Rules 504 and 505 of Regulation D (17 CFR 230.501–506). Although the section 3(b) exemptions relate to the size of the offering and not the dollar amount of assets of the issuer, for many small companies the amount raised in an offering exempt under section 3(b) constitutes almost all of its assets. If the reporting obligation under the Exchange Act can be triggered by less than $5 million of assets, a small company with existing shareholders may be able to avoid the cost of complying with the registration provisions of the Securities Act but still be required to incur the cost of registering under the Exchange Act and complying with the continuous reporting requirements of that Act.

II. Proposed Revisions Under the Regulatory Flexibility Act

The Commission is simultaneously proposing technical conforming amendments to the definition of a small entity for purposes of the Regulatory Flexibility Act. A small entity is presently defined as an issuer whose total assets on the last day of its most recent fiscal year were $3 million or less. Under the proposals the total assets criterion would be increased to $5 million to conform with the total asset criterion proposal for purposes of entering into or exiting from Exchange Act registration and reporting requirements.[14]

III. Summary of Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding the modifications to Rules 12g–1, 12g–4 and 12h–3. The analysis notes that these proposals are intended to reduce the cost of compliance with Exchange Act reporting requirements which are relatively greater for small companies than for larger issuers. The analysis also notes that there are approximately 700 small issuers with fewer than 500 shareholders and less than $5 million in total assets who may be able to terminate their registration and reporting requirements under Section 12(g) or section 15(d) of the Exchange Act.[15] Thus, many small issuers will be relieved of reporting expenses because of the proposed modifications to Rules 12g–1, 12g–4 and 12h–3.

The proposals would not increase the Exchange Act reporting burden for any issuer and no additional recordkeeping or reporting will be required except a certification/notification to the Commission of the termination of an issuer's reporting duties under cover of Form 15. Such a filing may require the skills of a professional familiar with the securities laws, and some services by management, but does not require any

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[8] Release No. 34–18647 (April 15, 1982) [47 FR 17046] (hereafter cited as "System of Classification Release").

[9] At the time the asset criterion was increased to $3 million, the Commission indicated that approximately 500 issuers then filing reports with the Commission had fewer than 500 shareholders and less than $3 million in total assets. *See* System of Classification Release, 47 FR 17046, at n.7. In the two years after the $3 million asset criterion was adopted, approximately 325 issuers terminated their registration under section 12(g) or suspended their reporting obligation under section 15(d).

[10] See Recommendation I.D. under the topic Securities Regulation contained in the "Final Report, 1984 Government-Business Forum on Small Business Capital Formation", U.S. Securities and Exchange Commission at page 62 (January, 1985).

[11] Report of the Advisory Committee on Corporate Disclosure to the Securities and Exchange Commission, Committee Print 95–29, House Committee on Interstate and Foreign Commerce 95th Cong. 1st. Sess. (1977) at 28.

[12] Release No. 33–6235 (September 2, 1980) [45 FR 63693].

[13] An issuer must comply with Exchange Act registration and reporting provisions in order to trade on NASDAQ, the National Association of Securities Dealers Automated Quotation System.

[14] Release Nos. 33–6380, 34–18452, 35–22371, 39–639, 1C–12194 and 1A–791; File No. S7–879, (January 28, 1982) [47 FR 5215]. The proposals would thus continue the parity that exists between the definition of a small entity for purposes of the Regulatory Flexibility Act and the concept of a small issuer for purposes of Exchange Act reporting and registration requirements. Rule 157(a) under the Securities Act, Rule 0–10(a) under the Exchange Act and Rule 0–7 under the Trust Indenture Act of 1939 would be affected by the proposed conforming modifications to the definition of a small entity for purposes of the Regulatory Flexibility Act. The proposed modifications would not affect the definition of a small entity for purposes of the Regulatory Flexibility Act. The proposed modifications would not affect the definition of a small entity for purposes of the Regulatory Flexibility Act found in Rule 0–10 under the Investment Company Act of 1940, and Rule 0–7 under the Investment Advisers Act of 1940 and Rule 110 under the Public Utility Holding Company Act of 1935 as such Acts contain definitions of a small entity for purposes of the Regulatory Flexibility Act that do not relate to a total asset criterion.

[15] The Commission's Directorate of Economic and Policy Analysis reviewed data in connection with issuers filing reports over the 18 month period of June, 1983 through December, 1984, and estimated that approximately 700 issuers, excluding prospective issuers, would be afforded the opportunity to terminate their registration and reporting requirements under the proposed rules. The Commission recognizes that certain of these issuers may continue to register voluntarily order to trade on the National Association of Securities Dealers Automated Quotation System ("NASDAQ") which requires compliance with Exchange Act registration and reporting provisions. The National Association of Securities Dealers ("NASD") estimates that approximately 270 issuers which have securities quoted through NASDAQ have total assets under $5 million and less then 500 record shareholders. Accordingly, the Commission cannot predict with any certainly the number of issuers whose Exchange Act registration and reporting requirements will actually terminate as a result of the increase in the total assets criterion from $3 million to $5 million.

recordkeeping or reporting beyond that already required by the Exchange Act.

A copy of the initial Regulatory Flexibility Analysis may be obtained by contacting Mary Jackley or Michael Cronin, Office of Small Business Policy, Division of Corporation Finance, U.S. Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549 at (202) 272–2644.

IV. Statutory Basis and Text of Proposed Amendments Authority

The amendments to the Commission's rules and forms are being proposed by the Commission pursuant to section 19 of the Securities Act of 1933, sections 12, 13, 15 and 23(a) of the Securities Exchange Act of 1934; and section 319 of the Trust Indenture Act of 1939.

List of Subjects in 17 CFR Parts 230, 240, 249 and 260

Reporting and recordkeeping requirements, securities.

Text of Proposals

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Part 230 continues to read, in part, as follows:

Authority: Sec. 230.100 to 230.174 issued under section 19, 48 Stat. 85, as amended: 15 U.S.C. 77s * * *

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

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

2. The authority citation for Parts 240 and 249 continues to read as follows:

Authority: Sec. 23, 48 Stat. 901, as amended: 15 U.S.C. 78w.

3. 17 CFR Parts 230, 240, and 249 are amended by removing the reference to "$3,000,000" and replacing it with "$5,000,000" in the following sections:

(a) 17 CFR 230.157(a)

(b) 17 CFR 240.0–10(a)

(c) 17 CFR 240.12g–1

(d) 17 CFR 240.12g–4(a)(1) and 240.12g–4(2)

(e) 17 CFR 240.12h–3(b)(1) and 240.12h–3(b)(2)

(f) 17 CFR 249.323(a)

PART 260—GENERAL RULES AND REGULATIONS, TRUST INDENTURE ACT OF 1939

4. The authority citation for Part 260. continues to read, in part, as follows:

Authority: Sec. 319, 53 Stat. 1149, as amended: 15 U.S.C. 77aaa * * *

§ 260.0–7 [Amended]

5. By amending § 260.0–7 by removing the reference to "$3 million" and replacing it with "$5,000,000."

By the Commission.

John Wheeler,

Secretary.

September 30, 1985.

[FR Doc. 85–24101 Filed 10–8–85; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 35 and 290

[Docket No. RM85–17 (Phase II)]

Regulation of Electricity Sales-for-Resale and Transmission Service

Issued: October 3, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice extending comment period and deferring public conference.

SUMMARY: On June 28, 1985 (50 FR 27604, July 5, 1985), the Commission issued a notice of inquiry in Phase II of this proceeding to explore how the Commission's regulation of requirements service affects efficiency in electricity markets and how it might be changed to encourage greater efficiency. This notice changes the date for filing comments and requests to participate in the public conference and defers the previously-scheduled date of the public conference.

DATES: Comments are due on or before November 4, 1985. Requests to participate in the public conference are also due on or before November 4, 1985 and must be filed separately from comments. The public conference, scheduled to be held on November 13 and 14, 1985, is deferred and will be re-scheduled by public notice to be issued at a later date.

ADDRESS: Office of Secretary, Federal Energy Regulatory Commission, 825 N. Capitol St., NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: David Mead, Office of Regulatory Analysis (202) 357–8024.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–24133 Filed 10–8–85; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

Surface Coal Mining and Reclamation Operations Under a Federal Program for Tennessee; Petition for Rulemaking

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

ACTION: Notice of decision on petition for rulemaking.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) makes available to the public its final decision on a petition for rulemaking from Save Our Cumberland Mountains and other citizens organizations. The petition requested that OSM amend 30 CFR Part 942 to conform the Tennessee Federal program with the July 6 and October 1, 1984 decisions in *In Re: Permanent Surface Mining Regulation Litigation (II).* On October 3, 1985, OSM issued its decision granting the petition in part and denying it in part.

ADDRESS: Copies of the petition, OSM's final decision on the petition, the Tennessee Federal program, the court decisions referenced in this notice and other relevant materials comprising the administrative record of this petition are available for public review and copying at: Office of Surface Mining, Administrative Record (942), Room 5124, 1100 L Street NW., Washington, DC 20240 .

FOR FURTHER INFORMATION CONTACT: Sharon Kliwinski, Office of Surface Mining, Room 222, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone (202) 343–5866.

SUPPLEMENTARY INFORMATION:

Background

On October 1, 1984, OSM promulgated a final rule implementing a Federal program for regulation of surface coal mining and reclamation operations on non-Indian and non-Federal lands within the State of Tennessee (49 FR 38874). The Tennessee program, like all Federal programs, is based on the Secretary of the Interior's permanent

program regulations in 30 CFR Subchapters A, F, G, H, J, K, L and M. Federal programs are promulgated by means of cross-referencing the permanent program rules, and by modifying or adding provisions as appropriate to take into consideration relevant conditions in a particular State.

On March 13, 1979, OSM published regulations implementing the permanent regulatory program of Title V of the Surface Mining Control and Reclamation Act (SMCRA or the Act). 44 FR 14902 *et seq.* A number of these regulations were challenged by States, coal industry representatives, and citizen and environmental groups. *In Re: Permanent Surface Mining Regulation Litigation.* No. 79–1144 (D.D.C. 1980) (*In Re: Permanent (I)*). The District Court issued a decision in February 1980 and another in May 1980. The parties appealed portions of the District Court's decisions in *In Re: Permanent (I)* but the D.C. Circuit Court remanded the case on the motion of the parties pending the outcome of OSM's program of regulatory reform. *In Re: Permanent (I),* Order, February 1, 1983 (D.C. Cir.)

Many of the regulations originally promulgated in 1979 were repromulgated during 1983 as part of OSM's extensive program of regulatory reform. Citizen and environmental groups as well as States and industry represnetatives again challenged some of these new regulations in *In Re: Permanent Surface Mining Regulation Litigation (II),* No. 79–1144 (D.D.C. 1984, Flannery, J.) (*In Re: Permanent (II)*). In that case, the court divided its consideration of the challenged regulations into three rounds of briefing and oral argument. Judge Flannery issued his Round I and II decisions on July 6, 1984 (*In Re: Permanent II* (July Op.)) and October 1, 1984 (*In Re: Permanent II* (October Op.)), respectively, and his Round III decisions on March 22, 1985, and July 15, 1985. He remanded a number of regulations to the Secretary for revision in accordance with those decisions. (*See* July 6, 1984 Memorandum Opinion and August 30, 1984 Order; October 1, 1984 Mem. Op. and December 10, 1984 Order; March 22, 1985 Mem. Op. and Order; and July 15, 1985 Mem. Op. and Order). On February 21, 1985, OSM published in the **Federal Register** (50 FR 7274) a notice of suspension to comply with the court's Round II decision. The suspension notice applies to the permanent program rules and, therefore, unless otherwise specified, to Federal programs which cross-reference those rules.

Petition for Rulemaking

Pursuant to section 201(g) of the Act, any person may petition the Director of OSM for a change in OSM's regulations. The Act allows the Director 90 days to decide whether to grant or deny a petition for rulemaking. Under the applicable regulations for rulemaking petitions, 30 CFR 700.12, the Director must first determine whether the petition has a reasonable basis. If it has, notice is to be published in the **Federal Register** seeking comments on the petition and the Director may hold a public hearing, conduct an investigation, or take other action to determine whether the petition should be granted. If the petition is granted, the Director shall initiate a rulemaking proceeding; if the petition is denied, the Director shall notify the petitioner in writing setting forth the reasons for denial. Under § 700.12(d), the Director's decision constitutes the final decision for the Department of the Interior.

By letter dated November 30, 1984, Save Our Cumberland Mountains, Tennessee Citizens for Wilderness Planning, the Sierra Club, the Legal Environmental Assistance Foundation, and the Environmental Policy Institute submitted a petition to amend 30 CFR Part 942, the Tennessee Federal Program, alleging that such amendments were necessary to conform OSM's regulations with Judge Flannery's Round I and II decisions in *In Re: Permanent (II).*

The Director determined that portions of the petition for amendment of 30 CFR Part 942 had a reasonable basis and on February 1, 1985, OSM published in the **Federal Register** (50 FR 4704) a request for public comment on the petition and specified a public comment period open until March 4, 1985. The notice offered OSM's preliminary views as to whether to grant or deny each of the requested amendments. The notice also stated that OSM staff would be available to meet with the public on the petition until the close of the comment period. OSM received no requests for such a meeting. The petitioners and one other party submitted written comments during the public comment period.

The October 3, 1985 decision announced here granted in part and denied in part the petition. To the extent that this final decision is to grant part of the petition, rulemaking proceedings will be initiated where OSM is not otherwise providing appropriate relief. For any aspects in which rulemaking proceedings are appropriate, public comment will again be sought before a final rulemaking notice appears. To the extent the decision is to deny part of the petition, no further rulemaking action will occur.

The following letter represents the Director's decision on this rulemaking petition and has been sent to the petitioners. The letter contains a summary description of each requested amendment, the Director's final decision granting or denying that portion of the petition, and responses to comments received on the petition.

Dated: October 3, 1985.

Jed D. Christensen,

Acting Director.

Carol S. Nickle,

Legal Environmental Assistance Foundation, Central Appalachian Office, 602 Gay Street, Suite 507, Knoxville, Tennessee 37902

Dear Ms. Nickle: This letter is in response to the November 30, 1984, petition for rulemaking filed on behalf of Save Our Cumberland Mountain, Tennessee Citizens for Wilderness Planning, the Sierra Club, the Legal Environmental Assistance Foundation, and the Environmental Policy Institute (petitioners), requesting amendments to certain rules promulgated as part of the Tennessee Federal program.

This letter is divided into four parts. The first part, Final Decision, summarizes this decision. The second part, General Requests, is a discussion of issues or requests made by the petitioners that are not specific to any requested amendment. The third part, Requested Amendments, contains a discussion of each requested amendment and the final decision on that request. This section also addresses and responds to the petitioners' comments on the petition submitted to the Office of Surface Mining (OSM) during the public comment period. The fourth part, Other Comments, is a summary of comments submitted by persons other than the petitioners and OSM's responses to those comments.

Final Decision

As described below, I am granting in part and denying in part the petition to initiate rulemaking. To the extent that this final decision is to grant part of the petition, rulemaking will be initiated where OSM is not otherwise providing appropriate relief. To the extent the decision is to deny part of the petition, no further rulemaking action will occur. As provided in 30 CFR 700.12(d), my decision constitutes the final decision for the Department of the Interior.

General Requests

The petitioners requested that the proposed amendments be made effective immediately as emergency rules with comment allowed after the rules go into effect, and that a public hearing be held after implementation of the amendments as emergency rules. The petitioners contended that failure to implement the rules immediately would create an imminent danger to the health or safety of the public, and/or would cause or could reasonably be expected to cause significant, imminent environmental harm.

OSM does not regard the response to the petition as requiring emergency action. Where immediate compliance with a court order was required, OSM has already taken the needed action. See *e.g.*, the suspension notice at 50 FR 7274, February 21, 1985.

In several instances, the petitioners requested that OSM adopt or reinstate certain Federal regulations originally promulgated in 1979 and in effect through 1982 (the 1982 regulations) to replace those regulations promulgated in 1983 that were remanded by the District Court in *In Re. Permanent Surface Mining Regulation Litigation (II)*, No. 79–1144 (D.D.C. 1984, Flannery, J.).

With one exception, discussed below, I am not granting these requests. Judge Flannery ordered that certain regulations be remanded to the Secretary for revision in accordance with his opinion. In each instance, the Secretary must determine what action is appropriate to comply with that order. In the one instance where the court specifically ordered that certain fish and wildlife regulations be reinstated pending further rulemaking, OSM reinstated those regulations. (50 FR 7274, February 21, 1985). The specific disposition of each requested amendment is discussed more fully below under "Requested Amendments."

The petitioners requested that OSM clarify the effect of the February 21, 1985 suspension notice in Tennessee. The petitioners stated that although the notice explained that the suspensions directly affect Federal program States, OSM cited only two issues, roads and subsidence, where it intends that the existing Tennessee Federal program regulations should remain in effect. The petitioners therefore requested clarification concerning the applicability in Tennessee of the other suspended regulations.

As discussed in the preamble to the final rule promulgating the Tennessee Federal program (49 FR 38875, October 1, 1984), Federal programs are promulgated by means of cross-referencing the permanent program rules which set the substantive standards. Therefore, the suspension of certain sections of the permanent regulatory program results in the suspension of those counterpart sections of a Federal program, unless a specific exception is provided. In the February 21, 1985 notice, OSM provided that the suspensions applied also to all Federal program States, with the only exceptions consisting of two sets of provisions which would remain in effect in Tennessee. The first exception relates to the suspension of the roads regulations (30 CFR 816.150, 816.151, 817.150, 817.151, and the definition of "road" in 701.5). The second exception relates to the suspension of a requirement in 30 CFR 817.121(c)(2) that an operator must redress material damage to surface structures or facilities resulting from subsidence only to the extent required by State law. See the suspension notice of February 21, 1985, and the discussion below on requested amendments 7 and 8 for additional information.

Requested Amendments

1. Amend 30 CFR 942.800 by Adding the Requirement to File a Bond Found at 30 CFR 800.11(b) Revised as of July 1, 1982.

Although petitioners did not state any specific basis for this request, the requested amendment appears to be directed to Judge Flannery's decision remanding 30 CFR 800.11(b). *In Re: Permanent II* (October Op.) at 46. Section 800.11(b)(1) provides that the "bond or bonds shall cover the entire permit area, or an identified increment of land within the permit area, upon which the operator will initiate and conduct surface coal mining and reclamation operations during the initial term of the permit." This practice is commonly referred to as "incremental" bonding. The court held that 30 CFR 800.11(b) is contrary to section 509 of SMCRA "to the extent that it allows the bond to be posted for an area less than the entire areas to be mined within the initial permit term." *Id.*

OSM has granted the substance of the petitioners' request by means of the February 21, 1985 notice which suspended 30 CFR 800.11(b) to be consistent with the court's order. Section 800.11(b) was suspended insofar as it allows the bond to be posted for less than the entire area upon which surface coal mining and reclamation operations will be conducted during the initial permit term. 50 FR 7278. By suspending this provision, the February 21, 1985 notice accomplished the petitioners' objective without the need to reinstate an earlier regulation.

The petitioners suggested that for consistency within 30 CFR 800.11, OSM should also suspend 30 CFR 800.11(d)(3) which allows the applicant to file an incremental bond schedule and to post the performance bond required for the first increment in the schedule.

OSM has not adopted this suggestion because bonds may be posted incrementally so long as the bond for the first increment covers the entire area within the permit area upon which surface coal mining and reclamation operations will be conducted during the initial permit term.

2. Amend 30 CFR 942.800 Concerning Period of Performance Bond Liability, by Removing Subsection (a)(2) in its Entirety

.There is no subsection (a)(2) of 30 CFR 942.800. However, the petitioners' request appears to be directed to paragraph (a)(2) of 30 CFR 800.13, entitled "Period of liability." Section 800.13(a)(2) allows bonds to be posted separately to guarantee specific phases of reclamation within the permit area. The court remanded the rule, holding that nothing in section 509 of SMCRA authorizes the Secretary to split the bond into specific phases of reclamation. *In Re: Permanent II* (October Op.) at 47. As in the preceding discussion, the substance of he petitioners' request has been granted by means of the February 21, 1985 notice which suspended 30 CFR 800.13(a)(2).

3. Amend 30 CFR 942.816(a) by Inserting Provisions for Protection of Endangered and Threatened Species as Set forth in 30 CFR 816.97 (a) and (b) Revised as of July 1, 1982

Toxic Ponds

Judge Flannery remanded 30 CFR 816.97(a) with instructions for OSM to add to it the provision contained in previous 816.97(d)(3) requiring operators, to the extent possible using the best technology currently available, to fence, cover or use other appropriate methods to exclude wildlife from toxic ponds. *In Re: Permanent II* (October Op.) at 59. The petitioners have requested that provisions contained in 30 CFR 816.97(a) on July 1, 1982, be added to the Tennessee program. However, section 816.97(a) of the 1982 rule did not contain the toxic pond requirement; it was contained in §816.97(d)(3) (July 1, 1982), which was removed on June 1, 1983 (48 FR 24652).

My final decision is to grant the substance of the petitioners' request. OSM will soon be proposing national regulations protecting wildlife from toxic ponds. Those regulations would be applicable through cross-referencing in Federal program States, including Tennessee. OSM will, however, solicit public comment as to whether special conditions exist in Tennessee or in any of the Federal program States which require State-specific modification or amendments to any or all Federal programs.

The petitioners in their comments during the public comment period urged OSM not to deny this portion of the petition and stated that steps should be taken immediately to comply with Judge Flannery's opinion. The petitioners advised that adding 30 CFR 816.97(d)(3) is necessary to prevent imminent danger to wildlife. The petitioners also stated their belief that, because OSM has no set time period within which it must propose national regulations, delaying compliance is unreasonable and unnecessary and will likely cause irreparable harm to wildlife and endangered species.

OSM is currently drafting national regulations for fish and wildlife in compliance with the Flannery decision. Those regulations should be available for public review in the fall of 1985. In the interim, the Federal rule at 30 CFR 816.97(a), cross-referenced at section 942.816 of the Tennessee Federal Federal Program, requires the operator, to the extent possible using best technology currently available, to minimize disturbances and adverse impacts on fish, wildlife and related environmental values. Also, under 30 CFR 780.16, cross-referenced at § 942.780 of the Tennessee program, each permit application must include a fish and wildlife plan showing how disturbances and adverse impacts to fish and wildlife will be minimized. The plan must show how wildlife will be excluded from toxic ponds where such ponds exist and where adverse effects from such ponds can be anticipated. Therefore, even in the absence of a specific toxic pond provision in Tennessee, the Federal rules, which cross-reference the Tennessee program, are being implemented to protect wildlife where such danger exists.

Endangered Species

30 CFR 816.97(b) provides that no surface mining activity shall be conducted which will jeopardize the continued existence of endangered or threatened species listed by the Secretary. Judge Flannery remanded 30 CFR 816.97(b) because the regulation would allow mining operations to take place that would be likely, but not certain, to jeopardize endangered species and their critical habitats, in violation of section 7(a)(2) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*). Judge Flannery also remanded the regulation because it eliminated a requirement, contained in the previous (1982) regulation, to prohibit mining activity which is likely to, or will jeopardize State-listed endangered species in addition to those listed by the Secretary. *In Re: Permanent II* (October Op.) at 63.

My final decision grants the substance of this portion of the petition. The national regulations which OSM will be proposing will provide the requested relief without the need to reinstate the 1982 regulation.

In the interim, OSM's permitting and enforcement actions under the Tennessee Federal program must be consistent with the Endangered Species Act and the court's opinion. Permit applicants in Tennessee are required to comply with 30 CFR 779.20 and 780.16 which require fish and wildlife resources information and an operation plan, including identification of threatened or endangered species and their critical habitats and a statement explaining how the applicant will protect or enhance them. Under 30 CFR 773.15(c)(10), OSM must find in writing that the proposed operation would not affect the continued existence of endangered or threatened species or result in destruction or adverse modification of their critical habitats. OSM's compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) also ensures that the effects of a proposed surface coal mining operation on threatened and endangered species will be fully considered.

4. Amend 30 CFR 942.816(e), Backfilling and Grading, To Provide That Cut-and-Fill Terraces, 30 CFR 816.102(g) is Deleted in its Entirety

Allowance for terracing is inherent in the concept of "approximate" in the requirement of section 515(b)(3) of SMCRA that the mined land be returned to approximate original contour (AOC). The definition of AOC in section 701(2) of SMCRA specifically recognizes that terracing is allowable provided that the postmining land surface "closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain. . . ." Section 816.102(g) provides that cut-and-fill terraces may be allowed by the regulatory authority if certain conditions are met. Judge Flannery remanded 30 CFR 816.102(g) for failure to provide adequate national guidelines necessary to achieve the standards of the Act. *In Re: Permanent II* (October Op.) at 50. The petitioners requested that the Tennessee Federal program be amended by deleting 30 CFR 816.102(g) in its entirety.

In the February 1, 1985 notice requesting public comment on the petition, OSM indicated that it was disposed to grant this portion of the petition in part by proposing new backfilling and grading regulations specifically applicable to Tennessee to comply with the court's order. My final decision, however, is to grant the substance of the petitioners' request by means of national regulations on backfilling and grading which OSM is developing to comply with the court's decision. The regulations will be available for public review in the near future. Those regulations would be applicable through cross-referencing in Federal program States including Tennessee. OSM will however, solicit public comment as to whether special conditions exist in any of the Federal program States which should be reflected as either changes to the national rules or as State-specific amendments to any or all Federal programs. To the extent that special regulations governing terraces in Tennessee are shown to be necessary, OSM will promulgate such regulations.

I am therefore, denying the petitioners' specific request to delete 30 CFR 816.102(g) in its entirety. As discussed above, compliance with the court order will be achieved by adopting further guidelines for Tennessee and not be deleting the existing provision.

5. Amend 30 CFR 942.816(e), Backfilling and Grading, To Include the Definition of Thin Overburden Set Forth in 30 CFR 816.104(a) Revised as of July 1, 1982

Section 515(b)(3) of the Act creates a limited exception to the requirement to return mined land to AOC for areas where the overburden is thin relative to the thickness of the coal seam. Section 816.104(a) implements this statutory exception. Judge Flannery remanded 30 CFR 816.104(a) for failure to provide adequate national guidelines defining thin overburden. *In Re: Permanent II* (October Op.) at 53. The petitioners requested that the Tennessee Federal program be amended to include the guidelines for thin overburden set forth in the 1982 regulations.

In the February 1, 1985 notice requesting public comment on the petition, OSM indicated that it was disposed to grant this portion of the petition in part by proposing new backfilling and grading regulations for Tennessee to comply with the court's order if it could be demonstrated that there is a need for such a rule in Tennessee. OSM stated that the physical features in Tennessee are such that it is likely that volumes of overburden will be sufficient to achieve AOC, except in remining situations where special rules apply.

My final decision is to grant the substance of this portion of the petition by means of the national backfilling and grading regulations being developed by OSM. OSM will solicit public comment on whether the national rules should be modified to take into consideration relevant conditions in Tennessee or other Federal program States. If it is found as a result of the national rulemaking that special regulations governing thin overburden operations in Tennessee are necessary, OSM will take the necessary steps to promulgate such regulations. I am therefore denying the petitioners' specific request to include the 1982 definition of thin overburden.

In their supplemental comments, the petitioners asserted that OSM must either delete the thin overburden rule in its entirety or include the national standards required by Judge Flannery. The petitioners also stated that the petitioners have no obligation to show the need for standards in Tennessee. OSM agrees that the petitioners do not have to show the need for special standards in Tennessee. OSM does not agree, however, that absent such standards it must delete the thin overburden rule. In compliance with Judge Flannery's ruling, OSM will be proposing regulations containing national standards for thin overburden.

The petitioners requested clarification on the status of the thin overburden rules and requested that OSM complete the rule changes in a timely fashion. OSM is currently drafting national standards governing operations with thin overburden. Those regulations will be available for public review in the near future. As part of that proposal, OSM will solicit public comment as to the need for State-specific backfilling and grading standards for Federal program States, including Tennessee.

6. Amend 30 CFR 942.816(e), Backfilling and Grading, To Include the Definition of Thick Overburden as set Forth in 30 CFR 816.105(a) Revised as of July 1, 1982

Section 515(b)(3) of the Act creates a limited exception to the requirement to return mined land to AOC for areas where the overburden is thick relative to the coal seam. Section 816.105(a) implements this statutory exception. Judge Flannery remanded 30 CFR 816.105(a) for failure to provide adequate national guidelines defining thick overburden. *In Re: Permanent II* (October Op.) at 53. The petitioners requested that the Tennessee Federal program be amended to include the guidelines for thick overburden set forth in the 1982 regulations.

In the February 1, 1985 notice requesting public comment on the petition, OSM indicated that it was disposed to grant this portion of the petition in part by proposing new backfilling and grading regulations specifically applicable to Tennessee. My final decision, however, is to grant the substance of the request by means of OSM's national backfilling and grading regulations, which are being developed and will be available for public review sometime in the near future. Those regulations will be applicable to Tennessee and other Federal program States. However, as part of that proposal, OSM will solicit comments from the public as to the need for State-specific backfilling and grading standards for Federal program States. I am therefore denying the petitioners' specific request to include the 1982 defintion of thick overburden.

In their supplemental comments, the petitioners stated that OSM need not propose new Tennessee regulations for thick overburden because the previous (1982) regulations are appropriate for Tennessee and therefore, OSM should reinstate them immediately. As discussed above, I have decided to deny the petitioners' specific request to reinstate the 1982 definition. The petitioners will have an opportunity to comment on the national regulations and their applicability in Tennessee when they are proposed.

7. Amend 30 CFR 942.817 by Providing That the Following Phrase: "To the extent required under State law" in 30 CFR 817.121(c)(2) Shall Not Apply

Judge Flannery remanded 30 CFR 817.121(c)(2) because he found that OSM did not provide adequate notice or opportunity to comment on the substance of the rule, in violation of the Administrative Procedure Act (APA), 5 U.S.C. 553. *In Re: Permanent II* (October Op.) at 11. The regulation requires operators to redress material damage to surface structures or facilities resulting from subsidence only to the extent required under State law. However, in promulgating the Tennessee Federal program, subsequent to the adoption of 30 CFR 817.121(c)(2), OSM provided sufficient notice and comment to apply the rule in Tennessee. The applicability of the challenged clause in Tennessee was already decided in the February 21, 1985 notice (50 FR 7276, 7278).

However, given the court's ruling, I have decided to grant the substance of the request by initiating rulemaking. On July 8, 1985, OSM reproposed 30 CFR 817.121(c)(2) (50 FR 27910), which would apply in Tennessee. The public comment period closed on September 16, 1985.

I am, however, denying the petitioners' specific request that the Tennessee Federal program be amended immediately to provide that the phrase "to the extent required under State law" in 30 CFR 817.121(c)(2) shall not apply. The final applicability of the State law limitation in Tennessee will be determined in accordance with normal notice and comment procedures under the pending rulemaking. Whatever decision OSM makes may be thereafter appealed. It is inappropriate for OSM to prejudge that decision and adopt an immediately applicable amendment at this time. Therefore, although OSM is not amending the Tennessee program at this time, the public now has an opportunity to comment on the proposed permanent program regulation, and on its applicability to Tennessee in particular.

In their supplemental comments, the petitioners urged that OSM grant this amendment and delete the phrase in question from the Tennessee program because they believe that Judge Flannery's ruling states that the "language is illegal." OSM disagrees with the petitioners' interpretation of Judge Flannery's opinion. Judge Flannery remanded 30 CFR 817.121(c)(2) to OSM to be repromulgated in accordance with the notice and comment requirements of the APA. The court did not rule on the merits of the regulation.

Finally, the petitioners stated that OSM has the authority to require restoration of lands or surface facilities damaged by subsidence. The petitioners also stated that confusion over the applicable subsidence requirements in Tennessee will cause additional environmental harm and extensive damage to the surface above underground mines and that for these reasons, OSM should immediately reinstate the prior rule. OSM is not adopting this suggestion. As discussed previously, OSM has reproposed the regulation and will consider the petitioners' comments in the context of that rulemaking.

8. Amend 30 CFR 942.816(g), Roads, to Adopt the Regulations Set Forth in 30 CFR 816.150–816.156, 816.160–816.166, and 816.170–816.176 Revised as of July 1, 1982

Judge Flannery remanded 30 CFR 816.150, the road classification system for surface mines, because OSM did not provide proper notice and opportunity for comment on the substance of the final rule which was adopted, in violation of the APA. *In Re: Permanent II* (October Op.) at 28. On February 21, 1985, OSM suspended 30 CFR 816.150, 816.151, 817.150, 817.151 and the definition of "road" in 701.5, except as those sections are cross-referenced in the Tennessee program. The notice stated that because the public had an adequate opportunity to comment on the roads rules as they apply in Tennessee, the roads rules would remain effective in Tennessee.

My final decision is to reiterate what was already decided in February 1985 and to deny this portion of the petition on the basis that the roads regulations adopted in Tennessee were the subject of proper APA notice and comment in promulgating the Tennessee Federal program. The original notice was clearly effective. In response to public comments, OSM adopted specific roads provisions for the Tennessee program, in addition to those set forth in 30 CFR Parts 816 and 817. The roads regulations in the Tennessee program thus are not the mirror image of the Federal rules and the court's rationale does not apply to them.

In their supplemental comments, the petitioners contended that Judge Flannery's ruling that the Secretary did not provide adequate public notice on the roads rules cannot be separated from the plaintiff's real challenge to the merits of the road classification system. However, Judge Flannery made no ruling on the merits of that classification system; he remanded the regulations to OSM for adequate public notice and opportunity to comment in accordance with the APA.

The petitioners also contended that the scope of the Tennessee Federal program rulemaking addressed only the consistency of the proposed Federal program with the Federal regulations. The petitioners stated that if OSM intended during the Tennessee Federal program rulemaking to address the 1983 road classification rules in relation to the former (1982) non-classified roads regulations, then OSM failed to provide the public with adequate notice on this issue. The petitioner's while supporting the additional performance standards in the final Tennessee program, stated that those provisions do not adddress the remaining question of improper road classifications to which the petitioners still object. The petitioners urged OSM to replace the present roads regulations in Tennessee with the 1982 road regulations.

OSM has not adopted this suggestion. The public was free to comment on any aspect of the proposed rules during the comment period on the Tennessee Federal program, including the classification system. It would have been pointless to compare the two classification systems, however, because the 1979 roads regulations had been suspended by a notice published in the August 4, 1980 **Federal Register** to comply with the court's May 1980 decision in *In Re: Permanent (I)* (45 FR 51547). Thus, there were no roads regulations in effect in 1982 to put into effect now. Furthermore, OSM will be proposing national roads regulations to replace those suspended by the February 21, 1985 notice. The public will have an opportuntiy to comment on both the national standard and as the rule would apply in Federal program States.

9. Amend 30 CFR 942.817(f), Roads, to Adopt the Regulations Set Forth in 30 CFR 817.150–817.156, 817.160–817.166, and 817.170–817.176 Revised as of July 1, 1982

Judge Flannery remanded 30 CFR 817.150, the road classification system for underground mines, because OSM did not provide proper notice and opportunity for comment on the substance of the final rule which was adopted, in violation of the APA. As discussed above, on February 21, 1985, OSM suspended 30 CFR 816.150–151, 817.150–151 and the definition of "road" in 701.5, except as cross-referenced in the Tennessee Federal program.

My final decision is to deny this portion of the petition on the same basis discussed above for roads associated with surface mines. The roads regulations adopted in Tennessee were the subject of proper notice and comment in promulgating the Tennessee Federal program. Moreover, the roads regulation in the Tennessee program are not the mirror image of the Federal rules. In response to public comments, additional provisions were adopted.

10. Amend 30 CFR 942.823, Prime Farmland, To Delete the Requirement of 30 CFR 823.11 (a) and (b)

Under 30 CFR 823.11(a) (48 FR 21446, May 12, 1983), coal preparation plants, support facilities, and roads associated with surface and underground mines, which are actively used over an extended period of time and which affect a minimal amount of land, are exempted from the special prime farmland performance standards of 30 CFR Part 823.

The exemption for such facilities associated with underground mining operations was suggested by the court in its May 16, 1980 opinion. In that opinion, Judge Flannery held that, although the Secretary has the authority to apply prime farmland standards to underground mines, an across-the-board application of the requirements of Part 823 is arbitrary. Specifically, the court determined that it was arbitrary to require operators to segregate and stockpile soil for 20–40 years in situations where reclamation will affect a small area. Accordingly, the court suspended the application of Part 823 to underground mining and suggested that the Secretary promulgate an exemption.

In extending the exemption to facilities associated with both surface and underground mines, OSM reasoned that the long-term uses of these facilities and their effects were similar for both types of mining. (48 FR at 21452, May 12, 1983). However, in his October 1, 1984 decision, Judge Flannery held that the Secretary had ignored basic differences between surface and underground mining operations when he promulgated the rule. *In Re: Permanent II* (October Op.) at 22.

According to the court, in underground mining the surface facilities are used for an extended period of time and that, consequently, the soil removed incident to their construction must be maintained and stored for that same period. The court stated that, by contrast, in surface mining the topsoil need not be stored for many years, but rather could be redistributed over areas disturbed by surface mining operations as surface mining activity progresses. *Id.*

Judge Flannery therefore remanded 30 CFR 823.11(a) because he found the rule improperly extended the exemption from prime farmland performance standards to facilities associated with surface mining operations. Judge Flannery found that the rule contradicted his May 1980 decision that such an exemption was reasonable only for underground mining operations. With respect to underground mining, the court found that the exemption properly applies to the enumerated surface facilities that are "actively used over extended periods of time and where such uses affect a minimal amount of land." 30 CFR 823.11(a). However, the court found that the regulation does not specify what constitutes an "extended" period of time or a "minimal" amount of land and directed the Secretary to provide guidelines limiting the scope of the exemption. *Id.* at 23.

OSM has granted the substance of the petitioner's request by means of the February 21, 1985 notice which suspended 30 CFR 823.11(a) insofar as it excludes preparation plants, support facilities and roads of surface mining operations from the requirements of Part 823. Furthermore, OSM will be proposing a rule to specify what constitutes an "extended" period of time and a "minimal" amount of land for facilities associated with underground mines.

Judge Flannery also remanded 30 CFR 823.11(b) which provides an exception to the Act's requirements that prime farmland be returned to cropland after mining (section 510(d)(1)). *In Re: Permanent II* (October Op.) at 21. The exception allows certain water bodies to be left after mining. The court found that the rule provided an impermissibly broad variance from the Act's requirements. My decision is to grant the substance of the petitioners' request by means of the February 21, 1985 notice which suspend 30 CFR 823.11(b) and by a proposed change to the national rules which is expected in the near future. The proposal will solicit State-specific comments and changes to accommodate relevant conditions in any Federal program State.

11. Amend 30 CFR Part 942 To Add All of the Provisions Governing Mining on Federal Lands as Set Forth in 30 CFR Parts 740, 741, 742, 743, and 744 Revised as of July 1, 1982

Judge Flannery remanded the Federal lands rules in 30 CFR Part 746 involving a delegation to the States of authority to approve "mining plans" on Federal lands as contrary to section 523 of SMCRA. *In Re: Permanent II* (July Op.) at 10. Judge Flannery's ruling does not impact Federal program States because no delegation of authority to such a State is involved. Furthermore, by their own terms, the Federal lands rules in 30 CFR Part 740 apply to Tennessee regardless of which entity is the regulatory authority (see 30 CFR 740.11), and thus it is unnecessary to include them in a Federal program for a State. Therefore, I am denying the specific request to amend the Tennessee program to include the 1982 Federal lands rules.

12. Amend 30 CFR 942.701(a) To Replace the Definition of "Coal Preparation Plant" and "Coal Preparation or Coal Processing" With the Definition of "Coal Processing Plant" as Set Forth in 30 CFR 701.5 Revised as of July 1, 1982

In the final rule promulgating a Federal program for Tennessee, OSM addressed the issue of the definitions of "surface coal mining operations" in 30 CFR 700.5, and "coal preparation or coal processing," and "coal preparation plant" in 30 CFR 701.5. These definitions were the subject of Judge Flannery's July 6, 1984 opinion. *In Re: Permanent II* (July Op.) at 20. As discussed in the October 1, 1984 notice promulgating the Tennessee Federal program:

"The court rules that the limitations placed on the Secretary's jurisdiction by these definitions improperly narrowed the regulatory scope of the Act. Specifically, the Court held that facilities which in any way leach, chemically process, or physically process coal should be regulated when located away from the minesite even if they do not separate coal from its impurities. . . . As a result of this ruling, regulations containing the definitions of "surface coal mining operations," "coal preparation or coal processing," and "coal preparation plant" were remanded to the Secretary to be revised in accordance therewith. . . . Consistent with the court's decision, OSM is providing in this Federal program that the definitions of "surface coal mining operations" in § 700.5, and of "coal preparation or coal processing" and "coal preparation plant" at Section 701.5 include facilities which leach, chemically process, or physically process coal. Thus, facilities which crush, screen, or size coal will be regulated wherever located. (49 FR 38891, 38893, October 1, 1984)."

Therefore, I believe the substance of this portion of the petition has been embodied in the Tennessee Federal program which already reflects the court's decision on this jurisdictional issue.

In their supplemental comments, the petitioners indicated that it is not clear from § 942.701 of the Tennessee Federal program that OSM has compiled with the full extent of the court's ruling. The petitioners urged OSM to amend the current rule to reinstate the prior (1982) definitions of "coal preparation plant" and "coal processing plant" and to clarify, as Judge Flannery held, that these definitions are not limited to *in situ* operations.

OSM agrees that the definitions are not limited to *in situ* operations. The October 1984 rule promulgating the Tennessee program states that the definitions of "surface coal mining operations" in 30 CFR 700.5, and "coal preparation or coal processing" and "coal preparation plant" in 30 CFR 701.5 "shall include facilities which leach, chemically process, or physically process coal." See 49 FR 38891. Thus, facilities which in any way leach, chemically process or physically process coal shall be regulated even when located away from the minesite (*i.e.*, those facilities that are not *in situ*) and even if they do not separate coal from its impurities. Therefore, the petitioners' concern has already been addressed in the Tennessee program.

In addition, the petitioners' concern has been addressed by the interim final rule published on July 10, 1985 (50 FR 28186).

13. Amend 30 CFR 942.779 To Reinstate the Regulations for Fish and Wildlife Resources Information Set Forth in 30 CFR 779.20 as Adopted on March 13, 1979

Judge Flannery ordered OSM to reinstate the 1979 rules concerning permit application requirements for fish and wildlife information until OSM completes a new rulemaking to consider these requirements. *In Re: Permanent II* (October op.) at 57. I am granting this portion of the petition by means of the February 21, 1985 suspension notice which removed the earlier (August 4, 1980) suspension of both 30 CFR 779.20 and the corresponding underground mining requirement at 30 CFR 783.20. The effect of the February 21, 1985 notice was to reinstate both 30 CFR 779.20 and 783.20. A thorough discussion of these provisions is contained in the February 21, 1985 notice (50 FR 7274,7275).

14. Amend 30 CFR 942.780 To reinstate the Regulations for Fish and Wildlife Plans Set Forth in 30 CFR 780.16 as Adopted on March 13, 1979

Judge Flannery ordered OSM to reinstate the 1979 rules concerning permit application requirements for fish and wildlife plans until OSM completes a new rulemaking to consider these requirements. I am granting this portion of the petition by means of the February 21, 1985 suspension notice which removed the earlier (August 4, 1980) suspension of both 30 CFR 780.16 and the corresponding underground mining requirement at 30 CFR 784.21. The effect of the February 21, 1985 notice was to reinstate 30 CFR 780.16 and 784.21. A thorough discussion of these provisions is contained in the February 21, 1985 Notice (50 FR 7274, 7275).

Other Comments

A commenter suggested that it would be in the best interest of the agency and the Tennessee coal industry to delay any final decisions on amendment requests 1, 2 and 10 because various parties have appealed Judge Flannery's decisions on these three issues. The commenter stated that waiting until the judicial appeal process has been concluded would not hamper OSM's administration of the Tennessee Federal program.

I have not accepted this suggestion because the court required that OSM act to comply with the court order. Thus, the suspension of 30 CFR 800.11 (b) in part, 800.13(a)(2), 823.11(a) in part, and 823.11(b) became effective on March 25, 1985 (50 FR 7274, February 21, 1985). As discussed above, those suspensions directly affect the Tennessee Federal program. Should the District Court's decisions be modified or reversed on appeal,

OSM will make any necessary modifications to the permanent regulatory program. Such modifications would be applicable to Tennessee through cross-referencing in the Tennessee Federal program.

My decision on the matters discussed herein is the final decision of the Department of the Interior.

Sincerely,

Jed Christensen,

Acting Director.

[FR Doc. 85-24185 Filed 10-8-85; 8:45 am]

BILLING CODE 4310-05-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 81, and 83

[General Docket No. 84-477; FCC 85-524]

Permitting the Use of Marine Radar Transponders and Radio Beacons

AGENCY: Federal Communications Commission.

ACTION: Proposed rule making.

SUMMARY: This Notice proposes technical characteristics and operational requirements applicable to radar transponders and radio beacons used for marine radiodetermination services. This action responds to public comments and is intended to satisfy the maritime industry's need for additional radiodetermination devices.

DATES: Comments must be received on or before November 7, 1985, and reply comments must be received on or before November 22, 1985.

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

FOR FURTHER INFORMATION CONTACT: William P. Berges, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 2

Communications equipment.

47 CFR Part 81

Radio, Radiodetermination.

47 CFR Part 83

Radio, Radiodetermination.

The collection of information requirements contained in the proposed rules have been submitted to the Office of Management and Budget for review pursuant to section 3504(h) of the Paperwork Reduction Act of 1980 (Title 44 U.S.C. Chapter 35). Comments concerning the proposed requirements must be directed to:

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Communications Commission, Washington, D.C. 20503.

Comments should be submitted on or before the date listed above.

Notice of Proposed Rule Making

In the matter of Marine radar transponders and radio beacons; PR Docket No. 84-477.

Adopted: September 25, 1985
Released: October 1, 1985.

By the Commission.

1. This Notice proposes to amend Parts 2, 81, and 83 of the rules to permit the operation of radar transponders and radio beacons in the maritime services.

Background

2. On May 22, 1984, the Commission released a Notice of Inquiry (NOI) [1] concerning the need for and technical characteristics of marine transponders and radio beacons for offshore oil exploration and radiolocation services. This action was in response to requests filed by Radar Devices, Inc. (RDI), Marphonics, and Novatech Designs Limited (Novatech).

3. In the NOI we noted that RDI has developed a system of radar devices to facilitate offshore oil exploration. The RDI system consists of a ship radar station and a transponder operating in the 9300-9500 MHz band, and an associated VHF telecommand receiver and transmitter operating in the Private Land Mobile Radio Services bands.[2] The radar and VHF transmitter are installed on an oil exploration ship. The transponder and VHF receiver are installed at the end of a seismic streamer towed by that ship. Because we were concerned that the operation of the RDI system might cause harmful interference to the shore radar beacon (racon) transponders installed by the U.S. Coast Guard (USCG) for safety of navigation and to VHF stations operating in the private land mobile services, we suggested such systems could better be accommodated in the 9280-9320 MHz band and certain maritime VHF radio channels. Additionally we inquired regarding the appropriate technical and administrative requirements for these devices.[3]

4. Mar-phonics and Novatech requested that the rules be amended to permit the use of marine radio beacons for radiolocation purposes. A radio beacon manufactured by Novatech has been certified by Canada to track the movement of ocean currents, tides, oil spills and ice, and to locate schools of fish, offshore oil platforms and work sites, or to facilitate search and rescue operations. The Mar-phonics and Novatech devices operate in the VHF bands of the Private Land Mobile Radio Services. We suggested in the NOI that such radio beacons use the same maritime VHF channels recommended for the previously discussed RDI system.

Comments and Discussion

5. The following parties filed comments regarding the radar devices: ARCO Exploration Company (ARCO); Central Committee on Telecommunications of the American Petroleum Institute (API); Del Norte Technology, Inc. (Del Norte); Digicon Geophysical Corporation (Digicon); GECO Geophysical Company, Inc. (GECO); National Ocean Industries Association (NOIA); RDI; Tideland Signal Corporation (Tideland); and USCG. Reply comments were filed by Del Norte, NOIA, RDI, and USCG.

6. Except for Tideland the commenters agreed that the use of transponders for oil exploration would provide a needed service for the maritime industry. The majority of the comments strongly supported their operation in the 9300-9500 MHz band. They pointed out that most ship radar stations operate in the 9300-9500 MHz band. Thus use of the same band by the transponders would avoid costly modifications of radar stations installed on oil exploration ships. Furthermore they stated that other radar-equipped ships in the vicinity of the oil exploration area would be able to detect the transponder, avoid collision with the seismic streamer, and thus prevent property damage and enhance safety. NOIA stated that in some cases the cost of a seismic streamer may exceed $3.5 million. NOIA submitted a preliminary safety report of a seismic vessel operator's survey conducted by the International Association of Geophysical Contractors (IAGC) which indicated that during the period from 1981 to 1983, 115 collisions occurred in United States waters between intruding ships and seismic streamers.

7. The majority of the comments also supported the use of transponders in all radar bands for a variety of radiodetermination purposes, lenient technical standards for their operation, use of private land mobile VHF

[1] PR Docket No. 84-477, FCC 84-216, released May 22, 1984, 49 FR 22110.

[2] The Commission routinely authorizes ship radar stations in the 9300-9500 MHz band. However, only radar beacon (racon) transponders installed by the U.S. Coast Guard on land for safety of navigation are permitted to operate in the 9300-9500 MHz band.

[3] See paragraph 10 of the NOI.

frequencies for the operation of the telecommand transmitters, and use of such transponder systems by any ship under its existing ship station license.

8. Del Norte however was concerned that extensive use of transponders would cause harmful interference to the operations of existing stations. Likewise, Tideland was concerned that the use of transponders for radiolocation purposes would compromise the effectiveness of the safety-related radionavigation systems currently operating in the 9320–9500 MHz band. USCG was concerned that the signal from non-Government transponders operating in the 9320–9500 MHZ band might be misinterpreted as a response from its radionavigation racons or from a search and rescue transponder recently introduced by Japan. Notwithstanding their concerns Del Norte and USCG acknowledged that expanding the use of transponders would benefit the maritime industry. Accordingly, they recommended technical standards for transponders be developed to satisfy the needs of the entire maritime industry withobt causing significant interference problems to other systems operating in the radar bands.

9. We believe that appropriate technical standards can be developed to facilitate the operation of radars and transponders on the same frequency bands without causing harmful inter-system interference. USCG recommends two types of transponders: one user non-selectable, the other user selectable.[4] USCG feels that non-selectable transponders should be authorized only for operations related to maritime safety and that their technical standards should be similar to the ones employed by search and rescue transponders that are currently proposed to the International Radio Consultative Committee (CCIR) for use in the Future Global Maritime Distress and Safety System (FGMDSS).[5] Selectable transponders would be authorized for operations that are not related to maritime safety. The USCG recommendations are generally supported by the industry. Additionally it appears that the associated VHF transmitters could be accommodated on the frequencies we are considering for operation of maritime radio beacons.

10. The following parties filed comments regarding the radio beacon devices: American Tunaboat Association (ATA); API; Marco Marine San Diego, Inc. (MARCO); NOIA; and USCG. Reply comments were filed by USCG.

11. All parties agreed that the use of radiolocation devices would provide a needed service to the maritime industry and serve a variety of purposes. ATA and MARCO stated that use of radiolocation by the tuna industry would conserve fuel and effort. Except for API all parties recommended the use of private land mobile frequencies for these devices. USCG argued that the maritime VHF channels are congested and recommended the utilization of frequencies normally assigned for private land mobile operations. They suggested that the technical characteristics and areas of operations of the radio beacons be restricted to prevent harmful interference to private land mobile stations and to EPIRB's operating on 121.5 MHz, 156.75 MHz and 156.80 MHz. API preferred the use of maritime frequencies provided no interference would be caused to the offshore oil or maritime mobile stations. Additionally, ATA, MARCO and USCG recommended that we permit the operation of maritime radiolocation radio beacons in the 1605–1800 kHz band.

12. ATA recommended the following technical standards for the operation of the radio beacons: (a) Maximum power output of 25 watts; (b) emissions A1, A2, F1, F2, and F9, (currently A1A, A1B, A1D, A2A, A2B, A2D, F1A, F1B, F1D, F2A, F2B, F2D, G1A, G1B, G1D, G2A, G2B, and G2D); (c) maximum transmission period of 60 seconds, minimum quiescent period 4 times the transmission period; (d) maximum antenna height of 20 feet above sea level of a buoy station or 20 feet above the mast of a ship station; (e) bandwidth and spurious emissions identical to that for telemetering stations contained in Section 90.209 of the rules; and (f) frequency stability identical to that for radiolocation and telemetering stations contained in Section 90.213 of the rules.

13. ATA recommended authorizing radio beacons only on board commercial ships directly involved in identified operations, requiring an eligibility statement from station applicants, and including in each station license the specified operating frequencies. API recommended limiting the area of operation of such stations and requiring station identification. NOIA favored adopting the least cumbersome licensing process and letting the users resolve their interference problems.

Proposals

14. In view of the foregoing we propose to amend the rules as set forth in the Appendix. These rules if adopted would permit the use of radionavigation, radiolocation and search and rescue transponders in the non-Government maritime services. They include the applicable national and international standards for radar operations contained in the Table of Frequency Allocations, § 2.106 of the rules.[6] Since that table in the text of Footnote 772 includes the intent of the text of Footnote US286, we propose to delete Footnote US286, and in the 2900–3100 MHz and 5470–5600 MHz bands to replace Footnote US286 with Footnote 772. The proposed rules if adopted would permit type acceptance and station authorization of transponders with prior USCG approval.

15. Additionally, regarding to collision of ships and seismic streamers we find the NOIA concerns compelling. The use of non-selectable transponders by oil exploration ships might prevent such collisions and thus prevent property damage and enhance safety. Therefore we request interested parties to provide us comments on this issue.

16. These proposed rules would permit the use of radio beacons for any marine radiolocation purpose on the following private land mobile frequencies: 154.585 MHz, 159.480 MHz, 160.725 MHz, 160.785 MHz, 454.000 MHz, and 459.000 MHz. These frequencies would be shared by private land and maritime mobile stations on an equal basis. The frequencies 154.585 MHz, 159.480 MHz, 454.000 MHz, and 459.000 MHz are currently assigned to the Petroleum Radio Service primarily for containment and clean up of oil spills. The frequencies 160.725 MHz and 160.785 MHz are currently assigned to the Railroad Radio Service for various purposes. Since these frequencies are already shared by land mobile stations additional sharing by marine mobile stations removed from the proximity of land should not cause significant interference to land mobile operations. The separation of the proposed radio beacon frequencies from 121.5 MHz, 156.75 MHz and 156.80 MHz should prevent these devices from causing any interference to the EPIRB's.

17. The technical requirements proposed in the Appendix are similar to the ones recommended by ATA. The

[4] The response of user "non-selectable" transponders is displayed on the screen of any ordinary radar operating on the same frequency regardless of action by the operator. The response of user "selectable" transponders is inhibited or displayed on the screen of a radar on demand by the radar operator.

[5] *See* CIR Recommendation AE/8 titled "Technical Characteristics for Search and Rescue Transponders".

[6] *See* 47 CFR 2.106, Footnotes 752, 774, 775, US44, US49, US50, US51, US65, and US292.

emission designators and frequency stability have been altered in order to comply with current national and international standards. Additionally, it is proposed that use of these frequencies be permitted for radiolocation or associated telecommand operations by any ship under its existing station license provided such use is related to the ship's commercial operations.

18. PR Docket Nos. 84-874 and 84-959 are related to the reallocation of the 1605-1800 kHz and 1800-2000 kHz bands for radiolocation and other operations. Therefore, we will not address the use of these bands in this proceeding.[1]

19. The proposed amendments to the Commission's rules as set forth in the attached Appendix, are issued under the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

20. Under procedures set out in § 1.415 of the rules and regulations, 47 CFR 1.415, interested persons may file comments on or before November 7, 1985, and reply comments on or before November 22, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

21. In accordance with the provisions of § 1.419 of the rules and regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comment should file an original and 11 copies. Members of the general public who wish to express their comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

22. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation to the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation. On the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

23. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new or modified requirements or burden upon the public. Implementation of any new or modified requirement or burden will be subject to approval by the Office of Management and Budget as prescribed by the Act.

24. We have determined that section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) does not apply to this rulemaking proceeding because if promulgated, it will not have a significant economic impact on a substantial number of small entities. The changes proposed herein will have a minor beneficial effect on the maritime community by permitting the use of radar transponder and radio beacon devices by ships at sea. No new equipment will be required on board any ship. These changes allow greater flexibility and will not cause significant economic impact on any entity.

25. It is ordered, that a copy of this Notice shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

26. Regarding questions on matters covered in this document, contact William P. Berges, (202) 632-7175.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 2, 81, and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

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

1. The authority citation for Part 2 continues to read as follows:

Authority: Sec. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted.

2. In § 2.1 paragraph (c) is amended by adding after "Terrestrial Station" a new definition "Transponder" to read as follows:

§ 2.1 Terms and definitions.

* * * * *

(c) * * *

* * * * *

Transponder. A transmitter-receiver facility the function of which is to transmit signals automatically when the proper interrogation is received. (FCC)

* * * * *

3. Section 2.106 is amended by adding footnote "NG148" at column (5) and "MARITIME (83)" at column (6) in the 152.855-156.2475 MHz, 158.115-161.575 MHz, 454-455 MHz and 459-460 MHz bands, by deleting footnote "US286" and adding footnote "772" at columns (4) and (5) in the 2900-3100, 5470-5600 MHz and 5600-5650 MHz, and by deleting the text of footnote "US286" and adding the text of a new footnote "NG148" on the list of footnotes following the Table of Frequency Allocations to read as follows:

[1] See *Notice of Proposed Rule Making*, PR Docket No. 84-874, released September 11, 1984, FCC 84-412, 49 FR 36526, and *Report and Order*, PR Docket No. 84-959, released April 25, 1985, FCC 85-199, 50 FR 16665.

§ 2.106 Table of Frequency Allocations.

UNITED STATES TABLE

Government	Non-Government	FCC use designator	
Allocation (MHz)	Allocation (MHz)	Rule part(s)	Special-use frequencies
(4)	(5)	(6)	(7)
* * *	* * *	* * *	
	152.855–156.2475 LAND MOBILE 613 NG4, NG112, NG117, NG124, NG148	PRIVATE LAND MOBILE (90) AUXILIARY BROADCASTING (74) MARITIME (83)	
* * *	* * *	* * *	
	158.115–161.575 LAND MOBILE 613 NG6, NG28, NG70, NG112, NG124, NG148	DOMESTIC PUBLIC LAND MOBILE (22) PRIVATE LAND MOBILE (90) MARITIME (83)	* * *
* * *	* * *	* * *	
	454–455 LAND MOBILE NG12, NG112, NG148	DOMESTIC PUBLIC LAND MOBILE (22) MARITIME (83)	
* * *	* * *	* * *	
	459–460 LAND MOBILE NG12, NG112, NG148	DOMESTIC PUBLIC LAND MOBILE (22) MARITIME (83)	
* * *	* * *	* * *	
2900–3100 MARITIME RADIONAVIGATION 772, 774, 775 Radionavigation US44, G56	2900–3100 MARITIME RADIONAVIGATION 772, 774, 775 Radionavigation US44	MARITIME (81 and 83)	
* * *	* * *	* * *	
5470–5600 MARITIME RADIONAVIGATION Radiolocation 772, US50, US65, G56 5600–5650 MARITIME RADIONAVIGATION METEOROLOGICAL AIDS Radiolocation 772, 802, US51, US65, G56	5470–5600 MARITIME RADIONAVIGATION Radiolocation 772, US50, US65 5600–5650 MARITIME RADIONAVIGATION METEOROLOGICAL AIDS Radiolocation 772, 802, US51, US65	MARITIME (81 and 83) MARITIME (81 AND 83)	
* * *	* * *	* * *	

* * * * *

Non-Government Footnotes

* * * * *

NG148 The frequencies 154.585 MHz, 159.480 MHz, 160.725 MHz, 160.785 MHz, 454.000 MHz and 459.000 MHz may be authorized to maritime mobile stations for offshore radiolocation and associated telecommand operations.

PART 81—STATIONS ON LAND IN THE MARITIME AND ALASKA FIXED SERVICES

1. The authority citation for Part 81 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

2. In § 81.4 new paragraphs (s), (t), (u) and (v) are added to read as follows:

§ 81.4 Maritime radiodetermination service.

* * * * *

(s) *Transponder.* A transmitter-receiver facility the function of which is to transmit signals automatically when the proper interrogation is received.

(t) *Non-selective transponder.* A Transponder whose response is displayed on any radar operating in the appropriate band regardless of action of the radar operator.

(u) *Selectable transponder.* A transponder whose response may be inhibited or displayed on a radar on demand by a radar operator.

(v) *Radar Beacon (racon).* A transmitter-receiver associated with a fixed navigational mark which, when triggered by a radar, automatically returns a distinctive signal that appears on the display of the triggering radar, providing range, bearing and identification information.

3. Section 81.8 is amended by adding after "dBu" a new definition "Equivalent isotropically radiated power (e.i.r.p.)" to read as follows:

§ 81.8 Technical definitions.

* * * * *

Equivalent isotropically radiated power (e.i.r.p.). The product of the power supplied to the antenna and the antenna gain in a given direction relative to an isotropic antenna.

* * * * *

4. In § 81.134 paragraphs (e), (f), (g), (h), (i) and (j) are redesignated as paragraphs (f), (g), (h), (i), (j) and (k) respectively and a new paragraph (e) is added to read as follows:

§ 81.134 Transmitter power.

* * * * *

(e) For radiodetermination stations operating above 2400 MHz the output power must be as follows:

(1) For radar stations that use F3N emission the mean output power must not exceed 200 milliwatts;

(2) For transponder stations the output power must not exceed 5 watts peak e.i.r.p.

* * * * *

5. In § 81.142 a new paragraph (k) is added to read as follows:

§ 81.142 Modulation requirements.

* * * * *

(k) Transponders using the 2920–3100 MHz or 9320–9500 MHz band must be of the non-selectable type, operate in a variable frequency mode, and respond on their operating frequencies with no range offset. Additionally, they must be used as racons and their response must

be encoded with a Morse character starting with a dash. The width of a Morse dot is defined to be equal to the width of a space and ⅓ of the width of a Morse dash. The duration of the response code must not exceed 50 microseconds. The racon receiver sensitivity must be adjustable allowing reduction to a sensitivity value not more than −10 dBm. Antenna polarization must be horizontal when operating in the 9320–9500 MHz band and both vertical and horizontal when operating in the 2920–3100 MHz band. Racons using frequency agile transmitting techniques must include circuitry designed to reduce interference caused by triggering from radar antenna sidelobes.

6. Section 81.401 is revised to read as follows:

§ 81.401 Assignable frequencies.

(a) The following table describes the frequencies assignable for use by test and shore radiodetermination stations:

2450–2500 MHz
2900–3100 MHz
5460–5650 MHz
9300–9500 MHz
14.00–14.05 GHz

(b) The 2450–2500 MHz band may be used only for radiolocation on the condition that harmful interference must not be caused to the fixed and mobile services. No protection is provided from interference caused by emissions from industrial, scientific, or medical equipment.

(c) The use of the 2900–3100 MHz, 5470–5600 MHz and 9300–9500 MHz bands for radiolocation must not cause harmful interference to the radionavigation and Government radiolocation services.

(d) In the 2920–3100 MHz and 9320–9500 MHz bands the use of fixed-frequency transponders for radionavigation is not permitted.

(e) The use of the 5460–5650 MHz band by shore stations for radionavigation is not permitted.

(f) Non-Government radiolocation service may be authorized in the 5460–5470 MHz band on the condition that harmful Interference is not caused to the aeronautical or maritime radionavigation services or to the Government radiolocation service.

(g) The 14.00–14.05 GHz band must be used only for test purposes on a secondary basis to the fixed satellite service.

7. Section 81.402 is revised to read as follows:

§ 81.402 Special conditions applicable to radiodetermination transponders.

(a) In the 2920–3100 MHz and 9320–9500 MHz bands only non-selectable transponders which are used as racons and mounted on land or other fixed structures shall be authorized.

(b) Applications for type acceptance of transponders must include a description of the technical characteristics of the equipment including the scheme of interrogation and the characteristics of the transponder response. When a type acceptance application is submitted to the Commission a copy of such application must be submitted concurrently to: Gommandant (G–TPP–3), U.S. Coast Guard, Washington, D.C. 20593.

(c) Prior to submitting an application for a non-selectable transponder station license in the 2920–3100 MHz or 9320–9500 MHz band the applicant must submit a letter requesting written approval of the proposed station to the cognizant Coast Guard District Commander of the area in which the device will be located. The letter must include:

(1) The necessity for the station;

(2) The latitude and longitude of its position;

(3) The transponder antenna height above sea level;

(4) The antenna azimuth response (angle of directivity);

(5) The manufacturer and model number of the transponder;

(6) The identifying Morse character for transponders used as racons;

(7) The name and address of the person at whose expense the station will be maintained;

(8) The name and address of the person who will maintain the station;

(9) The time and date during which it is proposed to operate the station.

A copy of the request and the U.S. Coast Guard approval must be submitted to the Commission with the station license application.

(d) Selectable transponders must be authorized under Part 5 of the Commission rules until technical standards for their use are developed.

§ 81.403 [Removed and § 81.404 Redesignated as § 81.403].

8. Section 81.403 is removed and § 81.404 is redesignated as § 81.403.

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. The authority citation for Part 83 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303 unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609; 3 UST 3450, 3 UST 4726, 12 UST 2377, unless otherwise noted.

2. In § 83.4 new paragraphs (x), (y), (z) and (aa) are added to read as follows:

§ 83.4 Maritime radiodetermination service.

* * * * *

(x) *Transponder.* A transmitter-receiver facility the function of which is to transmit signals automatically when the proper interrogation is received.

(y) *Non-selectable transponder.* A transponder whose response is displayed on any radar operating in the appropriate band regardless of action by the radar operator.

(z) *Selectable transponder.* A transponder whose response may be inhibited or displayed on a radar on demand by the radar operator.

(aa) *Radar Beacon (racon).* A transmitter-receiver associated with a fixed navigational mark which, when triggered by a radar, automatically returns a distinctive signal that appears on the display of the triggering radar, providing range, bearing and identification information.

3. Section 83.7 is amended by adding a new paragraph (m) to read as follows:

§ 83.7 Technical.

* * * * *

(m) *Equivalent Isotropically radiated power (e.i.r.p.).* The product of the power supplied to the antenna and the antenna gain in a given direction relative to an isotropic antenna.

§ 83.131 [Amended]

4. In § 83.131 paragraph (d) is revised to read as follows:

* * * * *

(d) For stations in the maritime radiodetermination service other than ship radar stations the carrier frequency must be maintained within the following tolerances:

(1) For stations operating on 154.585 MHz, 159.480 MHz, 160.725 MHz and 160.785 MHz: 15 parts in 10^6;

(2) For stations operating on 454.000 MHZ and 459.000 MHz: 5 parts in 10^6

(3) For all other stations the authorized frequency tolerance will be specified in the instrument of authorization.

* * * * *

5. In § 83.132 paragraph (a) is amended by adding a new paragraph (a)(7) to read as follows:

§ 83.132 Authorized classes of emission.

(a) * * *

Frequency band	Classes of emission
* * * * *	
(7) Radiodetermination: 154.585 MHz, 159.480 MHz, 160.725 MHz, 160.785 MHz, 454.000 MHz, 459.000 MHz.	A1D, A2D, F1D, F2D, G1D, G2D

* * * * *

6. In § 83.133 paragraph (a) is revised by adding a new emission A1D after A1A, A2D after A2B, F1D after F1B, F2D after F1D, G1D after J2B, and G2D after G1D as follows:

§ 83.133 Authorized bandwidth.

(a) * * *

Classes of emission	Emission	Authorized bandwidth (kilohertz)
* * * * *		
A1D	16K0A1D	20.0
* * * * *		
A2D	16K0A2D	20.0
* * * * *		
F1D	16K0F1D	20.0
F2D	16K0F2D	20.0
* * * * *		
G1D	16K0G1D	20.0
G2D	16K0G2D	20.0
* * * * *		

* * * * *

7. In § 83.134 paragraph (g) is revised and a new paragraph (l) is added to read as follows:

§ 83.134 Transmitter power.

* * * * *

(g) For radiodetermination transmitters using A1D, A2D, F1D, F2D, G1D and G2D emissions on 154.585 MHz, 159.480 MHz, 160.725 MHz, 160.785 MHz, 454.000 MHz and 459.000 MHz the mean output power of the unmodulated carrier must not exceed 25 watts.

* * * * *

(l) For radiodetermination stations operating above 2400 MHz the output power must be as follows:

(1) For radar stations that use F3N emission the mean output power must not exceed 200 milliwatts;

(2) For search and rescue transponder stations the output power must be at least 200 millliwatts peak e.i.r.p.;

(3) For all other transponder stations the output power must not exceed 5 watts peak e.i.r.p.

* * * * *

8. In § 83.137 new paragraphs (e), (f), and (g) are added to read as follows:

§ 83.137 Modulation requirements.

* * * * *

(e) Radiodetermination stations operating on 154.585 MHz, 159.480 MHz, 160.725 MHz, 160.785 MHz, 454.000 MHz and 459.000 MHz must employ a duty cycle with a maximum transmission period of 60 seconds followed by a minimum quiescent period four times the duration of the transmission period.

(f) Variable frequency transponders operating in the 2920–3100 MHz or 9320–9500 MHz band that are not used for search and rescue purposes must meet the following requirements:

(1) Non-selectable transponders must have the following characteristics:

(i) They must respond on all their frequencies with no range offset;

(ii) They must use a Morse encoding of "PS" (dot-dash-dash-dot, dot-dot-dot), meaning "You should not come any closer". The width of a Morse dot is defined to be equal to the width of a space and ⅓ of the width of a Morse dash;

(iii) They must not pause on any frequency for more than 10 seconds in any 120 second period;

(iv) Any range offset of their response must occur during their pause on the fixed frequency;

(v) The duration of the response code must not exceed 50 microseconds;

(vi) The transponder receiver sensitivity must be adjustable allowing reduction to a sensitivity value of not more than −10 dbm;

(vii) Antenna polarization must be horizontal when operating in the 9320–9500 MHz band and both vertical and horizontal when operating in the 2920–3100 MHz band;

(viii) Transponders using frequency agile techniques must include circuitry designed to reduce interference caused by triggering from radar antenna sidelobes;

(2) Selectable transponders must be authorized under Part 5 of the Commission's rules until standards for their use are developed.

(g) The transmitted signals of search and rescue transponders must cause to appear on a radar display a series of at least 20 equally spaced dots. The space between dots must be 5± 0.5 microseconds.

9. Section 83.403 is redesignated as § 83.402, its title is changed, its existing paragraph is designated as paragraph (b) and a new paragraph (a) is added to read as follows:

§ 83.402 Assignable frequencies below 500 MHz.

(a) The frequencies 154.585 MHz, 159.480 MHz, 160.724 MHz, 160.785 MHz, 454.000 MHz and 459.000 MHz are authorized for offshore radiolocation and associated telecommand operations under a ship station license provided:

(1) The use of these frequencies is related to the ship's commercial operations;

(2) The station antenna height does not exceed 20 feet above sea level in a buoy station or 20 feet above the mast of the ship in which it is installed.

* * * * *

10. A new § 83.403 is added to read as follows:

§ 83.403 Assignable frquencies above 2400 MHz.

(a) The following table describes the frequency bands assignable to ship stations for radiodetermination purposes:

2450–2500 MHz
2900–3100 MHz
5460–5650 MHz
9300–9500 MHz
14.00–14.05 GHz

(b) The 2450–2500 MHz band may be used only for radiolocation on the condition that harmful interference must not be caused to the fixed and mobile services. No protection is provided from interference caused by emissions from industrial, scientific, or medical equipment.

(c) The use of the 2900–3100 MHz, 5470–5650 MHz and 9300–9500 MHz bands for radiolocation must not cause harmful interference to the radionavigation and Government radiolocation services.

(d) Only shipborne transponders used for safety purposes shall be authorized in the 2900–3100 MHz and 5470–5650 MHz bands. Shipborne transponders used for non-safety purposes shall be confined to the 2930–2950 MHz and 5470–5480 MHz subbands.

(e) In the 2900–2920 MHz and 9300–9320 MHz subbands the use of shipborne radars other than those installed prior to January 2, 1976, is not permitted.

(f) In the 2920–3100 MHz and 9320–9500 MHz bands the use of fixed-frequency transponders for radionavigation is not permitted.

(g) The non-Government radiolocation service may be authorized in the 5460–5470 MHz band on the condition that harmful interference shall not be caused to the aeronautical or maritime radionavigation services or to Government radiolocation service.

(h) The use of the 5460–5660 MHz band for radionavigation is limited to shipborne radar.

(i) The use of the 14.00–14.05 GHz band is authorized for maritime radionavigation on a secondary basis to the fixed-satellite service.

11. Section 83.404 is revised to read as follows:

§ 83.404 Special conditions applicable to radiodetermination transponders.

(a) In the 2920–3100 MHz and 9320–9500 MHz bands non-selectable transponders will be authorized only for safety purposes.

(b) The use of non-selectable transponders as racons by ship stations is not permitted.

(c) Applications for type acceptance of transponders must include a description of the technical characteristics of the equipment including the scheme of interrogation and the characteristics of the transponder response. When a type acceptance application is submitted to the Commission a copy of such application must be submitted concurrently to: Commandant (G–TPP–3), U.S. Coast Guard, Washington, DC 20593.

(d) Prior to submitting an application for a non-selectable transponder station license in the 2920–3100 MHz or 9320–9500 MHz band the applicant must submit a letter requesting written station approval of the proposed station to: Commandant (G–NSR), U.S. Coast Guard, Washington, DC 20593. The letter must state whether the proposed station will be used for radiolocation or radionavigation purposes, the specific need for the station, the name of the associated ship, the area in which the transponder will be used, and the hours of operation. A copy of the request and the U.S. Coast Guard approval must be submitted to the Commission with the station license application.

(e) Selectable transponders must be authorized under Part 5 of the Commission's rules until technical standards for their use are developed.

(f) In addition to the other technical requirements contained in Subpart E of this Part search and rescue transponders must meet the following:

(1) They must operate in the 9300–9500 MHz band;

(2) They must be horizontally polarized at their source;

(3) They must have an effective receiver sensitivity better than −37 dBm;

(4) They must operate over the temperature range of −20 and +50 degrees Celsius;

(5) They must operate within specifications for at least 48 hours at 0 degrees Celsius without changing batteries.

[FR Doc. 85–24086 Filed 10–8–85; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 85–284; RM–5055]

TV Broadcast Station in Williamsport, PA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allocation of UHF Channel 32 to Williamsport, Pennsylvania, as that community's second local television allocation, at the request of Tracy A. Stevens. In addition, Channel 20 is proposed for deletion from the community.

DATES: Comments must be filed on or before November 22, 1985, and reply comments on or before December 9, 1985.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rulemaking

In the matter of amendment of § 73.606(b), table of assignments, TV Broadcast stations, (Williamsport, Pennsylvania); MM Docket No. 85–284 and RM–5055.

Adopted: September 19, 1985.
Released: October 1, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the petition for rule making filed by Tracy A. Stevens ("petitioner") requesting the assignment of UHF television Channel 32 to Williamsport, Pennsylvania. Petitioner has stated an intention to apply for the channel, if assigned.

2. Williamsport (population 33,401 [1]), seat of Lycoming County (population 118,416), is located in north central Pennsylvania, approximately 210 kilometers (130 miles) northwest of Philadelphia. Williamsport currently has assigned to it Channel 20, however, this channel has been reserved for land mobile purposes and is not available for broadcast use. Channel 32 can be assigned in compliance with the Commission's minimum distance separation and other technical requirements. Additionally, since Williamsport is located within 320 kilometers (200 miles) of the U.S.-Canadian border, the proposal requires concurrence by the Canadian Government. We shall also propose to delete Channel 20 since a substitute channel is available.

3. In view of the fact that the proposed assignment could provide Williamsport with its first local television service, the Commission believes it is in the public interest to seek comments on the proposal to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, for the following community, to read as follows:

City	Channel No.	
	Present	Proposed
Williamsport, Pennsylvania	[1]20	32

[1] Following the decision in Docket 18261, channels so indicated will not be available for television use until further action by the Commission.

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before November 22, 1985, and reply comments on or before December 9, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Tracy A. Stevens, Coakley Bay Condo L–5, Christiansted, St. Croix, Virgin Islands 00820.

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

7. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634–6340. However, members of the public should note that from the time a Notice

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

of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

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

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

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

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

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

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

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

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

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

[FR Doc. 85-24080 Filed 10-8-85; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 87

[PR Docket No. 85-292; FCC 85-525]

Digital Administrative Communications in the Aviation Service

AGENCY: Federal Communication Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to permit on a secondary basis the digital transmission of administrative messages on aeronautical enroute frequencies. This action was initiated by a petition for rulemaking filled by Aeronautical Radio, Inc. The effect of the proposed rules would be to expand the scope of permissible enroute communications.

DATE: Comments must be received on or before November 7, 1985, reply comments must be received on or before November 15, 1985.

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

FOR FURTHER INFORMATION CONTACT: Robert P. DeYoung, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 87

Communications equipment, Aeronautical stations.

Proposed Rule Making

In the matter of amendment of Part 87 of the rules to provide for digital administrative communications in the Aviation Service; PR Docket No. 85-292, RM 4993.

Adopted: September 25, 1985.
Released: October 1, 1985.

By the Commission.

1. On May 13, 1985, Aeronautical Radio, Inc. (ARINC) filed a petition to amend Part 87 of the rules to create a new airline administrative message service. The new service would utilize frequencies now used for domestic VHF aeronautical enroute communications for digital communications on a secondary basis. Comments on the petition were filed by Airfone, Inc. (Airfone), Offshore Navigation, Inc. (ONI) and the Aircraft Owners and Pilots Associated (AOPA). ARINC filed reply comments. We propose to amend the rules as requested by ARINC.

Background

2. Pursuant to § 87.291 of the Commission's rules, aeronautical enroute stations provide for the operational control of aircraft along air routes by the aircraft operating agency. Operational control communications are defined as relating to the "safe, efficient and economical operation of aircraft, such as fuel, weather, position reports, aircraft performance, esssential services and supplies, and the like." 87 CFR 87.291. As a result of certain technical and operational developments, ARINC now believes the capability exists to expand the scope of permissible enroute communications to provide for digital transmission of administrative messages which do not fall within the scope of traditional operational control communications.

3. ARINC has developed and placed in operation a system it calls "ARINC Control, Addressing and Reporting System" or ACARS. ACARS permits transmission of operational control communications digitally rather than by voice means. For the past two years, operating under waivers granted by the Commission, ARINC in conjunction with Pan American World Airways and American Airlines has been testing the viability of transmitting airline administrative messages using ACARS.[1]

[1] *See Letter to John L. Bartlett* dated July 14, 1983, FCC 83-327, Mimeo No. 33540; *Letter to American Airlines* dated July 14, 1983, FCC 83-328, Mimeo No. 33541.

The specific type of administrative messages which ARINC now requests be authorized by rule are as follows:

A. *On-board provisioning and inventory:* Recording and reporting of the on-board inventory of passenger service items and transmitting the information to the ground to expedite the provisions of aircraft including changes in inventory or requirements and financial reporting for those items which are sold.

B. *Passenger travel arrangements:* Providing in-flight passengers with information and the ability to make arrangements for ongoing travel or travel apart from their present itinerary. These services would include flight arrangements and reservations for ground transportation and ground accommodations.

C. *Coordination with airline ground services for passengers:* Providing the on-board passengers with information concerning airline ground services including baggage tracing.

D. *Passenger data for on-board services:* Transmitting passenger name lists and associated information to reduce paperwork on the ground and shorten aircraft turnaround time. Messages under this category would include sorting passenger information by seat assignment, by meal arrangements, and by other criteria.

Discussion

4. The comments of AIRPHONE, ONI and AOPA raise essentially three questions.

A. Are the administrative messages proposed public correspondence?

B. What assurances are there that administrative messages will not derogate higher priority operational control messages?

C. Should administrative messages be limited to use by scheduled air carriers as originally proposed in ARINC's petition for rule making or should they also be used by general aviation aircraft which might wish to transmit these messages?

5. With respect to whether the type of administrative messages proposed might constitute public correspondence, we examined this question very closely in considering the waiver requests permitting ARINC and its two cooperating airlines to test this service. We are satisfied that the messages proposed are not public correspondence. As ARINC points out in its reply comments, the administrative service will not be at the disposal of the traveling public generally. Rather both the type and content of the messages to be sent will be controlled by the enroute station licensee and the aircraft operator. We have long permitted aeronautical advisory (UNICOM) stations to pass messages similar to these on a secondary basis. See § 87.257(d)(2) of the Rules. In the Aviation Service it has been our experience that radiocommunications by both airborne and ground stations are usually conducted on a highly disciplined basis. Consequently, we are confident that the administrative communications would not be abused if authorized.

6. We share ONI's concern that administrative messages should not derogate the primary operational control capabilities of the enroute service. ARINC agrees with this comment and replies that the system architecture of ACARS provides adequate means to ensure the priority of operational control messages over secondary administrative messages. ARINC further states that if, in the future, the aeronautical enroute service could not accommodate the administrative messages, they would be discontinued. In light of these representations, we are proposing to permit digital aeronautical administrative messages in the enroute service. They are secondary to operational control communications and will be terminated if capacity conflicts arise.

7. As proposed, administrative communications were for use by scheduled airlines only. All parties agree that any expansion of the scope of permissible communications should encompass all potential users of enroute frequencies including general aviation aircraft. In its reply comments ARINC agrees with this position and suggested the rules be amended to accommodate all enroute service users.

8. We believe that the proposed rule amendments will increase user flexibility in fulfilling their operational requirements without derogating the primary aeronautical enroute service. Accordingly, we propose to amend Part 87 of the rules to permit the transmission of aeronautical administrative messages on domestic VHF aeronautical enroute frequencies using digital techniques, as set forth in the attached Appendix.

9. The proposed amendments to the Commission's rules, as set forth in the attached Appendix, are issued under the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(4).

10. Under procedures set out in § 1.415 of the rules and regulations, 47 CFR 1.415, interested persons may file comments on or before November 7, 1985 and reply comments on or before November 15, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in Report and Order.

11. In accordance with the provisions of § 1.419 of the rules and regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

12. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or unitl a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any wittten or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must service a copy of that presentation to the Commission's Secretary for inclusions in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation. On the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by

docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

13. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not decrease burden hours imposed on the public.

14. We have determined that section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) does not apply to this rule making proceeding because if promulgated, it will not have a significant economic impact on a substantial number of small entities. Although these proposed changes allow the aviation community greater flexibility and convenience, they will not cause a significant economic impact on small entities.

15. It is ordered, that a copy of this Notice shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

16. Regarding questions on matters covered in this document, contact Robert DeYoung, 202–632–7175.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 87—AVIATION SERVICES

1. The authority citation for Part 87 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–156, 301–609.

2. In Subpart E a new § 87.305 is added to read as follows:

§ 87.305 Administrative communications.

Domestic VHF aeronautical enroute stations authorized to use A9W emission on any frequency listed in § 87.293(a) may transmit digital administrative communications on a secondary basis, in addition to the operational control communications routinely permitted under § 87.291(a) above. Such secondary administrative communications must directly relate to the business of a participating aircraft operator in providing travel and transportation services to the flying public or to the travel, transportation or scheduling activities of the aircraft operator itself. Stations transmitting administrative communications must provide absolute priority for operational control and other safety communications.

[FR Doc. 85–24085 Filed 10–8–85; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

Federal Acquisition Regulation (FAR); Compensation for Personal Services

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering a proposed change to Federal Acquisition Regulation (FAR) 31.205–6, Compensation for Personal Services, to cover employee rebates and purchase discounts on contractor produced products or services.

COMMENTS: Comments should be submitted to the FAR Secretariat at the address shown below on or before December 9, 1985 to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Service Administration, FAR Secretariat (VRS), 18th & F Streets, NW. Room 4041, Washington, DC 20405.

Please cite FAR Case 85–44 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, telephone (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

The Defense Acquisition Regulatory Council and the Civilian Agency Acquisition Council are considering a change to FAR 31.205–6 to add coverage for rebates and purchase discounts granted to employees on contractor-produced products or services. In view of the growing use of employee rebates and purchase discounts as a means of employee compensation, and the lack of coverage in the Federal Acquisition Regulation, it is necessary to provide coverage and to resolve any uncertainty about their proper treatment.

The councils have given careful consideration to the issue of whether rebates and discounts should be considered a cost or a reduction of sales revenue. Related issues of access to sufficient, verifiable cost data, which contractor division should reflect the discounts/rebates, and the potential for recognizing only a portion of the rebates/discounts were also considered. A study by the Defense Contract Audit Agency indicated that the majority of contractors have consistently treated these discounts/rebates as a reduction of sales or as a reduction in profit margins. The Councils have tentatively determined that the amounts of such rebates or discounts should be considered a reduction in contractor sales revenue, not a cost, therefore, unallowable.

B. Regulatory Flexibility Act

This proposed rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because the practice at issue has involved large businesses only. Therefore, a regulatory flexibility analysis has not been prepared.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this proposed rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C 3501 et seq.

List of Subjects in 48 CFR Part 31

Government Procurement.

Dated: October 3, 1985.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Part 31 be amended as follows:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority for Part 31 continues to read as follows:

Authority: 30 U.S.C. 486(c); 10 U.S.C. Chapter 137, and 42 U.S.C. 2453(c).

2. Section 31.205–6 is amended by adding paragraph (n) to read as follows:

31.205–6 Compensation for personal services.

* * * * *

(n) *Employee rebate and purchase discount plans.* Rebates and purchases discounts, in whatever form, granted to employees on products or services

produced by the contractor are unallowable.

[FR Doc. 85-24061 Filed 10-8-85; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF DEFENSE

48 CFR Parts 227 and 252

Department of Defense Federal Acquisition Regulation Supplement; Technical Data

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule and request for comment (Extension of comment period).

SUMMARY: DoD FAR Supplement Subpart 227.4 and related clauses in DFARS Part 252 are being revised to comply with Pub. L. 98-525, the Defense Procurement Reform Act, 1984, and Pub. L. 98-577, the Small Business and Federal Procurement Competition Enhancement Act. The coverage was published as a proposed rule for public comment on September 10, 1985 (50 FR 36887). Comments were to be received by October 9, 1985. It has been determined to extend the period for public comment by 90 days.

DATE: Period for written comments on this proposed rule is extended to January 9, 1986. Please cite DAR Case 84-187 in all correspondence on this subject.

ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Executive Secretary, DASD(P-DARS), c/o OUSDRE(M&RS), Room 3D139, Pentagon, Washington, DC 20301-3062.

FOR FURTHER INFORMATION CONTACT: Charles W. Lloyd, Executive Secretary, DAR Council, DASD(P-DARS), c/o OUSDRE(M&RS), Room 3D139, Pentagon, Washington, DC 20301-3062, Telephone (202) 697-7268.

SUPPLEMENTARY INFORMATION: On September 10, 1985, the DAR Council published a proposed rule (50 FR 36887), implementing the Technical Data portion of Pub. L. 98-525, the Defense Procurement Reform Act of 1984, and Pub. L. 98-577, the Small Business and Federal Procurement Competition Enhancement Act. A 30-day public comment period was provided. The immediate reaction from the public was that the comment period was insufficient. A public meeting was held on October 1, 1985, to discuss the comment period and initial industry views of the coverage. The overwhelming consensus was that the public comment period should be extended by at least 90 days. Therefore, the period for receipt of public is extended to January 9, 1986.

Owen L. Green,

Acting Executive Secretary, Defense Acquisition Regulatory Council.

[FR Doc. 85-24257 Filed 10-8-85; 8:45 am]

BILLING CODE 3810-10-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 514, 515, 528, 532, and 552

[GSAR Notice No. 5-108]

Acquisition Regulations

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on a proposed change to the General Services Administration Acquisition Regulation (GSAR) which will implement and supplement Federal Acquisition Circular (FAC) 84-8. The proposed change will delete material on prompt payment discounts that has been incorporated in the Federal Acquisition Regulation (FAR), provide for the evaluation of prompt payment discounts in Multiple Award Schedule (MAS) contracts, prescribe a Discounts for Prompt Payment clause to be used in MAS contracts in lieu of the FAR clause, provide instructions on modifying the FAR Discounts for Prompt Payment clause with respect to payment due dates, and designate the head of the contracting activity as the official responsible for providing certified copies of bonds in accordance with FAR 28.106-6(c). The intended effect is to improve the regulatory coverage and to provide uniform procedures for contracting under the regulatory system.

DATE: Comments are due in writing on or before November 8, 1985.

ADDRESS: Requests for a copy of the proposal and comments should be addressed to Marjorie Ashby, Office of GSA Acquisition Policy and Regulations, 18th and F Streets, NW., Room 4026, Washington, DC 20405, (202) 523-3822.

FOR FURTHER INFORMATION CONTACT: Mr. Edward McAndrew, Office of GSA Acquisition Policy and Regulations, 18th and F Streets, NW, Washington, DC 20405, (202) 566-1474.

SUPPLEMENTARY INFORMATION: The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain procurement regulations from Executive Order 12291. The exemption applies to this proposed rule. The GSA certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The proposed change implements and supplements the FAR. Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Parts 514, 515, 528, 532, and 552

Government procurement.

Dated: September 27, 1985.

Richard H. Hopf, III,

Director, Office of GSA Acquisition, Policy and Regulations.

[FR Doc. 85-24121 Filed 10-8-85; 8:45 am]

BILLING CODE 6820-61-M

Notices

Federal Register
Vol. 50, No. 196
Wednesday, October 9, 1985

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.

ADMINISTRATIVE OFFICE OF THE U.S. COURTS

Board of Certification; United States Courts of Appeals; Certification for the Position of Circuit Executive

AGENCY: Board of Certification, United States Courts of Appeals, Circuit Executive.

ACTION: Notice of meeting of Board of Certification in Washington, D.C. on October 31, 1985 to interview applicants who are interested in being certified for the positions of circuit executive.

SUMMARY: Individuals who wish to serve as circuit executives in the United States judicial system must be certified as qualified by the statutorily created Board of Certification (28 U.S.C. 332(f)). While certification is a prerequisite for appointment as circuit executive, it does not ensure employment. By action of the Judicial Conference of the United States, persons who wish to be appointed as district court executives must also be certified by the Board.

A personal interview with the Board is necessary for certification, and the Board cannot reimburse candidates for attendant travel expenses.

Details on how to apply for certification may be had by writing to: Board of Certification, Administrative Office of the U.S. Courts, Washington, D.C. 20544.

The next meeting of the Board will be held in Washington, D.C. on October 31, 1985. Applications must be received well in advance of this date in order to be considered for an interview.

For the Director of the Administrative Office of the U.S. Courts.

A. Leo Levin,

Chairman of the Board of Certification.

[FR Doc. 85-24165 Filed 10-8-85; 8:45 am]

BILLING CODE 2210-01-M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

October 4, 1985.

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

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

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

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

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

Extension

Agricultural Marketing Service

Grapes Grown in a Designated Area of Southeastern California—M.O. 925 Committee forms used, not agency report forms
On occasion; Annually
Farms; Businesses or other for-profit; Small businesses or organizations; 466 responses; 36 hours; not applicable under 3504(h)
William J. Doyle, (202) 447-5975

Revision

Foreign Agricultural Service

Application for import licenses for dairy products under Section 22 FAS 922, 923, 923A, 924 and 924A
Recordkeeping; Annually
Individuals or households; Businesses or other for-profit; Federal agencies or employees; 600 responses; 648 hours; not applicable under 3504(h).
Phillip J. Christie, (202) 447-5270.

Jane A. Benoit,

Departmental Clearance Officer.

[FR Doc. 85-24186 Filed 10-8-85; 8:45 am]

BILLING CODE 3410-01-M

Farmers Home Administratration

Natural Resource Management Guide Meeting

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of meeting.

SUMMARY: The Farmers Home Administration (FmHA) State Office serving Nevada and Utah is announcing a public information meeting to discuss is draft Natural Resource Management Guide for the State of Nevada.

DATES: Meeting on October 29, 1985, 1:30 p.m. to 3:00 p.m.

Comments must be received no later than November 28, 1985.

ADDRESSES: Ormsby Public Library, 900 North Roop Street, Carson City, Nevada 89701.

Written comments and further information will be addressed to: E. Lee Hawkes, State Director, Farmers Home Administration, 125 South State Street, Salt Lake City, Utah 84138.

All written comments will be available for public inspection during regular work hours at the above address.

SUPPLEMENTARY INFORMATION: FmHA's State Office has prepared a draft Natural Resource Management Guide. The Guide is a brief document describing the major environmental standards and review requirements that have been promulgated at the Federal and State levels and that affect the financing of FmHA activities in Nevada. The purpose of the meeting is to discuss the Guide as well as to consider

comments and questions from interested parties. Copies of the Guide can be obtained by writing or telephoning the above contact.

Any person or organization desiring to present formal comments or remarks during the meeting should contact FmHA in advance, if possible. It will also be possible at the start of the meeting to make arrangements to speak. Time will be available during the meeting to informally present brief, general remarks or pose questions. Additionally, a 30-day period for the submission of written comments will follow the metting.

Dated: October 2, 1985.

David J. Howe,

Director, Program Support Staff.

[FR Doc. 85-24188 Filed 10-8-85; 8:45 am]

BILLING CODE 3410-01-M

Soil Conservation Service

Productivity Improvement Review List and Estimated Dates for Beginning Studies

AGENCY: Soil Conservation Service (SCS), USDA.

ACTION: Notice of intent to conduct productivity improvement reviews under the guidelines set forth in OMB Circular No. A-76.

SUMMARY: This notice provides locations and projected doees for starting productivity improvement studies within SCS during FY 1986. The SCS intends to conduct these reviews with their own forces. This is a notice of intent only and not a request for proposals.

Location and type of activity	Projected review start
District of Columbia, 50 States, and Caribbean Area:	
Audiovisual	Oct. 1985.
Cartographic	Jan. 1986.
Engineering	July 1986.
Engineering testing and measurements for construction inspection and field surveys for planning, design, and construction.	
Engineering investigations, studies, and reports for emergency spillway performance and special problems involving engineering systems of structures.	
Engineering studies and flood plain mapping for dam breach inundation and flood plain management.	
Engineering geology studies for foundation drilling and field testing and reservoir sedimentation surveys.	

FOR FURTHER INFORMATION CONTACT: W.J. Parker, Director, Productivity Enhancement Divison, Soil Conservation Service, Department of Agriculture, P.O. Box 2890, Room 6019-S, Washington, DC 20013, telephone (202) 382-1861.

SUPPLEMENTARY INFORMATION: Reviews will be conducted under the guidelines of OMB Circular No. A-76, Performance of Commercial Activities. Some of the listed activities may be evaluated in subunits or combined with other units for review.

Galen S. Bridge,

Deputy Chief for Administration.

[FR Doc. 85-24187 Filed 10-8-85; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

[C-412-027]

Float Glass From the United Kingdom; Revocation of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of revocation of countervailing duty order.

SUMMARY: As a result of a request by the Government of the United Kingdom, the International Trade Commission conducted an investigation and determined that revocation of the countervailing duty order on float glass from the United Kingdom would not cause, or threaten to cause, material injury to an industry in the United States. The Department of Commerce consequently is revoking the countervailing duty order. All entries of this merchandise on or after December 29, 1982, will be liquidated without regard to countervailing duties.

EFFECTIVE DATE: October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Al Jemmott, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION: On December 27, 1982, the Department of Commerce ("the Department") published in the **Federal Register** a countervailing duty order on float glass from the United Kingdom (47 FR 57550).

On December 29, 1982, the International Trade Commission ("the ITC") notified the Department that the Government of the United Kingdom had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979 ("the TAA"). It was not necessary for the Department, upon notification from the ITC, to suspend liquidation of entries of the merchandise pursuant to that section of the TAA since a previous suspension remained in effect.

On June 18, 1985, the ITC notified the Department of its determination (50 FR 26060, June 24, 1985) that an industry in the United States would not be materially injured, or threatened with material injury, nor would the establishment of such an industry be materially retarded, by reason of imports of float glass from the United Kingdom if the order were revoked.

As a result, the Department is revoking the countervailing duty order concerning float glass from the United Kingdom with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after December 29, 1982, the date the ITC notified the Department of the request for an injury determination.

The Department will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after December 29, 1982, without regard to countervailing duties, and to refund any estimated countervailing duties collected with respect to these entries.

The revocation and notice are in accordance with section 104(b)(4)(B) of the TAA (19 U.S.C. 1671 note).

Dated: October 3, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 85-24161 Filed 10-8-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-602-001]

Sugar Content of Certain Articles From Australia Revocation of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of revocation of countervailing duty order.

SUMMARY: As a result of a request by the Government of Australia, the International Trade Commission conducted an investigation and determined that revocation of the countervailing duty order on the sugar

content of certain articles from Australia would not cause, or threaten to cause, material injury to an industry in the United States. The Department of Commerce consequently is revoking the countervailing duty order.

All entries of this merchandise on or after September 10, 1982, will be liquidated without regard to countervailing duties.

EFFECTIVE DATE: October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Paul Marselian or Barbara Williams, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION: On March 24, 1923, the Treasury Department published a countervailing duty order on the sugar content of certain articles from Australia (T.D. 39541).

On September 10, 1982, the International Trade Commission ("the ITC") notified the Department of Commerce ("the Department") that the Government of Australia had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979 ("the TAA"). It was not necessary for the Department, upon notification from the ITC, to suspend liquidation of entries of the merchandise pursuant to that section of the TAA, since previous suspensions remained in effect.

On September 10, 1985, the ITC notified the Department of its determination (50 FR 37920, September 18, 1985) that an industry in the United States would not be materially injured, or threatened with material injury, nor would the establishment of such an industry be materially retarded, by reasons of imports of sugar content of certain articles from Australia if the order were revoked.

As a result, the Department is revoking the countervailing duty order concerning the sugar content of certain articles from Australia with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after September 10, 1982, the date the Department received notification of the request for an injury determination.

The Department will instruct the Customs Service to proceed with liquidation of all unliquidated entires of this merchandise entered, or withdrawn from warehouse, for consumption on or after September 10, 1982, without regard to countervailing duties, and to refund any estimated countervailing duties collected with respect to these entries.

This revocation and notice are in accordance with section 104(b)(4)(B) of the TAA (19 U.S.C. 1671 note).

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 85-24162 Filed 10-8-85; 8:45 am]

BILLING CODE 3510-DS-M

California State University, Los Angeles, CA; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 85-068. *Applicant:* California State University, Los Angeles, Los Angeles, CA 90032. *Instrument:* Electron Paramagnetic Spectrometer System, Model ER/200. *Manufacturer:* Bruker-Physik, AG, West Germany. *Intended Use:* See notice at 50 FR 6230.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time the instrument was ordered (May 23, 1985).

Reasons: The foreign instrument provides quantitative electron paramagnetic resonance spectra, and a dual sample cavity to measure g-values and hyperfine coupline constants accurately. The National Institutes of Health advises in its memorandum dated May 30, 1985 that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

We know of no other domestic instrument or apparatus of equivalent scientific value to the foreign instrument being manufactured at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85-24164 Filed 10-8-85; 8:45 am]

BILLING CODE 3510-DS-M

Short Supply Review on Nickel-Plated, Cold-Rolled Steel Strip and Sheet; Request for Comments

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short supply determination under Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products with respect to nickel-plated, cold-rolled steel strip and sheet, used in the manufacture of alkaline battery cell cans, end caps and support rods.

EFFECTIVE DATE: Comments must be submitted no later than ten days from publication of this notice.

ADDRESS: Send all comments to Joseph A. Spetrini, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230, Room 3099.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230, Room 3709, (202) 377-1102.

SUPPLEMENTARY INFORMATION: Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products provides that if the U.S. ". . .determines that because of abnormal supply or demand factors, the United States steel industry will be unable to meet demand in the United States of America for a particular category or sub-category (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such category or sub-category. . ."

We have received a short supply request for drawing quality, SAE 1008 carbon, cold-rolled steel strip and sheet in coil form. The material is electrolytically plated with nickel and generally conforms to ASTM standard A620/A620 M-82. The dimensions are as follows:

Thickness: .008 inch, .010 inch, .012 inch, and .024 inch

Width: 1.500 inch through 10.330 inch; 26.500 inch through 32.980 inch (.010 inch thickness only)

Plating Thickness: .000075 inch minimum.

This product is used in the manufacture of alkaline battery cell cans, end caps, and support rods.

Parties interested in commenting on any of these products should send written comments as soon as possible, and no later than ten days from publication of this notice. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly so label the business proprietary portion of the submission and also include with it a submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B-099 at the above address.

Dated: October 3, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-24163 Filed 10-8-85; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Pacific Fishery Council; Public Meeting

The Pacific Fishery Management Council's (Council) Groundfish Management Team will convene a meeting, on October 8-10, 1985, at the Oregon Department of Fish and Wildlife Building, 506 SW. Mill Street, Portland, OR, to develop final specifications of acceptable biological catch, optimum yield, and harvest guidelines for 1986; review scheduling of a proposed groundfish fishery management plan amendment; and draft a groundfish status-of-stocks report to the Council. A final version will be presented to the Council during its November 13-14, 1985 meeting in Seattle, WA.

For further information contact Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 SW. Mill Street, Portland, OR 97201; telephone: (503) 221-6352.

Dated: October 4, 1985.

Carmen J. Blondin,

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

[FR Doc. 85-24166 Filed 10-8-85; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Application Notice for New Awards Under the Migrant Education Interstate and Intrastate Coordination Program for Fiscal Year 1986 (Program Year 1986-87)

AGENCY: Department of Education.

ACTION: Application Notice for New Awards under the Migrant Education Interstate and Intrastate Coordination Program for Fiscal Year 1986 (Program Year 1986-87).

SUMMARY: Applications are invited for new awards under the Migrant Education Interstate and Intrastate Coordination Program.

The authority for this program is contained in section 143 of Title I of the Elementary and Secondary Education Act (Title I, ESEA) as incorporated by section 554(a) of Chapter 1 of the Education Consolidation and Improvement Act of 1981.

The purpose of the program is to provide financial assistance for projects designed to improve the interstate and intrastate coordination of migrant education activities among State educational agencies (SEAs), local educational agencies (LEAs), and other agencies serving migratory children.

Eligible applicants are SEAs, which may apply individually or cooperatively (i.e., as a group or consortium).

Closing Date for Transmittal of Applications

Applications for new awards must be mailed or hand delivered on or before November 29, 1985.

Applications Delivered by Mail

Applications sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.144, 400 Maryland Avenue SW., Washington, DC 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:

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.

Application Delivered by Hand

Applications that are hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 3633, Regional Office Building #3, 7th and D Streets SW., Washington, DC.

The Applicant Control Center will accept hand-delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted by the Application Control Center after 4:00 P.M. on the closing date.

Program Information

The regulations for this program are contained in 34 CFR Part 205. An applicant should refer to these regulations for information on the types of activities that may be conducted (34 CFR 205.10), the development of a grant application (34 CFR 205.20-21), and the criteria that will be used to evaluate applications in the selection of grantees (34 CFR 205.31).

Projects supported under this program will be for a period of one year.

Section 205.3 of these regulations makes applicable the provision of the Education Department General Administrative Regulations (34 CFR 75.105) which permits the establishment of annual priorities. This year the Secretary has not established binding priorities for this program but in accordance with 34 CFR 75.105(c)(1) invites applicant SEAs to submit proposals that address the following objectives and concerns.

A. Project Objectives

Under sections 141 and 142 of Title I, the interstate and intrastate coordination of educational programs

for migratory children is an ongoing responsibility of each State that receives Chapter 1 migrant education program funds. Apart from this responsibility, section 143 of Title I and implementing regulations (34 CFR Part 205) authorize the funding of supplemental activities that are designed to improve existing levels of coordination. Effective, improved coordination activities will enhance educational opportunities for migratory children by overcoming the effects of differing State curricula, evaluation and testing procedures; varying levels of State emphasis on identification, recruitment, and use of the Migrant Student Record Transfer System (MSRTS); and inconsistent followup actions on behalf of migratory children when they leave the area in which they have resided.

Section 143 projects can and should be laboratories that produce significant and innovative improvements in ongoing coordination activities, improvements that all SEAs generally can be expected to build into their annual formula grant programs under sections 141 and 142 of Title I. However, in the past, some project applications under section 143 have sought funding for activities that, while permissible, appeared to be (a) somewhat tangential to the goal of making interprogram and interagency coordination a major factor in raising the educational attainment of migratory children, (b) for the principal benefit of only one SEA, or (c) for the benefit of eligible children, some of whom were not expected to receive educational services at different locations.

Also lacking in some applications was a commitment on behalf of the applicant SEA(s) to absorb the beneficial products of section 143 project grants into the State plans prepared under sections 141 and 142. The Secretary believes that section 143 project proposals can be formulated to provide greater benefits from the limited funds available.

After consultation with officials of the National Association of State Directors of Migrant Education and other SEA officials, the Secretary desires that applicants for grants under section 143 of Title I submit proposals that will stress coordination activities, particularly at an interstate level, that can have a lasting beneficial effect on the basic educational attainment of currently migratory children. Proposals should specifically address each of the following objectives:

1. The improvement of the educational performance of currently migratory children through the interstate coordination of educational services provided to children who attend schools at project sites in two or more States.

2. The improvement of coordination among States in the particular streams in which migratory children are believed to travel between Southern and Northern States: Eastern, Central, or Western.

3. The inclusion of worthwhile and beneficial results of a project by the participating SEAs in subsequent program plans each SEA prepares and implements under sections 141 and 142 of Title I.

B. Program Concerns

In addressing these objectives, applicants should focus their proposals on the following areas and related program concerns.

1. Identification, Recruitment, and Transfer of Student Records

a. Developing models for the timely transmission of current educational and health data by the MSRTS from one school teacher to another responsible for individual currently migratory children, including ways of effectively using potential destination information.

b. Ensuring the timely receipt, interpretation, and utilization of MSRTS records by classroom teachers, so that materials may be used to improve the grade placement, instructional services, and support services offered currently migratory children.

2. Instruction and Support Services

a. Meeting the needs of migratory children in a local project by using the knowledge, understanding, and information provided through interstate coordination about the past experiences and the levels of educational development of those children in order to provide educational and support services and reduce the likelihood that they will drop out of school.

b. Meeting the needs of migratory children in ways that will facilitate the completion of courses of study and enhance their opportunities for graduation from high school.

c. Identifying public and private nonprofit agencies that can serve both current and formerly migratory children and families and ways of facilitating access to and use of those services for those children.

3. Parental Involvement

a. Identifying means by which States that principally operate summer migrant education projects can coordinate with States from which most of the children come in order to promote more effective parent advisory councils.

b. Identifying means of improving the selection and organization of effective parent advisory councils at the State and local levels.

4. Program Management

Examining practices and developing models for improving migrant education programs and objectives in States with common characteristics, such as, large of small numbers of currently or formerly migratory children, short or long periods of time that migratory children reside in a State, and various administrative arrangements such as those involving LEAs and intermediate or regional services agencies.

5. Evaluation

a. Developing strategies for evaluating the impact of local migrant education projects, including but not limited to methodology for projects operating for varying lengths of time, in homebase and receiving States.

b. Developing strategies for evaluating the impact of State migrant education programs upon participating currently interstate migratory children, including but not limited to strategies for programs operating for varying lengths of time, in homebase and receiving States.

c. Developing strategies for assessing needs and establishing baseline data for individual curently migratory children and following up with appropriate measures of their educational progress in a local school district or in two or more districts.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review of and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A-95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order

12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within a geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review:

Alabama	New Mexico
Arizona	New York
Arkansas	North Carolina
California	North Dakota
Colorado	Northern Mariana Islands
Connecticut	Oklahoma
Delaware	Ohio
Florida	Oregon
Hawaii	Pennsylvania
Illinois	Puerto Rico
Indiana	Rhode Island
Iowa	South Carolina
Kansas	South Dakota
Louisana	Tennessee
Maine	Texas
Maryland	Utah
Massachusetts	Vermont
Michigan	Virginia
Mississippi	West Virginia
Missouri	Wyoming
Montana	Washington
Nebraska	Guam
Nevada	Virgin Islands
New Hampshire	
New Jersey	

Immediately upon receipt of this notice, applicants that are governmental entities, including LEAs, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by January 28, 1986 to the following address:

The Secretary, U.S. Department of Education, Room 4181 (84.144), 400 Maryland Avenue SW., Washington, DC 20202.

Proof of mailing will be determined on the same basis as applications.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.*

Application Forms

Application forms and program information packages are expected to be available by October 14, 1985. These may be obtained by writing to Divison of Migrant Education, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW. (Regional Office Building 3, Room 3616), Washington, DC 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is only intended to aid applicants in applying for assistance under this program. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of an application not exceed 20 pages.

The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1810-0028)

Available Funds

Approximately $2,065,600 will be available for the purposes described in section 143 for Fiscal Year (FY) 1986. Three hundred thousand dollars of this amount has been reserved for the purpose of contracting for the completion of a specific task to improve interstate coordination activities. A request for proposals appropriate to that task will be published separately. Approximately $1,765,600 will be available for FY 1986 grants. It is estimated that these funds will support about 12 projects with most awards between $80,000 and $200,000. These estimates do not bind the U.S. Department of Education to a specific number of grants or cooperative agreements, or to the amount of any grant, unless the amount is otherwise specified by statute or regulations.

Applicants are notified that the Secretary may elect to fund some of these projects as cooperative agreements (rather than grants) between the U.S. Department of Education and the applicant under section 415 of the Department of Education Organization Act and Title 31, United States Code "Money and Finance," Chapter 63, "Using Procurement Grants and Grant and Cooperative Agreements" (Pub. L. 97-258).

Applicable Regulations

The following regulations apply to this program:

(a) Regulations governing the Migrant Education Interstate and Intrastate Coordination Program in 34 CFR Part 205.

(b) The Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 74, 75, 77, 78, and 79.

Further Information

For further information, contact Mr. Louis J. McGuinness, Director, Division of Migrant Education, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW. (Regional Office Building 3, Room 3616), Washington, DC 20202. Telephone (202) 245-2722.

(20 U.S.C. 3803(a))

(Catalog of Federal Domestic Assistance No. 84.144: Migrant Education—Interstate and Intrastate Coordination Program)

Dated: October 3, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85-24089 Filed 10-8-85; 8:45 am]

BILLING CODE 4000-01-M

Office of Special Education and Rehabilitative Services

Projects With Industry; Fiscal Year 1986 Funding Priorities

AGENCY: Department of Education.

ACTION: Notice of Proposed Annual Funding Priorities for Fiscal Year 1986.

SUMMARY: The Secetary proposes annual funding priorities for the Projects With Industry Program. The Secretary proposes four priorities to direct funds to the areas of greatest need during Fiscal Year 1986. The proposed priorities would support applications which propose to (a) provide training at the sites where disabled individuals are to be subsequently employed, (b) make or have in place formal agreements with a number of industries and businesses, coalitions, consortiums between businesses, industries, labor unions to provide training and employment to disabled persons, (c) provide training and employment to disabled young adults who are about to leave educational settings, and (d) provide training and support services to enable disabled individuals currently in

specialized segregated work settings to move into more competitive employment. These priorities will ensure wide and effective use of program funds.

DATES: Interested persons are invited to submit comments or suggestions regarding the proposed priorities on or before November 8, 1985.

ADDRESS: All written comments and suggestions should be addressed to: James W. Moss, Ph.D., Associate Commissioner, Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, Room 3030, Switzer Building, 400 Maryland Avenue SW., MS–2312, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Arthur W. Cox, telephone: (202) 732–1333.

SUPPLEMENTARY INFORMATION: The Projects With Industry Program was established under Pub. L. 90–391 in 1968 and is currently authorized by section 621 of Title VI of the Rehabilitation Act of 1973, as amended by Pub. L. 95–602 and Pub. L. 98–221. Program regulations are established at 34 CFR Parts 369 and 379. The purpose of the program is to promote and develop working partnerships between the rehabilitation community and business, industry, labor organizations or trade associations. Through the development of such partnerships disabled individuals are to be provided with training, employment, and supportive services within business, industry or other realistic work settings to prepare them for competitive employment. In addition, projects will provide supportive services as required to maintain the handicapped individual's employment. Projects may also provide other services including (a) the development and modification of jobs to accommodate the expected needs of such individuals, (b) the distribution of special aids, appliances, or adapted equipment, and (c) the modification of facilities or equipment of the employer that are to be used by handicapped individuals.

Section 621(a)(2) of the Act specifies that agreement under the PWI program shall be jointly developed by the Commissioner, the prospective employer, and to the extent practical, the appropriate designated State unit and the handicapped individuals involved. Such agreements are to specify the terms of training and employment under the project and other provisions required by law or agreed upon by the participating parties.

Awards will be made in the priority areas described below.

Eligible Applicants: Individual employers, designated State units, other entities such as non-profit organizations, trade associations, organized labor, and profit making organizations are eligible applicants under this program.

Funds Available: Although final action on the Fiscal Year 1986 appropriation has not as yet been taken, the Department has requested $13,000,000 for this program in Fiscal Year 1986. All of the $13,000,000 will be available for new Projects With Industry projects in Fiscal Year 1986, to be divided as follows:

Priority 1: $3,000,000; Priority 2: $3,000,000; Priority 3: $2,000,000; Priority 4: $2,000,000; and $3,000,000 for other PWI applications which do not fall under any of the four priorities. Funding for these projects may range from $100,000 to $400,000 per project.

Proposed Priorities: In accordance with Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c) the Secretary proposes to give absolute preference, as described in the subsequent subsection entitled "Projects to be funded", to applications submitted in Fiscal Year 1986, in response to one of several priorities to be established.

Priority 1: Employers. Priority will be given to applications proposing to provide training exclusively at job sites where the individuals are to be subsequently employed, rather than in training programs or simulated work sites.

Priority 2: Coalitions and Consortia. Successes of the program to date have suggested that projects which have formal agreements to conduct training and provide employment with a number of different industries or businesses may have a greater impact on the number of disabled persons employed than projects which are more restricted in their opportunities for placement. This could include, for example, coalitions of independent industries with formal agreements to cooperate, labor unions which have agreements with a multitude of industries, single industries with multiple work sites, training organizations or agencies with formal agreements with a variety of industries, etc. Because of the desire to maximize employment opportunities under this program, a priority will be given to applications which provide assurances of such relationships and assurances that training can take place in a variety of associated industries.

Priority 3: Transition Projects to Aid Handicapped Young Adults Make the Transition From School to Work. Because of the need to prevent the potentially detrimental effects of early unemployment, a priority will be given to applications proposing to serve handicapped youth when they leave the educational system, including postsecondary educational programs.

Priority 4: Least Restrictive Environment. The concept of "least restrictive environments" incorporated in the Education for All Handicapped Children Act (Pub. L. 94–142) is applicable to adults as well as to children. Many severely disabled persons currently working in specialized segregated settings might be employable in competitive occupations if provided appropriate training and support services. Thus, a priority will be given to applications which propose to assist severely disabled persons to move from specialized, segregated work settings into less restrictive competitive or supported employment settings.

Projects To Be Funded: Applicants for new projects under this program will be awarded funds in Fiscal Year 1986 to the extent available in the order of highest rank for each of the categories listed below, as follows: Awards up to $3,000,000 for new projects under priority 1 (Employers); Awards up to $3,000,000 for new projects under priority 2 (Coalitions and Consortia); Awards up to $2,000,000 for new projects under priority 3 (Transition Projects); Awards up to $2,000,000 for new projects under priority 4 (Least Restrictive Environment); and Awards up to $3,000,000 for other Projects With Industry applications which do not fall under any of the four priorities.

Each applicant will be responsible for designating the priority category that applies to its proposed project. If more than one priority applies, the applicant is to choose the priority it considers most suitable. Should the priority category desingated by the applicant be determined to be inappropriate, the applicant will be contacted. In the event there are an insufficient number of successful project applications to use fully the available funds reserved for a specific priority category, the balance of available funds for that priority category will be applied equally to the other categories.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed annual priorities. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments received on or before the 30th day after publication of this document will be considered before the Secretary issues final priorities. All

comments submitted in response to these proposed priorities will be available for public inspection, during and after the comment period, in Room 3030, Switzer Building, 330 C Street SW., Washington, DC between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(29 U.S.C. 795g)

(Catalog of Federal Domestic Assistance Number 84.128B Projects With Industry Program)

Dated: October 4, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85-24090 Filed 10-8-85; 8:45 am]

BILLING CODE 4000-01-M

National Council on Vocational Education; Public Meeting

AGENCY: National Council on Vocational Education, Education.

ACTION: Notice of public meeting of the council.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Council on Vocational Education. It also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

DATE: October 21-22, 1985.

ADDRESS: Capitol Holiday Inn, 550 C Street, SW., Washington, DC.

SUPPLEMENTARY INFORMATION: The National Council on Vocational Education is established under Sec. 431 of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2431). The Council advises the President, Congress, and the Secretary of Education on:

A. Effectiveness of the act in providing students with skills that meet needs of employers;

B. Strategies for increasing cooperation between business and vocational education for training for new technologies;

C. Practical approaches for retraining adult workers;

D. Effective ways of providing access to information regarding market demand for skills;

E. Vocational education needs of the handicapped and their level of participation in vocational programs;

F. Implementation of the Jobs Training Partnership Act, and policies needed to build a coordinated capacity to train America's work force.

Agenda: The agenda will include: Swearing-in and orientation of new members. Discussion of FY 1986 plan of work.

Records are kept of the Council's proceedings, and are available for public inspection at the office of the National Council on Vocational Education from 8:30 am to 4:30 pm at 2000 L Street NW., Suite 580, Washington, DC 20036.

FOR FURTHER IMFORMATION CONTACT: Carolyn J. Edwards at above address. Telephone (202) 634-6110.

Signed at Washington, DC, on October 3, 1985.

James W. Griffith,

Executive Director.

[FR Doc. 85-24222 Filed 10-8-85; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs and Energy Emergencies

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Canada

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Canada concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/CA(EU)-13 from NUKEM, Hanau, the Federal Republic of Germany, to Atomic Energy of Canada, Ltd., Chalk River, Canada, 50 kilograms of uranium, enriched to 93.15% in U-235, in the form of uranium metal, for fabrication of fuel for the NRX and NRU reactors, after recovery from scrap processing.

The material involved was originally transferred from Canada to the Federal Republic of Germany, for cold scrap recovery, with the express understanding that it would subsequently be returned from the Federal Republic of Germany to Canada upon completion of scrap recovery processing. Notification of the original transfer from Canada to the Federal Republic of Germany was published in the **Federal Register** on November 21, 1984 (49 FR 45896).

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: October 3, 1985.

For the Department of Energy.

George J. Bradley, Jr.,

Acting Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 85-24225 Filed 10-8-85; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 81-24-NG]

Natural Gas Imports; Tennessee Gas Pipeline Company; Application To Amend Conditional Authorization to Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of Application To Amend Authorization to Import Natural Gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of receipt on September 17, 1985, of the application from Tennessee Gas Pipeline Company (Tennessee) to amend its existing conditional authorization to import Canadian natural gas by incorporating its amended April 19, 1985, precedent agreement with TransCanada Pieplines Limited (TransCanada). This Agreement contains new pricing and take provisions that make the arrangement more competitive and market-responsive. The new pricing provisions establish a two-part price consisting of a base monthly demand charge of $28.8958 (U.S.) for each Mcf of daily contract quantity and a base commodity charge of $2.55 per MMBtu (U.S.) which is subject to a monthly adjustment based upon the prices of No. 2 and No. 6 fuel oil and natural gas in the state of New York. The amended agreement also provides for a required purchase of the lessor of 75 percent of the annual contract quantity or the quantity ratable with Tennessee's purchases from domestic suppliers.

The application is filed with the ERA pursuant to Section 3 of the Natural Gas

Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene or notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, and written comments are to be filed no later than 4:30 p.m. on November 8, 1985.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Jr., Office of Natural Gas Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Washington, DC 20515, (202) 252–8162.

Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, S.W., Washington, DC 20585, (202) 252–6667

SUPPLEMENTARY INFORMATION:

Tennessee is seeking approval of an April 19, 1985, precedent agreement as amended on August 19, 1985, with TransCanada which affirms the parties' intentions to execute a proposed new gas purchase contract. The proposed contract will amend their current agreement and supercede the agreements of November 5, 1980, and January 9, 1981, in which Tennessee agreed with TransCanada to enter into a gas purchase contract for Canadian natural gas provided all necessary authorizations were obtained. These agreements were the basis for Tennessee's 1981 application for an import authorization and ERA's subsequent issuance on May 19, 1982, of DOE/ERA Opinion and Order No. 44 (1 ERA 70,549) (Order No. 44) conditionally authorizing Tennessee to import natural gas from Canada. The order was conditioned upon the completion, and review by the DOE, of any FERC environmental analyses of Tennessee's proposed construction and operation of the additional facilities needed to transport the imported gas from the border delivery point near Niagara Falls, New York.

Subject to this condition, Order No. 44 authorizes Tennessee to import 300,000 Mcf per day of natural gas for a period of ten years from the date of first delivery or from November 1, 1982, whichever occurs first, plus one year for receipt of make-up gas, in accordance with the 1980 and 1981 precedent agreements. Order 44 also authorizes Tennessee to import on a best-efforts basis volumes of gas in excess of its contract volumes. Order 44 established a unit price of no more than $4.94 per MMBtu. To date, gas has not flowed under this authorization

The new agreement reduces the volumes covered by the arrangement to the level licensed by Canada's National Energy Board— 150,000 Mcf per day and a total contract quantity of 814,530,000 Mcf. It contains the two-part pricing provision that includes a base monthly demand charge of $28.8958 (U.S.) for each Mcf of daily contract quantity plus a base commodity charge of $2.55 per MMBtu. As of March 1985 the price approximated $3.50 per MMBtu at the Canadian border. It also contains provision for an extension of the terms of the arrangement after October 31, 1998, to October 31, 2002, provided that applications for extension are filed by October 31, 1995, and approvals are received. Other changes in the contractual provisions include monthly price adjustments of the commodity component tied to the prices of No. 2 and No. 6 fuel oil and natural gas in New York State and changes in the demand charge to reflect changes in fixed transportation costs. The agreement also provides for annual renegotiations of the pricing provision, if necessary, to make it comparable to the price of major energy sources, including natural gas, competing in Tennessee's markets.

The new agreement also changes the minimum take provisions of the arrangement. It establishes an annual required purchase of gas that mandates a take equal to the lessor of 75 percent of the annual contract quantity or that quantity which is ratable with Tennessee's purchases from identified domestic gas supply contracts. The previous agreement required Tennessee to take or pay for 75 percent of the annual volumes made available by TransCanada without other qualification.

Tennessee asserts that the provisions of the proposed contract are substantial improvements over the former agreements, are competitive and permit greater price flexibility in the market over the term of the arrangement. Accordingly, Tennessee submits that, overall, its import arrangement complies with the requirements of DOE's policy guidelines and is not inconsistent with the public interest.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest. Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant has asserted that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Other Information

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Office of Natural Gas Programs, Economic Regulatory Administration, Room GA–033–B, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585. They must be filed no later than 4:30 p.m. November 8, 1985.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice

to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Tennessee's application is available for inspection and copying in the Office of Natural Gas Programs' Docket Room, GA-033-B, at the above address. The docket room is open between the hours of 8:00 a.m. 4:30 p.m., Monday through Friday, except holidays.

Issued in Washington, DC, September 27, 1985.

Paula A. Daigneault,

Director, Office of Natural Gas Programs, Economic Regulatory Administration.

[FR Doc. 85-24065 Filed 10-8-85; 8:45 am]

BILLING CODE 6450-01-M

Office of Conservation and Renewable Energy

Energy-Related Business Development Grant Project

AGENCY: Low-Income Weatherization Assistance Program, Office of Conservation and Renewable Energy, DOE.

ACTION: Notice of Solicitation.

SUMMARY: The United States Department of Energy, Low-Income Weatherization Assistance Program (WAP), is entering into a competitive grant program to provide supplemental support for low-income weatherization services through the development of energy-related business enterprises. It is the Department's goal to award approximately 50 grants for the calendar year 1986. Awards totalling not more than $2 million are subject to the availability of funds.

The purpose of this solicitation is to promote those activities which demonstrate promising business strategies for providing weatherization services without Federal funds. The proceeds of these business ventures would ultimately be used to provide additional weatherization services to the eligible population.

ELIGIBILITY: All current WAP grantees and subgrantees.

ADDRESS: Single copies of the solicitation can be obtained by writing to: Document Control Specialist, U.S. Department of Energy, Office of Procurement Operations, MA-451.1/ Room 1J-005, 1000 Independence Avenue, SW., Washington, D.C. 20585.

DATE: The closing date for receipt of applications is November 4, 1985.

FOR FURTHER INFORMATION CONTACT: Ms. JoAnne Phipps, Weatherization Assistance Program, CE-232, Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585, telephone (202) 252-2207.

Issued in Washington, D.C. on October 7, 1985.

Donna R. Fitzpatrick,

Acting Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 85-24267 Filed 10-7-85; 1:53pm]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TA86-1-48-000, 001]

ANR Pipeline Co.; PGA Rate Change Filing

October 2, 1985.

Take notice that on September 30, 1985, ANR Pipeline Company (ANR), pursuant to section 15 of the General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 1, tendered for filing with the Federal Energy Regulatory Commission (Commission) Third Revised Sheet No. 18 and Second Revised Sheet No. 19 to Original Volume No. 1 of its Tariff to be effective November 1, 1985.

Third Revised Sheet No. 18 reflects a 35.37¢ per dekatherm ("Dth") decrease in the gas cost component of the commodity rate of ANR's CD-1 and MC-1 Rate Schedules, an increase of $0.0670 in the monthly demand rate applicable to the CD-1 and MC-1 Rate Schedules and a decrease in ANR's one part rates applicable to Rate Schedules SGS-1 and LVS-1 of 35.21¢ and 34.54¢, respectively, per Dth.

ANR states that the change in rates set forth above is a result of factors which are outlined below:

A. Factor resulting in commodity cost reductions.

1. Reductions in the cost of gas from domestic producers reflects the continuance of ANR's existing purchase and scheduling practices that have achieved actual reductions experienced for the six months ended July 31, 1985.

2. Reductions in the cost of gas from domestic producers which have been achieved as a result of renegotiated gas purchase contracts.

3. Reductions in the cost of gas imported from Canada as a result of the downward movement of price adjustment indices contained in the existing purchase agreements.

4. A reduction in the surcharge for deferred gas costs of 6.30¢ per Dth from the May 1, 1985 PGA.

5. Reductions totaling 3.36¢ per Dth for two surcharges resulting from a reduction in the carrying charges associated with ANR's take-or-pay balances and charges associated with one-time payments and other reimbursement arrangements negotiated with suppliers in lieu of full take-or-pay payments. See Article IX, B of the Stipulation and Agreement at *ANR Pipeline Company*, Docket Nos. RP82-80, *et al.*

B. Factors resulting in partially offsetting rate increases.

1. Commodity Rates

a. Producer rate increases for regulated supply sources as authorized by the Natural Gas Policy Act of 1978.

b. An increase of 5.67¢ per Dth resulting from the expiration of a negative adjustment for the period August 1, 1985 through October 31, 1985 to remove purchased gas costs incurred in providing service to ANR's Rate Schedule EUT-1 transportation customers. See "Order Accepting for Filing and Suspending Tariff Sheets, Subject to Refund and Conditions, and Setting Matter for Hearing" in *ANR Pipeline Company*, Docket No. TA85-2-48-000, 31 F.E.R.C. (CCH) ¶ 61,127 (April 30, 1985).

2. Demand Rates—An increase of $0.0670 in the demand charge to CD-1 and MC-1 customers to reflect the pass-through of the demand rate increases in effect for Great Lakes Gas Transmission Company, Texas Gas Transmission Corporation and Midwestern Gas Transmission Company.

Second Revised Sheet No. 19 reflects the fact that since there were zero MSAC's reported by ANR's customers, there is no PGA reduction.

ANR states that copies of the filing were served upon all of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests shall be filed on or before October 10, 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. 85-24136 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-3-22-003]

Consolidated Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 3, 1985.

Take notice that Consolidated Gas Transmission Corporation (Consolidated) on September 30, 1985, filed Substitute Sixth Revised Sheet No. 31, to comply with the Commission's suspension order in this proceeding dated August 30, 1985.

The filing reduces Consolidated's RQ commodity rates by 10.41 cents per dakatherm from the August 1, 1985, filing to reflect reductions in the rates of pipeline suppliers, and to eliminate a $572,845 supplier refund as required by the Commission. Consolidated will file a future compliance filing to comply with conditions relating to exchange imbalances as required by the Commission in Ordering Paragraphs (C) and (D).

Copies of the filing were served upon Consolidated's jurisdictional customers, interested state commissions and parties to the proceeding.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All motions or protests should be filed on or before October 10, 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. 85-24137 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP85-875-000, et al.]

Natural Gas Certificate Filings; East Tennessee Natural Gas Co. et al.

October 1, 1985.

Take notice that the following filings have been made with the Commission:

1. East Tennessee Natural Gas Company

[Docket No. CP85-875-000]

Take notice that on September 12, 1985, East Tennessee Natural Gas Company (Applicant), P.O. Box 10245, Knoxville, Tennessee 37939-0245, filed in Docket No. CP85-875-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for the purpose of attaching additional natural gas supplies, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate (1) 32.2 miles of 12-inch pipeline, (2) 0.2 mile of 24-inch pipeline, and (3) a 6210 horsepower compressor station. Applicant states that the proposed pipeline system would extend from Nora, Dickenson County, Virginia, where the proposed compressor station would be constructed, to Applicant's main 12-inch line near Wallace, Washington County, Virginia. The estimated cost to construct the proposed facilities, including filing fees, is $24,279,600.00, which, applicant states, would be financed with borrowed funds.

Applicant states that on August 8, 1985, it entered a gas purchase and sales agreement for a 15-year term with Equitable Resources Energy Company for the purchase of an estimated 35,000 Mcf of natural gas per day to be produced in Dickenson County Virginia. Applicant further estimates that a total of 241,050,000 Mcf of proven and probable reserves would be purchased under the August 8, 1985, agreement. Applicant would use the proposed facilities to attach these reserves for its system supply.

Comment date: October 22, 1985, in accordance with Standard Paragraph F at the end of this notice.

2. Midwestern Gas Transmission Company

[Docket Nos. CP85-743-000 and CP85-743-001]

Panhandle Eastern PipeLine Company Trunkline Gas Company

[Docket No. CP85-779-000]

Take notice that on July 29, 1985, and August 29, 1985, Midwestern Gas Transmission Company (Midwestern), P.O. Box 2511, Houston, Texas 77001 filed in Docket Nos. CP85-743-000 and CP85-743-001, respectively, and on August 13, 1985, Panhandle Eastern PipeLine Company (Panhandle) and Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP85-779-000 requests pursuant to § 157.205 of the Regulations for authorization to transport natural gas on behalf of Northern Petrochemical Company (Shipper) under the certificates issued to Midwestern in Docket No. CP82-414-000, to Panhandle in Docket No. CP83-83-000, and to Trunkline in Docket No. CP83-84-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests on file with the Commission and open to public inspection.

Midwestern, Panhandle and Trunkline (Applicants) propose to transport up to 20,000 Mcf of natural gas per day and up to 5,840,000 Mcf of natural gas per year on behalf of Shipper. It is stated that Shipper would purchase natural gas from Northern Gas Marketing Inc., which would cause the natural gas to be delivered to either Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), in Moore County, Texas, and Kiowa County, Kansas, or Valero Hydrocarbons in Beckham County, Oklahoma. It is further stated that these volumes would be delivered to Panhandle by Northern and Valero Hydrocarbons at existing interconnections in the above counties for further transportation. As proposed in Docket No. CP85-779-000, Panhandle would transport Shipper's volumes to an existing interconnection with Trunkline in Douglas County, Illinois. From there, Trunkline would transport Shipper's volumes to an existing interconnection with Midwestern in Vermilion County, Illinois. Midwestern, as proposed in Docket Nos. CP85-743-000 and CP85-743-001 would transport and deliver Shipper's volumes to Northern Illinois Gas Company (NIGAS) at an existing interconnection located near Joliet, Illinois. NIGAS, the natural gas distributor for Shipper, would then deliver these volumes to Shipper's plant in Morris, Illinois, it is asserted.

For the respective transportation services on behalf of Shipper (1) Panhandle proposes to charge 23.40 cents per Mcf for volumes transported from Beckham County, Oklahoma, and 31.20 cents per Mcf for volumes transported from Moore County, Texas, and Kiowa County, Kansas, in accordance with its Rate Schedule IT, (2) Trunkline proposes to charge 3.95 cents per Mcf for volumes transported in accordance with its Rate Schedule IT, and (3) Midwestern proposes to charge 3.18 cents per Mcf transported in accordance with Rate Schedule IT-1. Midwestern's rate is inclusive of the current Gas Research Institute

Surcharge of 1.25 cents per Mcf of natural gas delivered to Shipper.

Applicants also request flexible authority to add or delete receipt/delivery points associated with sources of natural gas acquired by the Shipper and deliveries of natural gas to Shipper. Applicants assert that any changes in receipt and/or delivery points would be on behalf of Shipper at the same end-use location and under the same terms and conditions as would be authorized herein. The flexible authority applies only to points related to sources of gas supply, not to delivery points in the market area. Applicants would file reports providing certain information with regard to the addition or deletion of receipt and/or delivery points as further detailed in the requests and any additional sources of gas would be obtained to constitute the transportation quantities herein and not to increase those quantities, it is stated.

Shipper would utilize the natural gas transported for boiler fuel and process heating, it is asserted. Applicants further state that they would not construct or add to existing facilities to provide the transportation services. Applicants propose to perform the services for a term to be continued until the date established by the Commission for the termination of end-user transportation services for any end-use, or for a period of two years from date of first delivery. Service was commenced on June 27, 1985, pursuant to § 157.209(a)(2), it was reported.

Comment date: November 15, 1985, in accordance with Standard Paragraph G at the end of this notice.

3. Northern Natural Gas Company, Division of InterNorth, Inc.

[Docket No. CP85-881-000]

Take notice that on September 16, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP85-881-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate one large volume delivery point and appurtenant facilities in Saunders County, Nebraska, to accommodate natural gas deliveries to Minnegasco, Inc. (Minnegasco), under the certificate issued in Docket No. CP82-401-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant states that the proposed delivery point would be used to deliver natural gas to DeRosa Pasta Company, to be served by Minnegasco. The required volumes, up to 1,003 Mcf of natural gas per day in the fifth year of service, would be served from the firm entitlement designated by Minnegasco for delivery to Wahoo, Nebraska, it is indicated.

The total estimated cost of the facilities is $66,000, which would be financed with funds on hand, it is explained.

Comment date: November 15, 1985, in accordance with Standard Paragraph G at the end of this notice.

4. Southern Natural Gas Company

[Docket No. CP85-878-000]

Take notice that on September 13, 1985, Southern Natural Gas Company (Southern), P.O. Box 2653, Birmingham, Alabama 35202, filed in Docket No. CP85-878-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Atlanta Gas Light Company (Shipper), acting as agent for Archer Daniels Midland Company (End-user), under Southern's blanket certificate in Docket No. CP82-406-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Southern states that the End-user has entered into a gas sales contract with SNG Trading Inc. dated July 29, 1985, to acquire natural gas. In order to effectuate delivery of the gas purchased, End-user entered into an agreement with Shipper dated July 29, 1985, wherein Shipper agreed to transport through its facilities the gas purchased by End-user to its plant in Macon, Georgia, and to act as agent for End-user in arranging transportation by Southern of the gas purchased by End-user. Shipper has, acting as agent for End-user, entered into a transportation agreement with Southern dated July 29, 1985. The transportation agreement provides that Southern will transport up to 2,000 MMBtu equivalent of gas per day from Louisiana, Mississippi, and Texas and redeliver the gas to Shipper for End-user's account on an interruptible basis at Southern's existing Macon-Milledgeville No. 1 measuring station in Bibb County, Georgia. Shipper would then transport and redeliver the gas to End- user at its plant in Macon, Georgia.

Southern would charge Shipper the following rates for transportation services: (a) Where the volumes transported and redelivered on any day to Shipper under Southern's Rate Schedule T-IS, when added to volumes of gas delivered under Southern's Rate Schedule OCD to Shipper, do not exceed the daily contract demand of Shipper, 49.45 cents per MMBtu, and (b) where the volumes transported and delivered on any day to Shipper under Southern's Rate Schedule T-IS, when added to volumes of gas delivered under Southern's Rate Schedule OCD to Shipper, exceed the daily contract demand of Shipper, 78.85 cents per MMBtu.

It is stated that the transportation service commenced on July 29, 1985 and Southern seeks authorization to transport gas for Shipper for a period ending the earlier of (i) June 30, 1986; (ii) termination of authorization as provided under Part 157.207 of the Commission's Regulations; or (iii) termination of the transportation agreement by either party.

Southern also requests flexible authority to add or delete sources of supply and/or delivery or redelivery point, to Shipper at existing points of interconnection between Southern and Shipper in order to provide service on behalf of Shipper as agent for End-user. The volumes transported under flexible authority by Southern to Shipper would ultimately be delivered to the same End-user location within the peak day, average day and annual transportation volumes as stated in the request. Southern states that it would file a report providing certain information with regard to the addition or deletion of any gas suppliers.

Comment date: November 15, 1985, in accordance with Standard Paragraph G at the end of this notice.

5. Tennessee Gas Pipeline Company, a Division of Tennaco Inc.

Producer-Suppliers of Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP85-910-000]

Take notice that on September 25, 1985, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP85-910-000 an application pursuant to section 7 of the Natural Gas Act, on its own behalf and on behalf of producer-suppliers currently selling natural gas to Tennessee, for the following authorizations: (1) Blanket authority for limited-term partial abandonment of certain certificated sales to Tennessee, (2) a blanket limited-term certificate of public convenience and necessity authorizing the sale in interstate commerce of such partially abandoned gas, (3) a blanket limited-term certificate of public convenience and necessity

authorizing Tennessee to provide the transportation services necessary to implement an emergency marketing program on its system, and (4) a blanket limited-term certificate of public convenience and necessity authorizing interstate pipelines other than Tennessee to transport gas on behalf of end-users, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee states that pursuant to the Commission's directive in Opinion No. 240–A, 32 FERC ¶61,347, issued September 3, 1985, on September 9, 1985, it filed an increase in its rates by approximately $1.75 per dt. It is contended that such a rate increase has had a devastating effect on Tennessee's sales, which had dropped to only 327,000 Mcf per day by September 15, 1985.

It is claimed that one major effect of this sales decline is that Tennessee has no market for 489,000 Mcf per day of casinghead gas and gas which must be produced in order to avoid well damage. It is claimed that in situations such as this, Tennessee would ordinarily release this gas to the producer who could then find a market for it and avoid shutting in oil production or damaging his potential for recovery of reserves. Tennessee states, however, that 400,000 Mcf per day of this production are dedicated pursuant to the Natural Gas Act and the Natural Gas Policy Act of 1978 (NGPA) and that, as a result, the Commission must grant abandonment authority in order to permit these producers to avoid the ill effects of the Commission-directed increase in Tennessee's rates.

It is averred that the requested authorizations are necessary to mitigate hardship which certain producer-suppliers of Tennessee who produce-supply certificated casinghead gas or produce-supply certificated gas produced from wells which, in the absence of continued production, would experience irreparable well bore or reservoir damage (collectively referred to as Certificated Producer Priority Gas (CPPG)), would be expected to experience.

It is stated that pursuant to Tennessee's CPPG program, Tennessee would identify those CPPG Volumes that are in excess of Tennessee's system supply requirements and would, on a monthly basis, notify its suppliers who produce CPPG volumes in excess of Tennessee's system supply requirements that Tennessee has no recourse but to cause such excess supply to be shut in or, in the alternative, to be released on a limited-term basis for direct sale to Tennessee's existing customers (eligible third-party purchasers). It is indicated that in the event that the suppliers elect to market excess CPPG volumes to eligible third party purchasers, Tennessee would act as agent to arrange the sale and purchase of excess CPPG. Any volumes of CPPG released for sale to eligible third party purchasers would be applied toward take-or-pay relief and the CPPG volumes released for sale to third party purchasers would not result in a reduction in Tennessee's level of nominations from the selling producers-supplier below what they would otherwise be under current Tennessee purchasing practices.

Tennessee proposes to transport any excess CPPG gas delivered into its system on behalf of eligible purchasers and would make arrangements for the transportation and delivery of excess CPPG gas by third-parties on behalf of eligible producers.

The proposed term of the program is he period extending from the date on which an acceptable certificate of public convenience and necessity is issued to Tennessee through December 31, 1985, unless terminated earlier.

It is contended that in spite of aggressive and innovative tactics, Tennessee continues to experience enormous problems in matching supply with demand. Tennessee claims that through July 1985 total sales are 45 percent less than for the same period in 1984 and that it is not difficult to pinpoint the reasons for this decline.

Tennessee states that spot market prices have fallen to a range of $2.25 per million Btu to $2.35/million and that the U.S. Natural Gas Clearinghouse attributes the reduction to the availability of excess supplies and to abnormal softening of demand in major Northwest markets. It is averred that the problems engendered by excess supply have been compounded by the abnormal prevailing weather conditions in Tennessee's markets. Tennessee declares that not only was the winter of 1984–85 relatively mild, but the summer of 1985 has been cooler than usual, reducing summer electric load, and that in the Northeast, a drought has restricted air conditioning usage in New York and New England, lessning what was already a soft demand for gas in these areas.

It is asserted that the negative impact on sales created by nature has been exacerbated by the evolution of the regulatory scheme that governs the industry. Tennessee claims that in the quest to permit the natural gas industry to govern itself, traditional standards have been struck in favor of allowing burner tip customers to seek energy supplies at the least cost. Tennessee states that Order No. 380, which it claims effectively eliminated minimum bills, has been in effect for a year and its impact has been more severe than Tennessee anticipated. It is claimed that for the 12-month period ending June 1985, Tennessee's sales were 767,000,000 Mcf, some 24 percent less than the prior 12-month period.

It is claimed that in addition to order No. 380, the Commission also opened Tennessee's markets to its special marketing programs (SMP). Tennessee states that in its ordered issued December 21, 1985, in Docket No. CI83–269–000, the Commission provided that if a pipeline releases gas under its contracts with producers the pipeline must transport SMP supplies to its customers which displace the pipeline's sales by up to 10 percent of its contracts with the customers. It is claimed that since Tennessee had already offered, as part of its 1983 Emergency Gas Purchase Policy, to release gas for producers agreeing to the program, it automatically participated in the transportation of SMP volumes. It is asserted that during the seven months that those orders have been in effect, Tennessee's sales have dropped to 363,200,000 Mcf during the same period in 1984, a decline of 43 percent. Thus, it is contended, the SMP programs have exacerbated the sales impact of Order No. 380.

It is further stated that a pall has been cast over the business activity of the entire natural gas pipeline industry as a result of the notice of Proposed Rulemaking in Docket No. RM85–1–000. It is asserted that although the rule is not yet effective, its proposed restructuring of the manner in which pipelines can do business is so comprehensive and revolutionary that Tennessee and its customers are unable to plan on either a short-term or long-term basis, and that, as a result, Tennessee has in many instances been unable to obtain commitments from its customers to purchase specific gas supplies, thus further restricting Tennessee's ability to market gas and thus its ability to purchase gas from its producers.

It is declared that by far the most compelling reason for Tennessee's inability to purchase gas from the CPPG producers, however, is the Commission's insistence in Opinion No. 240–A that Tennessee increase its rates to recover $141 million in unrecovered purchased gas costs. It is averred that by directing such a dramatic increase in Tennessee's rates, the Commission has produced the anomalous result that even if the CPPG producers were to offer their gas to Tennessee free, Tennessee could not take it because it has no market for it.

Tennessee states that it has come forward with this excess CPPG proposal to enable its producer suppliers to avoid the punitive effects of the Commission's actions. It is claimed that Tennessee's customers and its producer-suppliers would benefit from the preservation of reserves that might otherwise be prematurely lost as a result of damage to the reservoir or wellbore occasioned by cessation of production. Tennessee's producer-suppliers would benefit from the opportunity to generate revenue from gas streams that would otherwise be shut-in for lack of a market, and customers of Tennessee would benefit from the reduction in Tennessee's take-or-pay liabilities and exposure as a result of the application of take-or-pay credits that would be generic to the program.

Under the excess CPPG Program, Tennessee would offer its service to arrange the sale and purchase of excess CPPG gas to eligible purchasers. Any Tennessee agency capacity would be defined by the respective arrangements established. Any existing Tennessee customer who is connected to Tennessee's system or who can receive deliveries of excess CPPG would be an eligible purchaser under the proposed program. Any exising customers of Tennessee who elect to purchase excess CPPG volumes would be required to certify, under oath, that, due to the availability or other lower-cost energy supplies, the volumes of CPPG requested for purchase would not otherwise be purchased under any other Tennessee rate schedule, including Rate Schedule R. Eligible purchasers who are customers of existing customers of Tennessee would certify under oath that the volumes of CPPG requested for purchase would not otherwise be purchased from Tennessee's existing customers, due to the availability of other lower-cost energy supplies. It is stated this certification is necessary to ensure that CPPG purchases would in fact increase the level of takes from the producers above the level which would be achieved absent the CPPG purchase and thereby reduce Tennessee's take-or-pay exposure. All of Tennessee's producer-suppliers of excess CPPG would be eligible to sell excess CPPG pursuant to this proposal.

It is claimed that to further the goals of enchancing the marketability of excess CPPG is Tennessee's market areas, increasing the amount of CPPG that Tennessee's producer's would be able to sell, and reducing Tennessee's take-or-pay exposure, Tennessee would, in its sole discretion and at the request of its CPPG producer-suppliers, agree to release from the natural gas volumes dedicated to its general system supply, for the term of the applicable sale under this program, the quantities of CPPG which each producer desires to make available for sale. It is asserted that as a condition to the agreement by Tennessee to release a producer's CPPG under this program, the producer would agree to grant Tennessee take-or-pay relief. It is averred that the volume tendered for sale would not result in a reduction in Tennessee's level of nominations from that producer below what they would otherwise be under existing Tennessee purchasing practices and that all sales made would be additions to Tennessee's normal takes from that producer.

Tennessee proposes to transport on behalf of eligible purchasers any excess CPPG produced by eligible producers and in the event that any facilities become necessary for the transportation of excess CPPG, Tennessee requests blanket authorizational to construct such facilities.

For all CPPG quantities transported and delivered by Tennessee on behalf of eligible purchasers through facilities owned by Tennessee, Tennessee proposes to charge a transportation rate equal to its commodity rate for Rate Schedule CD sales in the rate zone in which the gas is sold. Tennessee believes that this rate is appropriate for CPPG transportation services because it would enhance the program's chances of success by minimizing the delivered price to the eligible purchasers and it would represent a meaningful contribution to help offset Tennessee's fixed cost of service.

Tennessee states it may receive CPPG transporatation quantities from wells connected to its system or from other mutually agreeable points of delivery and that it would redeliver the CPPG transportation quantities to eligible purchasers at existing points of delivery or at other mutully agreeable points.

It is claimed the costs of transporting and delivering the gas from the elibible producer into Tennessee's system would be borne by the eligible producer, and the costs of transportating and delivering the gas from Tennessee's system to the eligible purchasers would be borne by the eligible purchasers.

Tennessee claims blanket authorization under section 7(c) of the Natural Gas Act to render CPPG transportation services would be essential to the efficient operation of the excess CPPG program and is proposed to be effective for the period extending from the date on which a certificate of public convenience and necessity is issued to Tennessee through December 31, 1985, or such shorter period as this program may be in effect. It is explained that to assist the Commission in its review of CPPG transportation services performed bny Tennessee pursuant to this blanket authorization, Tennessee would provide the Commission with monthly reports.

It is stated that any transportation services rendered behalf of elibible purchasers by persons other than Tennessee would be performed on a self-implementing basis in accordance with the Commission's regulations under section 311 of the NGPA or section 7(c) of the Natural Gas Act and § 284.221 of the Regulations. It is further stated that in order for an interstate pipeline to transport CPPG gas to end-users, transportation authorization under section 7(c) of the Natural Gas Act would be necessary. It is averred that in order to facilitate this form of transportation service, limited-term blanket transportation authority is essential and that, therefore, Tennessee requests a blanket limited-term certificaticate of public convenience and necessity authorizing interstate pipelines other than Tennessee to transport CPPG gas on behalf of end-users on a self-implementing basis in accordance with the terms and conditions of Order Nos. 234–B and 319 which are not inconsistent with Tennessee's instant application. It is claimed that transportation services rendered pursuant to this proposal would be on a voluntary basis, subject to available pipeline capacity.

To facilitate any incidental transportation of CPPG gas by intrastate pipeline, Hinshaw pipelines, local distribution companies, or any other entity, Tennessee requests that the Commission authorize intrastate pipelines to transport, on a self-implementing basis, CPPG gas purchased by an end-user and transported by an interstate pipeline in accordance with the terms and conditions of the application and in accordance with the terms and conditions of Subpart C of Part 284 of the Commission's Regulations which are not inconsistente with the application, local distribution companies and Hinshaw pipelines to transport CPPG gas purchased by end-users and transported by interstate pipelines on the same terms and conditions as intrastate pipelines, and any other blanket transportation authorizations which may be necessary to implement this program on a self-executing basis.

Tennessee also requests a waiver of the reporting requirements of §§ 157.207,

157.209(g), 284.4(b), 284.106(a), 284.126, and 284.222(e) of the Commission's Regulations with respect to CPPG transportation services. It is contended that the requested waiver would be appropriate because the information required by these regulations would be included in a more organized manner in the monthly reports.

It is asserted that the inclusion of natural gas in the available CPPG supplies that is subject to the Commission's jurisdiction under the Natural Gas Act requires both certificate and abandonment authorizations under section 7 of the Natural Gas Act. Tennessee states that in order to include gas which Tennessee would agree in its sole discretion to release from the volumes dedicated to its system supply, Tennessee requests, on behalf of producer-suppliers currently selling natural gas to Tennessee, blanket authority for limited-term partial abandonment of certificated sales to Tennessee and blanket limited-term certificate of public convenience and necessity authorizing the sale of interstate commerce of such partially abandoned volumes of gas to eligible CPPG purchasers.

It is proposed that under the blanket abandonment authority, the producer would only be authorized to abandon its sale to Tennessee to the limited extent necessary to make the CPPG sale and that, upon expiration of the CPPG sale for which the gas was released by Tennessee and abandoned under the Natural Gas Act, the producer's service obligation to Tennessee with respect to that gas would resume; and the producer would not be required to seek section 7(b) abandonment authority upon expiration of the CPPG sale. It is claimed that if Tennessee notified the producer in writing that the abandoned gas was in Tennessee's sole opinion necessary to serve system requirements prior to the expiration of the CPPG sale, the producer's service obligation to Tennessee with respect to that gas would resume upon receipt of such written notification without the necessity of section 7(b) abandonment authorization.

It is further proposed that under the blanket limited-term certificate of public convenience and necessity, the producer would be authorized to make an interstate sale of the abondoned gas to an eligible CPPG purchaser for the limited period of the CPPG sales transaction and that the producer would not be required to obtain section 7(b) abandoment authorization upon expiration of the authorized CPPG sale.

It is explained that upon acceptance of a contract to engage in a CPPG sale, a producer would be deemed to have accepted the terms of blanket certificate and abandonment authorization and that Tennessee, as agent for the producer, would inform the Commission of these events in monthly reports. Tennessee also claims that if the events and circumstances which have necessitated the implementation of the excess CPPG programs cease, in Tennessee's judgment, to exist prior to December 31, 1985, Tennessee may shorter the effective period of the program by giving prompt written notice to the Commission and to the participants in the program of the time and date on which the program would cease to be in effect.

Comment date: October 21, 1985, in accordance with Standard Paragraph F at the end of this notice.

6. Transcontinental Gas Pipe Line Corporation

[Docket No. CP-865-000]

Take notice that on September 9, 1985, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP85-865-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport up to the dekatherm equivalent of 10,000 Mcf of natural gas per day, on an interruptible basis, for the benefit of E.I. du Pont de Nemours and Company (Du Pont), and authorizing Applicant to use an existing tap on its facilities for the proposed transportation, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that its proposed transportation service is one link in a chain of proposed gas transportation arrangements, through which Du Pont would receive gas that it expects to purchase from Sun Exploration and Production Company (Sun). According to Applicant, Trunkline Gas Company (Trunkline) would transport gas volumes for Du Pont's account from Sun's offshore Texas and Louisiana blocks, via High Island Offshore System, U-T Offshore System (U-TOS), and Stingray Pipeline Company (Stingray). Applicant reports that Trunkline would deliver gas from U-TOS directly to Applicant in Cameron Parish, Louisiana, and would deliver gas from Stingray to Natural Gas Pipeline Company of America (Natural). Natural would then deliver gas, alternatively, to Applicant in Cameron Parish or to Sabine Pipe Line Company (Sabine) at Texaco Inc.'s Henry Plant in Vermilion Parish, Louisiana. Applicant states.

According to Applicant, Sabine would transport the gas that it receives from Natural to Neches Gas Distribution Company in Orange County, Texas, which would in turn deliver the gas to Longhorn Pipeline Company (Longhorn), an affiliate of Du Pont, at Du Pont's Sabine Plant in Jefferson County, Texas.

Applicant states that upon receiving gas from Natural, it would itself transport equivalent quantities of gas, less a percentage for gas losses and fuel, for the account of Du Pont, to two existing sites: (1) Applicant's interconnection with Longhorn, located at Du Pont's Victoria Plant in Victoria County, Texas, for subsequent redelivery to Du Pont, and (2) Applicant's interconnection with Florida Gas Transmission Company (Florida Gas), located at Vinton, in Calcasieu Parish, Louisiana. Florida Gas would then deliver the gas it receives to Longhorn at Du Pont's Beaumont Plant in Jefferson County.

In its application, Applicant also requests authorization to use in the proposed transportation service an existing 8-inch tap on its 26-inch mainline, located near milepost 200.1 in Victoria County, Texas, which was originally authorized and installed for a transportation service that Applicant was rendering on Longhorn's behalf.

Applicant further states that it would initially charge Du Pont 6.81 cents per dt equivalent for its proposed transportation service, and would retain 0.6 percent of the gas quantities that it receives, in order to cover compressor fuel and line lose make-up.

Applicant also states that its transportation agreement with Du Pont would remain in force for a primary term of five years from the date of initial delivery and would continue on a year-by-year basis thereafter, subject to termination at the end of any month.

Finally, Applicant notes that Natural, Sabine and Florida Gas have already filed related applications with the Commission, in Docket Nos. CP85-841-000, CP85-655-000 and CP85-776-000, respectively, requesting authorization to perform their proposed transportation services for the benefit of Du Pont. Trunkline would file a subsequent application, states Applicant.

Comment date: October 22, 1985, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment

date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-24135 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-33-003]

El Paso Natural Gas Co.; Amended Change in Rates Pursuant to Purchased Gas Cost Adjustment

October 2, 1985.

Take notice that on September 30, 1985, El Paso Natural Gas Company ("El Paso") tendered for filing pursuant to section 4 of the Natural Gas Act, and Part 154 of the Regulations issued thereunder by the Federal Energy Regulatory Commission ("Commission") a notice of an amendment to its change in rates filed on August 30, 1985 at Docket No. TA86-1-33-000. Such amended change in rates is designed to replace those rates filed on August 30, 1985 and to be effective October 1, 1985, the date the August 30, 1985 filing is to go in effect. The amended change in rates relates to jurisdictional gas service rendered to customers served by its interstate gas transmission system under rate schedules affected by and subject to section 19, Purchased Gas Cost Adjustment Provision ("PGA"), contained in the General Terms and Conditions of El Paso's FERC Gas Tariff, First Revised Volume No. 1, which Section 19 also applies to certain special rate schedules contained in El Paso's FERC Gas Tariff, Third Revised Volume No. 2 and Original Volume No. 2A.

The filing reflects a decrease in the purchased gas cost of $0.2464 per dth and a decrease of $0.0718 per dth in the surcharge rate for a total downward adjustment in El Paso's currently effective sales rates of $0.3182 per dth (as compared to the $0.0531 per dth decrease in the August 30, 1985 PGA filing) attributable to the PGA.

To implement the instant notice of amended change in rates, El Paso tendered for filing the following revised tariff sheets to its FERC Gas Tariff:

Tariff volume	Tariff sheet
First Revised Volume No. 1	Substitute Sixth Revised Sheet No. 100.
	Fifth Revised Sheet No. 540.
Third Revised Volume No. 2	Substitute Thirty-first Revised Sheet No. 1-D.
Original Volume No. 2A	Substitute Thirty-second Revised Sheet No. 1-C.

El Paso respectfully requests waiver of Section 19 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1 and, pursuant to § 154.51 the Commission's Regulations, waiver of the notice requirements of § 154.22 of the Commission's Regulations and any other of the Commission's applicable rules, regulations and orders as may be necessary to permit the tendered revised tariff sheets to become effective on October 1, 1985.

El Paso further states that it is tendering Substitute Second Revised Sheet No. 24 of its FERC Gas Tariff, Original Volume No. 1-A to be effective October 1, 1985 in order to reflect the rate of $2.4912 per dth to be utilized to determine the fuel reimbursement charge payable under Section 6 of Rate Schedule T-1 or T-2 of said Tariff by shippers electing to reimburse El Paso for fuel usage in monthly payments rather than in-kind, as included in El Paso's Stipulation and Agreement in Settlement of Rate Proceedings accepted and approved subject to certain conditions by letter order dated August 14, 1985 at Docket No. RP85-58-000, *et al.*

El Paso states that this filing has been served upon all interstate pipeline systems customers of El Paso and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with §§ 385.14 and 385.211 of 18 CFR. All such motions or protests should be filed on or before October 10, 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. 85-24138 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-702-000]

Entrade Corp.; Application

October 3, 1985.

Take notice that on September 30, 1985, Entrade Corporation (Entrade), pursuant to sections 4 and 7 of the Natural Gas Act, 15 U.S.C. 717-717z (1982) (NGA), and Part 157 of the Regulations of the Federal Energy Regulatory Commission (Commission), 18 CFR Part 157 (1984), applied for a blanket certificate of public convenience and necessity (1) authorizing sales for resale of natural gas in interstate commerce by Entrade and the producers from which Entrade purchases natural gas, (2) authorizing sales for resale of natural gas in interstate commerce by producers through Entrade acting as their agent, (3) authorizing blanket partial abandonment and pre-granted abandonment of certain sales as

described herein, (4) authorizing transportation, where and if necessary, under Section 7(c) of the NGA for interstate pipelines, (5) authorizing pre-granted abandonment of such transportation by interstate pipelines, and (6) authorizing transportation by intrastate and Hinshaw pipelines, all to be effective on or before November 1, 1985. The authority sought by Entrade, if granted, will enable Entrade to purchase and resell natural gas that remains subject to the Commission's NGA authority for which the maximum lawful price is higher than that established by section 109 of the Natural Gas Policy Act (NGPA), to act as agent in sales by producers for resale of natural gas that remains subject to the Commission's NGA authority for which the maximum lawful price is higher than that established by section 109 of the NGPA, and to have such gas, as well as gas which is no longer within the Commission's NGA authority, transported in interstate commerce to all potential customers of Entrade and participating producer/suppliers for which Entrade acts as their agent.

Applicant asserts that it is seeking such authority to be consistent with and complementary to the final rule issued by the Commission in its Notice of Proposed Rulemaking, Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Docket No. RM85-1-000 (May 30, 1985) (NOPR). Currently, the rulemaking would not provide for such authority to be effective by November 1, 1985, the day after the expiration of Entrade's special marketing program (SMP) known as "Enspeed", and the expiration of the Commission's blanket transportation program for end-users.

Entrade is requesting authority to be effective no later than November 1, 1985 (1) to make sales for resale in interstate commerce of NGA gas for which the maximum lawful price is higher than the Section 109 price (hereinafter referred to as "NGA gas"); (2) allowing the partial abandonment of sales for resale of NGA gas which were previously certificated by the Commission, to the extent that such gas is released by interstate pipelines, Hinshaw pipelines and local distribution companies, back to producer/suppliers for resale to third parties in the spot market, either by Entrade following the purchase of such gas by Entrade or by such producer/suppliers through Entrade acting as their agent; (3) allowing the abandonment of any sale for resale in interstate commerce under the requested authority; (4) allowing the transportation of such gas in interstate commerce on a self-implementing basis by any transporter to any purchaser; (5) allowing the transportation of natural gas which is no longer subject to the Commission's NGA authority in interstate commerce on a self-implementing basis, by any transporter to any purchaser; and (6) allowing the abandonment of such transportation. This authority will permit Entrade to continue to be an active participant in the spot market, either as a first sale reseller or as an agent on behalf of participating producer/suppliers, with respect to NGA gas.

Entrade recognizes that the granting of the requested authority will subject Entrade to the Commission's jurisdiction. Entrade is willing to subject itself to the Commission's jurisdiction to the extent, and only to the extent, of its participation in the specific jurisdictional transactions described herein. The Commission agreed to limit its jurisdiction in like manner in the approval of Entrade's Enspeed SMP.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protests with reference to said application should on or before October 15, 1985, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-24127 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-51-000, 001]

Great Lakes Gas Transmission Co.; Proposed Changes in FERC Gas Tariff Under Purchased Gas Adjustment Clause Provisions

October 2, 1985.

Take notice that Great Lakes Gas Transmission Company (Great Lakes), on September 30, 1985, tendered for filing Fifty-Fifth Revised Sheet No. 57, and Eleventh Revised Sheet No. 57-A to its FERC Gas Tariff, First Revised Volume No. 1, proposed to be effective November 1, 1985.

Fifty-Fifth Revised Sheet No. 57 reflects a purchased gas cost surcharge resulting from maintaining an unrecovered purchased gas cost account for the period commencing March 1, 1985 and ending August 31, 1985.

Eleventh Revised Sheet No. 57-A reflects the estimated incremental pricing surcharge for the six month period commencing November 1, 1985 and ending April 30, 1986. No incremental costs are estimated for this period.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 10, 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. 85-24139 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP79-10-019, PR80-134-019, RP83-34-004]

Great Lakes Gas Transmission Co.; Proposed Change in FERC Tariff

October 2, 1985.

Take notice that Geat Lakes Gas Transmission Company (Great Lakes),

on September 30, 1985, tendered for filing the following sheets to its FERC Gas Tariff.

First Revised Volume No. 1

Fifteenth Revised Sheet No. 4
Fifty-Fourth Revised Sheet No. 57

Original Volume No. 2

Twentieth Revised Sheet No. 53
Eleventh Revised Sheet No. 77
Fifth Revised Sheet No. 223
Fifth Revised Sheet No. 245

Great Lakes states that on August 13, 1985 the United States Court of Appeals of the District of Columbia Circuit issued an Opinion in Case Nos. 84–1026, 84–1027 and 84–1031 which pertained to petitions for review of Opinions Nos. 179 and 179A of the Federal Energy Regulatory Commission's (Commission) Orders isssued on July 8, 1983 and November 30, 1983.

Great Lakes states that the above tariff sheets reflect changes to the appropriate rate schedules resulting from the reversal by the Court of Appeals of the rate design methodology ordered by Opinion Nos. 179 and 197–A for Rate Schedules T–6, T–8 and T–10, some of which changes were implemented by Great Lakes effective January 1, 1984.

Great Lakes has requested various waivers of the Commission's Regulations so as to permit the above tariff sheets to become effective October 1, 1985 consistent with the Court of Appeal Opinion and the settlement agreement in Docket RP83–34.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 10, 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 ths filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–24140 Filed 10–8–85; 8:45 am]

BILLING CODE 67170–01–M

[Docket No. CI85–717–000]

Hadson Gas System, Inc.; Application for Blanket Certificate of Public Convenience and Necessity and for an Order Permitting and Approving Abandonment and Pre-Granted Abandonment

October 3, 1985.

Take Notice that on September 30, 1985, Hadson Gas Systems, Inc., pursuant to section 4 and 7 of the Natural Gas Act, 15 U.S.C. 717–717z (1982) (NGA), and Part 157 of the regulations of the Federal Energy Regulatory Commission (Commission), 18 CFR Part 157 (1984), hereby applied for a blanket certificate of public convenience and necessity (1) authorizing sales for resale of natural gas in interstate commerce by Hadson and the producers from which Hadson purchases natural gas, (2) authorizing sales for resale of natural gas in interstate commerce by producers through Hadson acting as their agents, (3) authorizing blanket partial abandonment and pre-granted abandonment of certain sales as described herein, (4) authorizing transportation, where and if necessary, under section 7 (c) of the NGA for interstate pipelines, (2) authorizing pre-granted abandonment of such transportation by interstate pipelines, and (6) authorizing transportation by the intrastate and Hinshaw pipelines as set forth herein, all to be effective on or before November 1, 1985, as more fully described in the Application which is on file with the Commission and open for public inspection.

Applicant states that the certificate and abandonment authority sought herein, if granted, will enable Hadson to purchase from various producers, and resell, natural gas that the remains subject to the Commission's NGA authority for which the maximum lawful price is higher than that established by section 109 of the Natural Gas Policy Act (NGPA), to act as agent in sales by producers for resale of natural gas that remains subject to the Comission's NGA authority for which the maximum lawful price is higher than the established by section 109 of the NGPA, and to have such gas, as well as gas which is no longer within the Commission's NGA authority, Transported in interestate commerce to all customers who have the ability to buy gas on the open market.

Hadson is requesting the authority described hereing only to the extent that such authority is not provided for in any final rule issued by the Commission in its Notice of Proposed Rulemaking, Regulations of Natural Gas After Wellhead Decontral Docket No. RM85–1–000 (May 30, 1985) (NOPR), in the event a final rule in the NOPR is not issued by November 1, 1985, and/or in the event any such rule is stayed or not in effect after its issuance.

Hadson, on behalf on itself, producers, and pipelines, is requesting authority, to be effective no later than November 1, 1985, (1) to make sales for resale in interstate commerce of NGA gas for which the maximum lawful price is higher than the Section 109 price; (2) to temporarily abandon sales for resale of NGA gas for which the maximim lawful price is higher than the section 109 price and previously certificated by the Commission, to the extend that such gas is released by interstate, intrastate and Hinshaw pipelines, and local distribution companies, to producers for resale either by Hadson or by such producers through Hadson acting as their agents, (3) to abanton (pre-granted abandonment) any sale for resale in interstate commerce authorized pursuant to the blanket certificate issued herein, (4) to have any such gas, as well as natural gas which is no longer subject to the Commission's NGA authority, transported in interstate commerce, on a self-implementing basis, by any transporter to any purchaser, and (5) to abandon (pre-granted abandonment) such transportation.

Such authority, if granted, will enable Hadson to purchase NGA gas for which the maximum lawful price is higher than the Section 109 price (hereinafter referred to as NGA gas) from producers willing to sell to Hadson, for resale on the spot market.

Such authority will also enable Hadson to act as agent for various producers in sales of NGA gas on the spot market. Further, pipelines will be authorized to transport both NGA gas and gas which is no longer subject to the Commission's NGA authority, sold by Hadson and producers on the spot market.

The authority sought by Hadson on behalf of itself, producers and pipelines, is similar to that recently granted to other marketers of natural gas, it is asserted. The Commission's finding in those cases tha such authority will, in particular, aid small independent producers that usually do not participate in the spot market, is equally applicable here. Hadson can ease the administrative burden of such activities on small producers, effect the release of surplus gas where necessary, find purchasers for that gas, and arrange for for transportation, on behalf of these producers. Hadson can provide the necessary marketing functions that

many producers are not staffed to handle.

Hadson is willing to subject itself to the Commission's NGA jurisdiction to the extent, and only to the extent, of its participation in these jurisdictional transactions, in the same manner and on the same basis that the Commission's jurisdiction attached to those marketers referred to above. Hadson requests to the Commission's NGA jurisdiction only to the extent necessary to effectuate the requested authority and only with respect to its participation in.the transactions authorized.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal fo the filing of protests and petitions to intervene. Therefore, any persons desiring to be heard or to make any protests with reference to said application should on or before October 15, 1985, file with the Federal Energy Regulatory Commission, Washington DC 20426, a petition to intervene or a protect in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-24128 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-45-000-001]

Inter-City Minnesota Pipeline Ltd., Inc.; Purchased Gas Adjustment Filing

October 2, 1985.

Take notice that on September 27, 1985, Inter-City Minnesota Pipelines Ltd., Inc. (Minnesota Pipelines) tendered for filing Twenty-fifth Revised Sheet No. 4 to Original Volume No. 1 of Minnesota Pipelines' FERC Gas Tariff. The filing represents Minnesota Pipelines' annual PGA filing pursuant to § 154.38(d)(iv) of the Commission's regulations and is proposed to become effective as of November 1, 1985.

Minnesota Pipelines states that all of its gas supply is purchased from one Canadian supplier. Because of varying conditions in Minnesota Pipelines' service area, different gas purchase prices have been instituted by the National Energy Board of Canada at Minnesota Pipelines' two border points. Purchases for resale in Minnesota Pipelines' Western Zone under NEB license GL-28 are made at the regulated border price subject to applicable VRIP reductions. Purchases for resale under NEB license GL-29 are set by negotiated contract subject to the limitations of the Toronto city gate price.

The filing proposes a Surcharge Adjustment to reflect unrecovered gas costs for the period August 1, 1984 through July 31, 1985. The filing further reflects, based on forecast volumes for the period November 1, 1985 through October 31, 1986, (1) changes in the border price for GL-28 purchases attributable to the VRIP adjustment and (2) fluctuations in the GL-29 price pursuant to contract.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance wtih 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 October 10, 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. 85-24141 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-53-000, 001]

K N Energy, Inc.; Proposed Changes in FERC Gas Tariff

October 3, 1985.

Take notice that K N Energy, Inc. ("K N") on October 1, 1985, tendered for filing proposed changes in its FERC Gas Tariff to adjust the rates charged to its jurisdictional customers pursuant to the Gas Cost Adjustment provision (Section 19) and the Incremental Pricing Surcharges provision (Section 20) of the General Terms and Conditions of K N's FERC Gas Tariff, Third Revised Volume No. 1 to reflect a decrease in the base cost of gas and to amortize certain unrecoverd gas costs. The proposed changes would decrease the commodity rate, under each of K N Energy's jurisdictional rate schedules by 32.03¢ per Mcf, of which 17.34¢ per Mcf represents the decrease in the base purchase gas cost and 14.69¢ per Mcf represents the decrease in the unrecovered gas cost surcharge.

Copies of the filing were served upon K N's jurisdictional customers, and interested public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance wtih 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 October 10, 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. 85-24143 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC85-32-000]

K N Energy, Inc.; Motion for Extension of Time

October 4, 1985.

Take notice that on September 26, 1985, K N Energy, Inc. (K N), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. TC85-32-000 a motion pursuant to Rule 212 of the Commission's Rules of Practice and Procedure (18 CFR 385.212) for an extension of time for K N to comply with the filing requirement of Article 6.2, *Annual Three Year Forecast*, of the stipulation and agreement approved by Commission order issued November 21, 1981, in Docket Nos. RP76-90, *et al.*, all as more fully described in the motion which is on file with the Commission and open to public inspection.

Specifically, under Article 6.2, K N is required to file with the Commission for comments, on or before October 1 of each year, a three-year forecast of the gas requirements on its interstate system and the gas supply available to meet those requirements for twelve-month periods from November 1 through October 31. K N states that it is currently in the process of preparing a 20-year forecast of gas requirements and

supplies. It further states that while its gas requirements have been defined, a representative gas supply forecast would not be available until the last week of October 1985. Additionally, K N states that it has experienced delays in obtaining certain required data from its computerized billing system. K N, therefore, requests that it be granted an extension of time to permit it to file the aforementioned forecast for this year no later than November 1, 1985.

Any person desiring to be heard or to make any protest with reference to said motion should on or before October 21, 1985, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Parctice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to 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. 85-24129 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-46-000, 001]

Kentucky West Virginia Gas Co.; Proposed Change in Rates

October 3, 1985

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on September 30, 1985, tendered for filing with the Commission its Thirty-Fourth Revised Sheet No. 27 and Fifteenth Revised Sheet No. 27A to its FERC Gas Tariff, First Revised Volume No. 1, to become effective November 1, 1985.

Kentucky West states that the change in rates results from the application of the Purchase Gas Cost Adjustment provision in section 18, General Terms and Conditions of FERC Gas Tariff, First Revised Volume No. 1.

The current purchase gas adjustement is an increase of 1.14¢ per dekatherm (dth). The deferred gas cost adjustment is a reduction of 1.51¢ per dth or a decrease of 3.82¢ per dth. These changes result in a net decrease to the jurisdictional sales rate in this filing of 2.68¢ per dth, for a total effective rate of 302.02¢ per dth, to become effective November 1, 1985.

Kentucky West further states that, in making the instant filing, it does not waiver or prejudice its right to continue to prosecute its petition for review with the United States Court of Appeals for the Fifth Circuit of the Commission's Order dated December 2, 1982, denying Kentucky West's application for rehearing of the Order issued April 30, 1982, in Docket Nos. TA82-2-46-001 (PGA-2) (IPR82-2). (*Kentucky West Virginia Gas Compnay* vs. *FERC*, Case No. 82-4595—filed December 3, 1982.)

Kentucky further states that, in making the instant filing, it does not waive any rights it may have to a filing to charge and collect NGPA price for all Company-owned production retroactive to December 1, 1978, nor does it waive any rights to collect any carrying charges or interest charges applicable thereto.

Kentucky West states that a copy of its filing has been served upon its purchasers and interested state commissions and upon each party on the service list of Docket No. RP83-46.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before October 10, 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 infervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-24130 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-5-000, 001]

Midwestern Gas Transmission Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

October 2, 1985.

Take notice that on September 30, 1985, Midwestern Gas Transmission Company (Midwestern) tendered for filing ten copies of Sixteenth Revised Sheet No. 6 and Tenth Revised Sheet No. 8 to Original Volume No. 1 of its FERC Gas Tariff to be effective November 1, 1985. Midwestern states that this filing implements a Current Purchased Gas Cost Adjustment pursuant to Article XVIII of the General Terms and Conditions (the Northern System PGA clause) in order to reflect in the rates for Midwestern's Northern System Rate Schedules CR-2, CRL-2, SR-2 and I-2 the winter season gas charges from TransCanada PipeLines Ltd. (TransCanada), the sole supplier of gas to Midwestern's Northern System. Midwestern also states that this filing does not change the present Northern System Gas Surcharge.

Midwestern states that the Current Purchased Gas Cost Adjustment reflected on Sixteenth Revised Sheet No. 6 consists of Unit Demand Rate Changes of $0.17 per Mcf for Rate Schedules CR-2 and CRL-2, 1.40¢ per Mcf for Rate Schedule SR-2, and 0.56¢ per Mcf for Rate Schedule I-2, and a Unit Gas Rate Change of 50.40 cents per Dkt. Midwestern states further that the unit rate changes are based upon the demand and commodity gas rates effective November 1, 1985 under Midwestern's gas contracts with TransCanada, and Midwestern's estimated sales billing units and system fuel requirements for the November 1985—March 1986 PGA period.

Midwestern states that Tenth Revised Sheet No. 8 reflects zero Estimated Incremental Pricing Surcharges for Midwestern's customers under Rate Schedules CR-2, CRL-2, SR-2 and I-2 in accord with Article XXIII of the General Terms and Conditions.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any persons 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 Capital Street NE., Washington, DC 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 October 10, 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. 85-24144 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-208-000]

Mountain Fuel Resources, Inc.; Request for Approval of Revised Rates

October 3, 1985.

Take notice that on September 30, 1985, Mountain Fuel Resources, Inc. (MFR) filed a request to establish Revised Rates for the period beginning July 1, 1985, pursuant to the provisions of Opinion No. 221 (Docket No. CP80-274-000, *et al.*, 27 FERC ¶ 61,316), which approved a corporate reorganization of MFR and its affiliate, Mountain Fuel Supply Company. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until October 1, 1985.

MFR states that, under the terms of a stipulation and agreement ("stipulation") approved in Opinion No. 221, MFR is authorized to collect Revised Rates for the period commencing July 1, 1985, such rates to be established from updated cost-of-service information to be filed in accordance with certain provisions of the stipulation.

In connection with this filing, MFR has tendered the following tariff sheets:

First Revised Sheet No. 12, First Revised Volume No. 1
Third Revised Sheet No. 13, First Revised Volume No. 1
First Revised Sheet No. 8, Original Volume No. 3
First Revised Sheet No. 9, Original Volume No. 3
First Revised Sheet No. 10, Original Volume No. 3

MFR states that the Revised Rates set forth in these tariff sheets incorporate updated cost-of-service information applicable to the period commencing July 1, 1985, and that the determination of such rates is in accord with the requirements of the stipulation approved by Opinion No. 221.

Copies of this filing have been served on all parties in Docket Nos. CP80-274-000 and -001, and on all MFR's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a 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 (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 10, 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. 85-24131 Filed 10-8-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP86-1-000]

Natural Gas Pipeline Company of America; Change in FERC Gas Tariff

October 3, 1985.

Take notice that on October 1, 1985, Natural Gas Pipeline Company of America (Natural) submitted for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the below listed tariff sheets to be effective April 1, 1986:

Twenty-second Revised Sheet No. 301
Twenty-first Revised Sheet No. 302
Twenty-second Revised Sheet No. 303
Twenty-first Revised Sheet No. 304
Twenty-first Revised Sheet No. 305
Eighth Revised Sheet No. 306
Ninth Revised Sheet No. 307
Ninth Revised Sheet No. 308
Eighth Revised Sheet No. 309

Natural states that the purpose of the filing is to set out the Buyer's quantity entitlements under Section 22 of the General Terms and Conditions of Natural's FERC Gas Tariff for the service year April 1, 1986 through March 31, 1987. Natural requested waiver of the Commission's regulations to the extent necessary to permit the revised sheets to become effective April 1, 1986, the beginning of the 1986-87 service year.

The Monthly Quantity Entitlements on Sheet Nos. 301 through 309 have been changed, where required, to reflect requested changes in such entitlements by Natural's sixteen (16) DMQ-1 and thirty-three (33) G-1 customers. Customers requesting changes in Daily Quantity Entitlements were accommodated where feasible by Natural. The Monthly and Daily Entitlements on these sheets provide sufficient gas volumes to allow each customer to fully meet (within contractual limits) its reported requirements.

A copy of the filing was mailed to Natural's jurisdictional customers and to interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a 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 (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 10, 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. 85-24145 Filed 10-8-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP85-27-001]

Northern Border Pipeline Co.; Filing of Proposed Changes in FERC Gas Tariff

October 3, 1985.

Take notice that Northern Border Pipeline Company (Northern Border) on October 1, 1985, tendered for filing proposed changes to its FERC Gas Tariff, Original Volume No. 1.

Northern Border states that the purpose of this filing is to establish the interruptible transportation rate to be in effect for the period from November 1, 1985, through April 30, 1986, under Rate Schedule IT-1 set forth in Original Volume No. 1 of its FERC Gas Tariff. Northern Border proposes to charge IT-1 Shippers, who enter into Service Agreements during the above period, 6.526 cents per 100 Dekatherm-Miles for the term of such Service Agreements.

Northern Border has based its proposed charge on the billing determinants in its cost of service during the six month period from January 1985 through June 1985. The proposed rate for each Dekatherm-Mile of gas transported stated as a rate per 100 Dekatherm-Miles is based on Northern Border's operating expenses, ad valorem taxes and debt service. Northern Border states that the method used to arrive at the proposed rate is consistent with the method used to establish the initial interruptible transportation rate filed in the instant docket.

Any person desiring to be heard or to protest said filing should file on or before October 10, 1985, a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital St., NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of 18 CFR. 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. 85-24146 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-206-000]

Northern Natural Gas Co., Division of InterNorth, Inc., Proposed Changes in FERC Gas Tariff

October 2, 1985.

Take Notice that Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), on September 26, 1985 tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2. Northern states that the proposed changes would: *First*, adjust Northern's rates resulting in a decrease in revenues from jurisdictional sales and transportation services by $22.5 million annually, based on sales volumes, transportation volumes, and costs for the twelve months ended June 30, 1985, as adjusted for the Test Period. *Second*, the proposed changes would modify the Billing and Payment provisions of the Tariff. The Revised Tariff Sheets will result in a decrease in the level of charges for each of Northern's various jurisdictional wholesale customers. Northern has requested that the proposed tariff changes filed herein be made effective October 27, 1985, without suspension.

Northern states that the decrease in sales and transportation rate levels results from a reduction in its cost of operations, primarily due to reduced transportation charges paid other pipelines and increased revenues from transportation services provided to other pipelines. Offsetting such costs reductions have been the loss of sales revenues due to a reduction in system sales volumes resulting from increased conservation, the current state of the economy, and the loss of sales to other pipelines with lower-cost alternative supplies as a result of the reduction in Northern's minimum bill charge pursuant to Commission Order No. 380.

Northern advises that as a result of the decrease in annual revenue of $22.5 million, the filed-for revenue level is actually $15.6 million less than the annual revenues required to recover the jurisdictional portion of the Test Period Cost of service. Northern states that it has voluntarily reduced the level of the requested rates in order to maintain the marketability of its gas, in light of today's intensely competitive market environment.

Northern also states that the rate filing reflects the continuation of certain minimum bill provisions in its rate schedules. If these minimum bill provisions were to be eliminated from its Tariff, Northern states that there could be an additional $39.8 million of costs to be borne by the remaining customers on Northern's system.

The Company states that copies of the filing have been mailed to each of its customers purchasing gas and receiving transportation services under its FERC Gas Tariff and to interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 10, 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. 85-24147 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA86-1-37-000 and TA86-1-37-001]

Northwest Pipeline Corp.; Proposed Change in FERC Gas Tariff

October 3, 1985.

Take notice that on October 1, 1985, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets.

Twenty-Second Revised Sheet No. 10 (Consenting Parties)

Fourth Amended Substitute Nineteenth Revised Sheet No. 10 (Non-Consenting Parties)

The above referenced tariff sheets reflect changes in rates made in compliance with the Commission's September 30, 1985, Order in Docket Nos. TA86-1-37-000 and TA86-1-37-001. The Commission order specified an effective date of October 1, 1985. Therefore, Northwest requests an effective date of October 1, 1985 for the above tariff sheets.

A copy of this filing has been mailed to all of Northwest's customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 10, 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. 85-24148 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-210-000]

Ringwood Gathering Co.; Proposed Changes in FERC Gas Tariff

October 2, 1985.

Take notice that Ringwood Gathering Company (Ringwood) on September 30, 1985, tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following sheets:

Original Sheet No. 32A
Tenth Revised Sheet No 4, Superseding Ninth Revised Sheet No. 4
Thirty-Sixth Revised Sheet PGA-1, Superseding Thirty-Fifth Revised Sheet PGA-1
Original Sheet No. 4A

By means of the above tariff sheets Ringwood proposes a change, in rate form, from a volumetric to a demand/commodity rate. Ringwood states that the minimum take provision of its FERC Gas Tariff, under which it makes sales to Northwest Central Gas Company, has been proscribed by Order No. 380, and that, since its sales under the above tariff are only a fraction of contract quantity, the above change in rate form is necessary for recovery of fixed costs.

A copy of this filing has been served on Northwest Central Pipeline Company.

Any person desiring to be heard or to protest said filing should file a motion to

intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 10, 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. 85-24149 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-207-000]

Southern Natural Gas Co.; Compliance Filing

October 2, 1985.

Take notice that on *September 26,1985,* Southern Natural Gas Company (Southern) tendered for filing Fourth Revised Sheet No. 30D to its FERC Gas Tariff, Sixth Revised Volume No. 1. Southern states that this filing is being made pursuant to Ordering Paragraph (B) of the Federal Energy Regulatory Commission's June 7, 1985 order in Docket No. CP85-464-000 and that the revised sheet sets forth the rates to be effective under its Flexible Discount Rate Schedule during October of 1985. Southern is requesting an effective date of October 1, 1985.

Southern indicates that copies of the filing have been mailed to all its jurisdictional purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 10, 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. 85-24150 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-701-000]

Union Texas Petroleum Corp.; Application

October 3, 1985.

Take notice that on September 27, 1985, Union Texas Petroleum Corporation of P.O. Box 2120, Houston, Texas, 77252, filed an Application for Blanket Certificate of Public Convenience and Necessity and for an Order Permitting and Approving Abandonment and Pre-Granted Abandonment. Applicant requests a blanket certificate of public convenience and necessity (1) authorizing the sale for resale in interstate commerce of certain natural gas produced by Union Texas, its affiliates, it joint working interest owners, and the producers from which Union Texas purchases natural gas; (2) authorizing the sale for resale of natural gas in interstate commerce by producers through Union Texas acting as their agent; (3) authorizing blanket temporary abandonment and pre-granted permanent abandonment of certain sales; (4) authorizing transportation by interstate pipelines, intrastate pipelines, Hinshaw pipelines and local distribution companies to effectuate the sale and purchase of gas on the spot market; and (5) authorizing pre-granted abandoment of such transportation, all to be effective on or before November 1, 1985.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make protest with reference to said application should on or before October 15, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 385.211, .214). All protests filed with the Commission will be considered by it is 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 petition to intervene in accordance with the Commission's Rules.

Under this procedure herein provided for, unless Applicant is otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-24151 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-209-000]

United Gas Pipe Line Co.; Proposed Changes in FERC Gas Tariff

October 2, 1985.

Take notice that United Gas Pipe Line Company ("United"), on September 30, 1985, tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1.

United states that the proposed changes involve a restructuring of the rates for service under Rate Schedule PL-N but do not change the rates applicable to United's other sales nor do they change the rates applicable for United's transportation services. In addition, United has submitted tariff sheets which modify the language on Tariff Sheets 4-D and 4-E to more clearly describe the circumstances under which each applies. United states that the proposed changes to the rates for service under Rate Schedule PL-N reflect the conversion of the existing rates under that rate schedule to a modified fixed-variable design and the elimination of the minimum annual commodity bill applicable to service under that rate schedule. The elimination of the minimum bill is contingent upon conversion of the PL-N rate schedule. United states that the revised rates are not designed to provide any increase to United over the jurisdictional revenues which would be obtained under United's existing rates. United states that the modifications to Tariff Sheets 4-D and 4-E do not involve any changes in rates or revenues.

United claims that its current rates were for the most part established pursuant to a rate settlement in Docket No. RP82-57 effective October 1, 1982, and that pursuant to § 154.38(d)(4)(vi) of the Commission's Regulations, United is required to restate its Base Tariff Rates effective October 1, 1985. United states that the proposed tariff sheets are being filed to restate United's Base Tariff Rates in accordance with § 154.38(d)(4)(vi). In support of the filing United has submitted schedules and statements as required under § 154.63 of the Commission's Regulations reflecting a jurisdictional cost of service for the

twelve months ended May 31, 1985, adjusted to reflect known and measurable change through February 28, 1986. United states that the jurisdictional cost of service exceeds the revenues under its existing rates by approximately $40.5 million but that, because of competitive conditions in its market area, United is not proposing to increase the existing rates to permit recovery of that deficiency.

Copies of the filing have been served upon United's jurisdictional customers and the public service commissions of the states of Alabama, Florida, Louisiana and Mississippi, and the Texas Railroad Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance wtih 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 October 10, 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. 85-24152 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-50-000, 001]

Valley Gas Transmission, Inc.; Change in Rates Pursuant to Purchased Gas Adjustment

October 2, 1985.

Take notice that on September 30, 1985, Valley Gas Transmission, Inc. ("Valley") tendered for filing and acceptance the following tariff sheets as part of its FERC Gas Tariff:

Thirty-first Revised Sheet No. 2A to Original Volume No. 1
Fourth Revised Sheet No. 10 to Original Volume No. 2

Valley states that these tariff sheets, which are proposed to become effective on November 1, 1985, are being filed pursuant to the purchased gas cost adjustment provisions of its tariff. Valley further states that these proposed changes reflect adjustments to its current surcharge adjustment and current gas cost adjustment, and that its filing has been served on all jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 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 October 10, 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. 85-24153 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-700-000]

Walter Oil & Gas Corp.; Application for Blanket Certificate of Public Convenience and Neccessity and for an Order Permitting and Approving Abandonment and Pregranted Abandonment

October 3, 1985.

Take notice that on September 26, 1985, Walter Oil & Gas Corporation (Walter) filed an Application pursuant to sections 4 and 7 of the Natural Gas Act (NGA), and the provisions of 18 CFR Parts 154 and 157, seeking a blanket certificate of public convenience and necessity (1) authorizing sales for resale of natural gas in interstate commerce by Walter and by reseller/agents who purchase gas from Walter for resale under this proposed program, (2) authorizing blanket partial abandonment and pre-granted abandonment of certain sales as described in the Application, (3) authorizing transportation, as necessary, under section 7(c) of the NGA for interstate pipelines, (4) authorizing pre-granted abandonment of such transportation by interstate pipelines, and (5) authorizing transportation of the subject gas by intrastate and Hinshaw pipelines, all as more fully-described in the Application which is on file with the Commission and open for public inspection. The Applicant also requests that said blanket authorization be made effective on or before November 1, 1985.

Walter states that, based on its experience in the spot market and information obtained through other special marketing programs, the blanket authority requested is consistent with the Commission's rules and regulations (including proposed rules and regulations), and is necessary to be compatible with the spot market. Further, Walter states that, absent said blanket authorization, much of its production will be shut-in and unavailable for sale at competitively-priced rates to consumers.

Specifically, Walter requests that the Commission authorize it, effective on or before November 1, 1985: (1) To make sales for resale in interstate commerce of natural gas for which the maximum lawful price is higher than the NGPA section 109 price; (2) to temporarily abandon sales for resale of natural gas for which the maximum lawful price is higher than the section 109 price and previously certificated by the Commission, to the extent that such gas is released by interstate, intrastate or "Hinshaw" pipelines or local distribution companies for resale on the spot market; (3) to abandon (pre-granted abandonment) any sale for resale in interstate commerce authorized pursuant to the blanket certificate issued herein; (4) to have any such gas transported in interstate commerce on a self-implementing basis, by any transporter to any purchaser of such gas; (5) to have natural gas which is no longer subject to the Commission's NGA authority transported to purchasers and end-users; (6) to abandon (pre-granted abandonment) such transportation; and (7) for waiver of the "system supply" requirement, contained at 18 CFR 284.122, applicable to intrastate and Hinshaw pipelines. In addition, Walter requests that certain market restrictions currently applicable to existing special marketing programs, such as restrictions on eligible markets and contract commitment dates, not apply to the instant authorization.

Walter is requesting the authorization described only to the extent that such authorization is not made effective on or before November 1, 1985, as a result of Commission action proposed in the Commission's Notice of Proposed Rulemaking (NOPR) issued May 30, 1985 in Docket No. RM85-1-000.

In addition, the Application sets forth a nomination and pricing procedures whereby Walter will accept or solicit sales proposals from potential customers. Walter states that it will endeavor to provide gas to all potential customers submitting nominations but the decision to make a particular sale will depend on a variety of factors, including the price offered in the nomination, availability of surplus gas, amount of gas desired by the purchaser,

and the ability to arrange the necessary transportation. Sales under the proposal will be interruptible to the extent that a releasing entity resumes purchasing the gas in order to meet its market needs.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before October 15, 1985, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214). 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.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR. Doc. 24132 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-49-000, 001]

Williston Basin Interstate Pipeline Co.; Purchased Gas Cost Adjustment Filing

October 2, 1985.

Williston Basin Interstate Pipeline Company (Williston Basin), on September 30, 1985, submitted for filing as part of its FERC Gas Tariff the following tariff sheets:

Original Volume No. 1

Second Revised Sheet No. 10
Second Revised Sheet No. 12
Alternate Second Revised Sheet No. 10
Second Revised Sheet No. 425
Second Revised Sheet No. 426
Original Sheet No. 426A

Original Volume No. 2

Second Revised Sheet No. 10
Second Revised Sheet No. 11
Second Revised Sheet No. 12
Alternate Second Revised Sheet No. 10
Alternate Second Revised Sheet No. 11

The proposed effective date of the tariff sheets is November 1, 1985.

Williston Basin states that the filing consists of two separate computations. Second Revised Sheet Nos. 10 and 12 (Original Volume No. 1) and Second Revised Sheet Nos. 10, 11 and 12 (Original Volume No. 2) and the schedules in support thereof were computed in adherence to Williston Basin's PGA clause and the Commission's Rules and Regulations, except that "proxy" price levels are reflected in the current gas cost adjustment for those gas supply sources where contract amendments are being negotiated but not yet signed. The use of such "proxy" pricing was allowed in Docket Nos. TA85-3-49-000 and TA85-3-49-001. The changes herein reflect a cumulative gas cost adjustment for Rate Schedules G-1, PR-1, I-1 and X-1 of a negative 56.566 cents per Mcf. The surcharge adjustment for Rate Schedules G-1, PR-1 and I-1, which also reflects "proxy" pricing as allowed in the last PGA, is a negative 18.452 cents per Mcf. These changes represent a net increase in rates for Rate Schedules G-1, PR-1 and I-1 of 13.955 cents per Mcf and a net increase of 4.355 cents per Mcf for Rate Schedule X-1, from currently effective rates. Rate Schedule X-5 reflects a cumulative gas cost adjustment of a negative 85.254 cents per Mcf, an increase of 11.703 cents per Mcf.

Alternate Second Revised Sheet No. 10 (Original Volume No. 1) and Alternate Second Revised Sheet Nos. 10 and 11 (Original Volume No. 2) and supporting alternate schedules represent the results of calculations, pursuant to special and significant facts and circumstances, and therefore warrant special Commission consideration. As such, Williston Basin has requested waivers to vary from normal PGA procedures. It is these alternate tariff sheets, along with Second Revised Sheet No. 12 (Original Volume No. 1) and Second Revised Sheet No. 12 (Original Volume No. 2), which Williston Basin respectfully requests the Commission to accept as part of its FERC Gas Tariff. The changes contained herein reflect a cumulative gas cost adjustment for Rate Schedules G-1, PR-1, I-1 and X-1 of a negative 66.727 cents per Mcf. The surcharge is a negative 18.452 cents per Mcf to Rate Schedules G-1, PR-1 and I-1. These changes represent a net increase in rates to Rate Schedules G-1, PR-1 and I-1 or 3.794 cents per Mcf, and a net reduction for Rate Schedule X-1 of 5.806 cents per Mcf, from currently effective rates. Rate Schedule X-5 reflects a cumulative gas cost adjustment of a negative 109.862 cents per Mcf, a decrease of 12.905 cents per Mcf.

Williston Basin has also included, pursuant to § 154.41, Second Revised Sheet Nos. 425 and 426 and Original Sheet No. 426A (Original Volume No. 1) to update its "Index of Purchasers".

Any person desiring to be heard or to protests said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 10, 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. 85-24154 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

Hydroelectric Applications (Springville City, et al.); Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1 a. Type of Application: Amendment of License.

b. Project No.: 2031-003.

c. Date Filed: June 24, 1985.

d. Applicant: Springville City.

e. Name of Project: Bartholomew.

f. Location: On Left Fork Hobble Creek and Bartholomew Creek in Utah County, Utah; within Uinta National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Wayne A. Jager, Forsgren-Perkins Engineering, 1849 West North Temple, Suite C, Salt Lake City, UT 84116.

i. Comment Date: November 12, 1985.

j. Description of Project: The proposed project would consist of: (1) A spring collection box in the upper reaches of the Bartholomew Canyon; (2) a 20-inch-diameter, 5,200-foot-long penstock; (3) an impulse turbine, operating under a head of 840 feet, with an installed capacity of 560 kW; (4) a 400-foot-long tailrace; (5) a 12.47-kV, 23,000-foot-long transmission line connecting with the existing Bartholomew Unit; (6) a 5-foot-high, 20-foot-long, diversion dam on the Bartholomew Creek; (7) a 24-inch diameter, 23,000-foot-long penstock; (8) an additional generating unit with an installed capacity of 1300 kW to be

constructed at the existing Bartholomew unit; (9) upgrading the existing transmission line by changing the existing 500-kVa conductors to 2,300 kVa conductors; (10) the existing diversion boxes on the left fork and right fork of Hobble Creek; (11) the existing 30-inch-diameter, 9,500-foot-long penstock; (12) the existing 16-inch-diameter, 8,500-foot-long penstock carrying culinary water; (13) the existing Hobble Creek powerhouse to contain an existing turbine generator and a new turbine generator with a total installed capacity of 1,998 kW; (14) the existing 2-million gallon steel tank for impoundment of culinary water; and (15) upgrading the existing transmission line conductors from 800-kVa to 2,660-kVa. The applicant does not propose any recreational facilities.

k. Purpose of Project: Approximately 12,487 MWh generated annually by the proposed project would be utilized by the Applicant to satisfy its needs.

l. This notice also consists of the following standard paragraphs: B, C, and D1.

2 a. Type of Application: Major License.

b. Project No.: 3947–003.

c. Date Filed: December 31, 1984.

d. Applicant: Kaweah River Power Authority.

e. Name of Project: Terminus Power Project.

f. Location: On Kaweah River, near Visalia, in Tulare County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Gordon Greening, President, Kaweah River Power Authority, 1110 North Cain Street, P.O. Box 1247, Visalia, CA 93279.

i. Comment Date: December 2, 1985.

j. Description of Project: The proposed development, to be located at U.S. Army Corps of Engineers' Terminus Dam, would consist of: (1) Three 8.5-foot-wide, 18-foot-high concrete inlet structures at elevation 572 feet; (2) an 11-foot-wide, 11-foot-high, 330-foot-long horseshoe concrete tunnel; (3) a 9.5-foot-diameter, 1,150-foot-long steel penstock; (4) a powerhouse containing one generating unit with a rated capacity of 17,000 kW operating under a head of 187 feet; and (5) a 2-mile-long, 69-kV transmission line from the powerhouse to connect to an existing Southern California Edison Company's (SCE) transmission line south of the project. The project's estimated annual generation of 39.86 GWh will be sold to SCE. The project cost has been estimated to be $18.27 million. The Applicant does not propose any recreational facilities within the proposed project area.

k. This notice also consists of the following standard paragraphs: A3, A9, B & C.

3 a. Type of Application: Major License.

b. Project No.: 4435–005.

c. Date Filed: October 26, 1984.

d. Applicant: Damnation Peak Power Company.

e. Name of Project: Damnation Creek.

f. Location: On Damnation Creek, tributary to the Skagit River, in Skagit and Whatcom Counties, Washington, and affecting lands within the North Cascades National Park.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. William L. Devine, P.O. Box 68, 8040 Mt. Baker Highway, Maple Falls, WA 98266.

i. Comment Date: December 2, 1985.

j. Description of Project: The proposed run-of-river project would consist of: (1) A 6-foot-high, 40-foot-long ogee-type reinforced-concrete dam having spillway crest elevation 2,406.0 feet; (2) a gated intake structure at the left (east) bank having a sluiceway; (3) a 7,000-foot-long, 30-inch-diameter underground pipeline; (4) a 3,500-foot-long, 30-inch-diameter steel penstock; (5) a powerhouse containing a generating unit rated at 5,000-kW operated at a head of 1,850 feet and at a flow of 40 cfs; (6) a tailrace; (7) a 1,100-foot-long underground 4,160-volt transmission line to the proposed Damnation Creek Substation; and (8) an access road to the dam and an access road to the powerhouse. The average annual energy generation is estimated to be 18.63 GWh. Applicant estimates that the project capital cost in 1986 would be $7,885,500.

This application has been accepted for filing as of October 28, 1981, the submittal date of the Applicant's originally accepted exemption application pursuant to Eagle Power Co., 28 FERC ¶61,061 issued July 18, 1984.

k. Purpose of Project: Project energy would be sold.

l. This notice also consists of the following standard paragraphs: A9, B, C, D1.

4 a. Type of Application: Minor License.

b. Project No.: 6602–003.

c. Date Filed: January 28, 1985.

d. Applicant: D.J. Pitman International Corporation.

e. Name of Project: Macallen Dam.

f. Location: On the Lamprey River in Rockingham County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Robert A. Olson, ELI Corporation, 21 Green Street, Concord, NH 03301.

i. Comment Date: November 29, 1985.

j. Description of Project: The proposed run-of-river project would consist of: (1) The existing 27-foot-high and 73-foot-long stone masonry Macallen Dam; (2) new 2-foot-high flashboards; (3) an existing 77-foot-long earth-filled section at the right of the dam; (4) an existing fish ladder; (5) a new intake structure; (6) a new 8-foot-diameter and 390-foot-long fiberglass penstock; (7) a new 560-kW turbine-generator unit within an existing mill building; (8) an existing tailrace; (9) a new 41.6-kV and 250-foot-long transmission line; and (10) other appurtenances. Applicant estimates an average annual generation of 2,200,000 kWh. Existing facilities are owned by Essex Group, Inc. The application was filed within the term of the Applicant's preliminary permit for this project.

k. Purpose of Project: Project energy would be sold to the Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, D1.

5 a. Type of Application: Preliminary Permit.

b. Project No.: 9334–000.

c. Date Filed: July 8, 1985.

d. Applicant: Mega Renewables.

e. Name of Project: Bidwell Ditch.

f. Location: On Lost Creek in Shasta County, California; within Lassen National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Fred Castagna, 2576 Hartnell Avenue, Redding, CA 96002–2319.

i. Comment Date: December 2, 1985.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 30-foot-long, intake structure at elevation 3,720 feet; (2) a 14,250-foot-long, 54-inch-diameter-pipe; (3) a powerhouse at elevation 3,420 feet with a total installed capacity of 1500 kW; and (4) a 5.5-mile-long, 60-kV transmission line connecting with an existing Pacific Gas and Electric Company (P G&E) transmission line. Project power would be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license.

Applicant estimates that the cost of the studies under permit would be $80,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

6 a. Type of Application: Preliminary Permit.

b. Project No: 9343–000.

c. Date Filed: July 11, 1985.

d. Applicant: American Fork Associates.

e. Name of Project: American Fork Associates Project.

f. Location: On American Fork River in Utah County, Utah: within Uinta National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Jordan Walker, 484 East 300 North, Manti, UT 84642.

i. Comment Date: December 2, 1985.

j. Description of Project: The proposed project would consist of: (1) A 5-foot-high diversion dam at elevation 5,300 feet; (2) a 36-inch-diameter, 7,600-foot-long pipe; (3) a powerhouse at elevation 5,060 feet, with a total installed capacity of 750 kW; and (4) a 1,000-foot-long, 12.47-kV transmission line connecting with an existing Utah Power and Light (UP&L) transmission line. Project power would be sold to UP&L.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $85,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

7 a. Type of Application: Preliminary Permit.

b. Project No: 9378–000.

c. Date Filed: August 1, 1985.

d. Applicant: Yuba County Water Agency.

e. Name of Project: Wambo Bar Water Power Project.

f. Location: On North Fork Yuba River and tributaries, including Deadwood, Slate, Canyon, Cherokee and Indian Creeks partially within the Plumas and Tahoe National Forests in Yuba, Butte and Sierra Counties, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Arthur W. Aseltine, Administrator, Yuba County Water Agency, P.O. Box 1569, Marysville, CA 95901.

i. Comment Date: December 2, 1985.

j. Description of Project: The proposed project would consist of: (1) A 300-foot-high, 900-foot-long dam at elevation 2,265 feet; (2) a reservoir with a usable storage capacity of 70,000 acre-feet; (3) a 25-foot-diameter, 1,400-foot-long tunnel/penstock; (4) a powerhouse containing generating units with a combined rated capacity of 79 MW to operate under a head of 275 feet; and (5) a 4-mile-long, 115-kV transmission line will connect the project with an existing Pacific Gas and Electric Company's (PG&E) line northwest of the powerhouse.

k. Purpose of Project: The project's estimated 191 million kWh of annual generation will be sold to PG&E.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

8 a. Type of Application: Minor License.

b. Project No.: 8877–000.

c. Date Filed: January 14, 1985.

d. Applicant: Fallon Hydro Inc.

e. Name of Project: Erie Canal Lock 29 Project.

f. Location: On the Erie Canal near the Village of Palmyra, Wayne County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Timothy R. Fallon, Fallon Hydro Inc., 3 Maplewood Point, Ithaca, NY 14850.

i. Comment Date: December 9, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 69-foot-long, 26.5-foot-high concrete gravity dam with an uncontrolled ogee center spillway section; (2) an impoundment having a surface area of 70 acres, a storage capacity of 1050 acre-feet, a normal water surface elevation of 446 feet msl; (3) an existing intake structure; (4) an existing powerhouse containing 2 proposed generating units having a total installed capacity of 280 kW; (5) the existing tailrace; (6) a proposed 60-foot-long, 15 kV transmission line; and (7) appurtenant facilities. The Applicant estimates the average annual generation would be 1,200,000 kWh. The existing dam and project facilities are owned by the New York State Department of Transportation.

k. Purpose of Project: All energy produced would be sold to the New York State Electric and Gas Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, D1.

9 a. Type of Application: Preliminary Permit.

b. Project No: 9215–000.

c. Date Filed: May 20, 1985.

d. Applicant: Birch Power Company, Inc.

e. Name of Project: Bear River Narrows.

f. Location: On Lands administered by the Bureau of Reclamation, on Bear River Near the town of Preston, in Franklin and Bannock Counties, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 725(a)—825(r).

h. Contact Person: Ted Sorenson, Sorenson Engineering, 550 Linden Drive, Idaho Falls, ID 83401.

i. Comment Date: December 2, 1985.

j. Description of Project: The proposed project would consist of: (1) An 85-foot-high embankment dam creating; (2) a reservoir with a surface area of 180 acres and a volume of 6,800 acre-feet at elevation 4,710 feet; (3) a powerhouse containing a single generating unit with a capacity of 5.4 MW and an average annual generation of 31,000 MWh; and (4) a 0.35-mile-long transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license applicant at a cost of $60,000. No new roads would be constructed during the feasibility study. Core drilling will be conducted at the dam site.

k. Purpose of Project: Project power would be sold to Utah Power and Light.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

10 a. Type of Application: Preliminary Permit.

b. Project No: 9272–000.

c. Date Filed: June 3, 1985.

d. Applicant: Cook Electric, Inc.

e. Name of Project: Lower West Fork Hood River.

f. Location: On the West Fork of the Hood River, Near the town of Dee, in Hood River County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Dale Hatch, Cook Electric, Inc., P.O. Box 1071, Twin Falls, Idaho 83303–1071.

i. Comment Date: December 2, 1985.

j. Description of Project: The proposed project would consist of: (1) A 72-inch-high, inlet structure at elevation 1,200 feet; (2) an 11,880-foot-long, 104-inch-diameter penstock; (3) a powerhouse containing four generating units with a combined capacity of 5,800 kW and an average annual generation of 32,821,500 kWh; and (4) a 1,660-foot-long transmission line.

A peliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a

term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $36,250. No new roads would be constructed during the feasibility study. Core drilling would be conducted.

k. Purpose of Project: Project power would be sold to Portland General Electric.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

11 a. Type of Application: New License.

b. Project No.: P-2611-002.

c. Date Filed: April 24, 1985.

d. Applicant: Scott Paper Company.

e. Name of Project: Hydro-Kennebec Project.

f. Location: On the Kennebec River, in Kennebec and Somerset Counties, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Nicholas DeBenedictis, Esq., Scott Paper Company, 2 Scott Plaza, Philadelphia, PA 19113.

i. Comment Date: December 9, 1985.

j. Description of Project: The proposed project would consist of: (1) The existing 750-foot-long, 35-foot-high timber crib Winslow Dam; (2) 5-foot-high flashboards; (3) an impoundment having a surface area of 200 acres, a storage capacity of 2,800 acre-feet, and a normal water surface elevation of 77 feet msl; (4) an existing 3,600-foot-long, 160-foot-wide, 25-foot-deep power canal; (5) a powerhouse having 11 generating units with a total installed capacity of 3,700 kW; (6) a tailrace; and (7) appurtenant facilities. The Licensee estimates the annual generation is 4,900,000 kWh.

The redeveloped project would consist of: (1) A new 800-foot-long, 40-foot-high concrete gravity dam to replace the existing Winslow Dam; (2) 6-foot-high flashboards; (3) the reservoir would be changed to having a surface area of 250 acres, a storage capacity of 3,900 acre-feet, and a normal water surface elevation of 81 feet msl; (4) an existing 3,600-foot-long, 160-foot-wide, 25-footdeep power canal; (5) the existing powerhouse containing 11 existing generating units having a total installed capacity of 3,700 kW; (6) an existing tailrace; (7) a new intake structure; (8) a new forebay structure, 150 feet long, 61 feet deep, and a width of between 70 and 160 feet; (9) a second new powerhouse containing 2 new generating units with a total installed capacity of 13,800 kW; (10) a new 650-foot-long, 34-foot-deep tailrace varying in width from 70 feet to 200 feet; (11) a new 800-foot-long, 34.5-kV transmission line; and (12) appurtenant facilities.

The Applicant estimates the average annual generation would be 88,500,000 kWh. The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act. Based on the license expiration of July 25, 1985, the Applicant's estimated net investment in the project would amount to $2,169,000, and the estimated severance damages would amount to $7,070,500.

k. Purpose of Project: All project energy would be sold to the Central Maine Power Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C.

12 a. Type of Application: Minor License.

b. Project No.: 4574-002.

c. Date Filed: November 13, 1984.

d. Applicant: Gail William Marshall.

e. Name of Project: Three Lynx Creek.

f. Location: On Three Lynx Creek in Clackamas County, Oregon near the town of Estacada.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Ms. Dorothy Osgood, 12825 SW 20th Court, Beaverton, OR 97005.

i. Comment Date: December 6, 1985.

j. Description of Project: The proposed project would consist of: (1) A 2-foot-high, 40-foot-long gabion diversion dam at elevation 1,970 feet; (2) a 20-inch-diameter, 2,050-foot-long steel penstock; (3) a powerhouse containing three generating units with a combined capacity of 565 kW operating under a gross head of 413 feet; (4); a tailrace; (5) a 1,500-foot-long, 12.5-kV underground transmission line tying into an existing Portland General Electric Company line. The average annual energy production would be 1.78 million kWh.

The estimated project cost would be $330,000.

This application has been accepted for filing as of September 17, 1981, the submittal date of the Applicant's originally accepted exemption application pursuant to Eagle Power Company et al., 28 FERC ¶ 61,061, issued July 18, 1984.

k. Purpose of Project: Project power would be sold to Portland General Electric Company.

l. This notice also consists of the following standard paragraphs: A9, B, C, and D1.

13 a. Type of Application: Major License.

b. Project No.: 7380-006.

c. Date Filed: March 5, 1985.

d. Applicant: Renewable Resources Development, Carlson Hydroelectric Corp., and Guy M. Carlson.

e. Name of Project: Partridge Creek Hydroelectric.

f. Location: On Partridge Creek in Idaho County, Idaho, partially on lands of the United States administered by the Bureau of Land Management.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Carl L. Myers, Myers Engineering Company, 750 Warm Springs Avenue, Boise, Idaho 83712.

i. Comment Date: December 6, 1985.

j. Description of Project: The proposed project would consist of: (1) A 4-foot-high, 22-foot-long reinforced concrete diversion dam at approximate elevation 2,800 feet; (2) an intake structure along the streambank with a channel for fish passage and instream flow releases, trash racks, fish screens, a sluice gate, and a control valve; (3) a 30-inch-diameter, 13,500-foot-long steel penstock; (4) a 36-foot-square reinforced concrete powerhouse at approximate elevation 2,000 feet containing one generating unit rated at 2,370 kW and producing an average annual output of 7.4 GWh at a capacity of 55 cfs and a head of 750 feet; (5) an 1,800-foot-long overhead transmission line connecting to a 34.5-kV, 18-mile-long underground transmission line proposed to connect this and four other proposed projects to a substation in Riggins, Idaho; and (6) an access road that is an old logging road. The estimated project cost is $2,450,000 in 1984 dollars. This application was filed pursuant to a preliminary permit.

k. Purpose of Project: Project power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

14 a. Type of Application: Major License (under 5MW).

b. Project No.: 7806-001.

c. Date Filed: October 29, 1984.

d. Applicant: Richard and Georgenia Wilkinson.

e. Name of Project: Prospect Creek.

f. Location: On Prospect Creek in Sanders County, Montana near the town of Thompson Falls.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Richard J. and Georgenia M. Wilkinson, P.O. Box 848, Thompson Falls, Montana 59873.

i. Comment Date: December 9, 1985.

j. Description of Project: The proposed project would consist of: (1) A 10-foot-high, 50-foot-long reinforced concrete diversion structure at elevation 2,555 feet; (2) a 6-foot-diameter, 4,170-foot-long steel buried penstock; (3)

powerhouse containing two generating units with a total rated capacity of 2,900 kW operating under a head of 130 feet; (4) a tailrace discharging flows back into Prospect Creek; and (5) a 0.5-mile long, 2.4-kV transmission line tying into an existing Montana Power Company line. The average annual energy production would be 8.2 GWh. The estimated cost of the project is 2.7 million dollars.

The application has been accepted for filing as of November 4, 1983, the submittal date of the Applicant's originally accepted exemption application pursuant to Eagle Power Company, et al., 28 FERC ¶ 61,061, issued July 18, 1984.

k. Purpose of Project: Project power would be sold to Montana Power Company.

l. This notice also consists of the following standard paragraphs: A9, B, C, and D1.

15 a. Type of Application: Preliminary Permit.

b. Project No.: 9309-000.

c. Date Filed: July 2, 1985.

d. Applicant: Coos Hydro Associates.

e. Name of Project: Lyman.

f. Location: On the Connecticut River in Coos County, New Hampshire and Essex County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Louis Rosenman, Coos Hydro Associates, 1350 New York Avenue, #600, Washington, DC 20005.

i. Comment Date: December 6, 1985.

j. Description of Project: The proposed project would consist of: (1) An existing 20-foot-high, 500-foot-long earth and timber gravity dam; (2) a reservior with a surface area of 2 acres, a storage capacity of 0.5 acre-feet and a normal water surface elevation of 960 feet m.s.l.; (3) a new 60-inch-diameter, 2,000-foot-long steel penstock; (4) a new powerhouse containing one generating unit with a capacity of 4,200 kW; (5) a new 125-foot-long, 15-foot-deep, 25-foot-wide reinforced concrete and rock tailrace; (6) a new transmission line, 800 feet long; and (7) appurtenant facilities. The Applicant estimates the average annual generation would be 17,000,000 kWh. The existing dam is owned by Mr. James C. Katsekas, 209 Walnut Street, Manchester, New Hampshire.

k. Purpose of Project: Project power would be sold to the Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A Preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $145,000.

16 a. Type of Application: Preliminary Permit.

b. Project No.: 9313-000.

c. Date Filed: July 2, 1985.

d. Applicant: Blackwater Dam Associates.

e. Name of Project: Blackwater Dam.

f. Location: On the Blackwater River in Merrimack County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Mike Graham, 484 East 300 North, Manti, UT 84642.

i. Comment Date: December 6, 1985.

j. Description of Project: The proposed project would utilize the existing Blackwater Dam and Reservoir owned by the U.S. Army Corps of Engineers and would consist of: (1) An existing penstock 275 feet long and 16 feet in diameter; (2) an existing concrete powerhouse 60 feet wide and 60 feet long to contain two turbine/generators with an installed capacity of 1000 kW; (3) a proposed tailrace; (4) a transmission line; and (5) appurtenant facilities. The estimated average annual energy production would be 3,500 MWh with a net hydraulic head of 60 feet.

k. Purpose of Project: Project power would be sold to the local municipalities or the local power company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope and Cost of Studies under Permit: A Preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the studies under permit would be $23,750.

17 a. Type of Application: Preliminary Permit.

b. Project No.: 9328-000.

c. Date Filed: July 2, 1985.

d. Applicant: Edwards Energy Systems, Inc.

e. Name of Project: Rodman Hydropower.

f. Location: Oklawaha River, Putnam County, Florida.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Dean Edwards, President, Edwards Energy Systems, Inc., 2992 Heather Trail, Clearwater, FL 33519.

i. Comment Date: December 6, 1985.

j. Description of Project: The proposed project would utilize the U.S. Army Corps of Engineers' Rodman Dam and would consist of: (1) A proposed intake works, located either at the existing spillway or at a location some 1400 feet south of the spillway; (2) proposed generating facilities with an installed capacity of 1,500 kW; (3) a proposed tailrace channel; (4) a proposed 17.2 kV transmission line, approximately 3.5 miles long; and (5) appurtenant facilities. The Applicant estimates that the average annual energy production would be 9,237,000 kWh.

k. Purpose of Project: The Applicant anticipates that project energy will be sold to the Clay Electric Cooperative, Inc.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A Preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $14,000.

18 a. Type of Application: Preliminary Permit.

b. Project No.: 9381-000.

c. Date Filed: August 1, 1985.

d. Applicant: Republican City Associates.

e. Name of Project: Harlan County Dam.

f. Location: Republican River, Harlan County, Nebraska.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Louis Rosenman, 1350 New York Avenue, Washington, DC 20005.

i. Comment Date: December 6, 1985.

j. Description of Project: The proposed project would utilize the U.S. Army Corps of Engineers' Harlan County Dam and would consist of: (1) A proposed intake works; (2) a proposed penstock, 9 feet in diameter and 150 feet long; (3) a proposed powerhouse containing a single generating unit with a capacity of 2,400 kW; (4) a proposed tailrace, 100 feet long and 10 feet wide; (5) a proposed 12.5 kV transmission line 4,000 feet long; and (6) appurtenant facilities. The Applicant estimates that the average annual energy production would be 5.5 GWh.

k. Purpose of Project: The Applicant anticipates that project energy will be sold to a Nebraska Utilities.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A perliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time the Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $145,000.

19 a. Type of Application: Exemption 5 MW.

b. Project No.: P-9384-000.

c. Date Filed: August 2, 1985.

d. Applicant: Mr. David Head.

e. Name of Project: White's Brook Micro.

f. Location: On White Brook in Oxford County, Maine.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2709.

h. Contact Person: Mr. James D. Sysko, Star Route 240, Bethel, ME 04217.

i. Comment Date: November 18, 1985.

j. Description of Project: The proposed run-of-river project would consist of: (1) A proposed inlet a trash rack in a small natural pool at elevation 1260 feet U.S.G.S.; (2) a proposed 12-inch-diameter penstock extending 2700 feet in length to; (3) a proposed 8-foot-wide and 12-foot-long concrete powerhouse to contain one turbine/generator unit with an installed capacity of 60 kW discharging flows back into the river; (4) as proposed transmission line; and (5) appurtenant facilities. The estimated average annual energy produced by the project would be 360,000 kWh operating under a net hydraulic head of 360 feet.

k. Purpose of Project: Project power will be sold to the local utility.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

20 a. Type of Application: Preliminary Permit.

b. Project No.: 9387-000.

c. Date Filed: August 5, 1985.

d. Applicant: Tultex Corporation.

e. Name of Project: Avalon Dam Hydro.

f. Location: Mayo River, Rockingham County, North Carolina.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Philip Hoover, Synergics, Inc.; 410 Severn Avenue, Annapolis, MD 21403.

i. Comment Date: December 6, 1985.

j. Description of Project: The proposed project would consist of the following: (1) The existing Avalon Dam, an arch shaped stone masonry structure approximately 250 long and 20 feet high; (2) an existing reservior with a surface area of approximately acres and a storage capacity of 100 acre-feet at normal water surface elevation of 624.5 feet, m.s.l; (3) an existing stone masonry headworks structure; (4) an existing 2000-foot-long power canal varying in width from 20 to 26 feet; (5) an existing powerhouse structure which is to be refurnished and to contain a new generating unit of 900 kW capacity; (6) a proposed short tailrace sections; (7) a 13.2 kV tranmission line, approximately ¼ mile long; and (8) appurtenant facilities. The applicant estimates that the average annual energy production would be 5.8 GWh.

k. Puprose of Project: The Applicant anticipates that project energy will sold to Duke Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time the Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $30,000.

21 a. Type of Application: Preliminary Permit.

b. Project No.: 9393-000.

c. Date Filed: August 6, 1985.

d. Applicant: Independence Electric Corporation.

e. Name of Project: Green River Lock and Dam No. 3.

f. Location: Green River, Muhlenberg County, Kentucky.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. G. William Miller, President, Independence Electric Corporation, 919 18th Street, N.W., Washington, DC 20006.

i. Comment Date: December 6, 1985.

j. Description of Project: The proposed project would utilize the U.S. Army Corps of Engineers' Green River Lock and Dam No. 3 and would consist of: (1) A proposed intake channel, approximately 300 feet long; (2) a proposed powerhouse containing 2 generating units with a total capacity of 9,000 kW; (3) a proposed tailrace channel, approximately 200 feet long; (4) a proposed 161 kV transmission line, approximately 2 miles long to interconnect with the existing Tennessee Valley Authority transmission system; and (5) appurtenant facilities. The Applicant estimates the average annual generation to be 35,000,000 kWh.

k. Purpose of Project: The Applicant anticipates that project energy will sold to a nearby utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time the Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be 50,000.

24 a. Type of Application: Preliminary Permit.

b. Project No.: 9394-000.

c. Date Filed: August 6, 1985.

d. Applicant: Independence Electric Corporation.

e. Name of Project: Green River Lock and Dam No. 3.

f. Location: Green River, Muhlenberg County, Kentucky.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. G. William Miller, President, Independence Electric Corporation, 919 18th Street, N.W., Washington, DC 20006.

i. Comment Date: December 9, 1985.

j. Description of Project: The proposed project would utilize the U.S. Army Corps of Engineers' Green River Lock and Dam No. 3 and would consist of: (1) A proposed intake channel, approximately 300 feet long; (2) a proposed powerhouse containing 2 generating units with a total capacity of 9,000 kW; (3) a proposed tailrace channel, approximately 200 feet long; (4) a proposed 161 kV transmission line, approximately 2 miles long to interconnect with the existing Tennessee Valley Authority transmission system; and (5) appurtenant facilities. The Applicant estimates the average annual generation to be 32,000,000 kWh.

k. Purpose of Project: The Applicant anticipates that project energy will sold to a nearby utility.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which time the Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be 50,000.

23 a. Type of Application: Preliminary Permit.

b. Project No.: 9447-000.

c. Date Filed: September 10, 1985.

d. Applicant: Town of Orchard City.

e. Name of Project: Town of Orchard City.

f. Location: Town of Orchard City, Delta County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person:

Mayor Jesse Messenger, Town of Orchard City, 2101, J50 Road, Austin, CO 81410, (303) 835-3337

Mr. Gerald E. Bergmann, High Country Engineering, Inc. Suite 205, Village Plaza, Glenwood Springs, CO, 81601 (303) 945-8676

i. Comment Date: December 9, 1985.

j. Description of Project: The proposed project would consist of: (1) A new 10-inch-diameter, 18,800-foot-long pipeline, replacing an existing 6-inch-diameter line, originating at the "upper spillage point" near a wye in the 6-inch pipe; (2) a 16-foot by 16-foot powerhouse located at elevation 7,780 feet msl, just above an existing water treatment plant backwash system, containing a single Pelton turbine-generator unit with a rated capacity of 400 kW and producing an estimated average annual generation of 2.191 GWh; (3) a 10-inch-diameter, 900-foot-long tailrace pipeline conveying water to the water treatment plant; and (4) a 3.6-mile-long, 12.47-kV transmission line. Project power would be sold to Colorado-Ute Electric Association. The project would be partially located on Grand Mesa National Forest lands.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide, whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $10,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

24 a. Type of Application: Major License (under 5MW).

b. Project No.: 8971-000.

c. Date Filed: November 8, 1984.

d. Applicant: Big Wood Canal Company.

e. Name of Project: Lincoln Bypass.

f. Location: On the Lincoln Bypass Canal, originating on the Big Wood River, in Lincoln County, Idaho near the town of Shoshone.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person:

Mr. Jay R. Bingham, 165 Wright Brothers Drive, Salt Lake City, UT 84116

and

Mr. L. Wynn Johnson, Bonneville Pacific, 200 East South Temple, Suite 300, Salt Lake City, UT 84111

i. Comment Date: December 9, 1985.

j. Description of Project: The proposed project would consist of: (1) An 8-foot-high, 70-foot-wide concrete diversion structure at elevation 4,486 feet; (2) a 45-foot-wide concrete intake structure, located on the south bank of the Lincoln Bypass Canal, consisting of three 5-foot by 5-foot slide gates; (3) a 60-inch-diameter, 3,170-foot-long steel penstock; (4) a 20-foot-wide, 30-foot-long powerhouse containing a single generating unit with a rated capacity of 1,960 kW operating under a head of 130 feet and producing an annual energy output of 9,981,000 kWh; (5) a concrete tailrace; and (6) a 5-mile-long, 46-kV transmission line tying into an existing Idaho Power Company line.

The estimated cost of the project is $2,117,000.

k. Purpose of Project: Project power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

25 a. Type of Application: Exemption.

b. Project No.: 9179-000.

c. Date Filed: May 8, 1985.

d. Applicant: Wayne J. Krieger.

e. Name of Project: Skyview.

f. Location: Near Euchre Creek in Curry County, Oregon.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended)

h. Contact Person: Wayne J. Krieger, P.O. Box 83, Coy Creek Road, Ophir, OR 97464.

i. Comment Date: November 15, 1985.

j. Description of Project: The project would consist of: (1) An 8-inch-diameter, 1,960-foot-long PVC penstock commencing in a farm pond catch basin and; (2) a powerhouse containing a single generating unit with a capacity of 37 kW and an average annual generation of 86 MWh.

k. Purpose of Project: Project power would be sold.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3a.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or

notices of intent. In accordance with the Commission's regulations, any competing development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203–RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be set to the Applicants representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed t ahave no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a

condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: September 4, 1985.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-24134 Filed 10-8-85; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of September 6 Through September 13, 1985

During the week of September 6 through September 13, 1985, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearing and Appeals, Department of Energy, Washington, DC 20585.

Dated: September 23, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Sept. 6 through Sept. 13, 1985]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 9, 1985	Carlson Oil Co. Newark, IL	HEE-0167	Exception to reporting requirements. If granted: Carlson Oil Company would not be required to file the form EIA-782B, "Reseller/Retailers' Monthly Petroleum Product Sales Report."
Do	John Spillson, Monroe, MI	HFA-0309	Appeal of an information request denial. If granted: John Spillson would receive access to a copy of a file regarding the Enrico Fermi Unit One, Power Reactor Development Company and Atomic Power Development Company.
Sept. 10, 1985	Isham, Lincoln & Beale, Chicago, IL	HFA-0310	Appeal of an Information request denial. If granted: The August 9, 1985 Freedom of Information Request Denial issued by the DOE Office of Coal, Nuclear, and Alternate Fuels would be rescinded, and Isham, Lincoln & Beale would receive access to materials on uranium marketing and price surveys.
Sept. 11, 1985	Clark Oil & Refining Corp., Milwaukee, WI	HRX-0125	Supplemental order. If granted: Clark Oil & Refining Corporation (Clark) would be required to provide the Economic Regulatory Administration with information concerning its treatment of any fee-free license payments received from 1974 to 1980, in connection with a pending Proposed Remedial Order proceeding involving Clark (Case No. HRO-0249).
Sept. 12, 1985	Revere Petroleum Corp. Houston, TX	HRD-0299, HRD-0300, HRH-0299	Motions for discovery and evidentiary hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Revere Petroleum Corporation in response to the Proposed Remedial Order issued to the firm (Case No. HRO-0125).
Sept. 13, 1985	Consolidated Materials, Inc., New Orleans, LA	HRZ-0126	Interlocutory orer. If granted: The Office of Hearings and Appeals would establish procedures for the evidentiary hearing to be held pursuant to a July 23, 1985 Decision and Order (Case No. HRH-0023).
Do	Matthew A. Evangelista, Washington, DC	HFA-0311	Appeal of an Information denial. If granted: The September 4, 1985 Freedom of Information Request Denial Issued by the DOE Office of Intelligence Analysis & Support would be rescinded, and Matthew A. Evangelista would recieve access to a complete list of Soviet nuclear detonations from 1949 until 1965.

REFUND APPLICATIONS RECEIVED

[Week of Sept. 6 through Sept. 13, 1985]

Date	Name of refund proceeding/name of refund applicant	Case No.
9/9/85	Amoco/Navajo Nation	RQ21-232
9/9/85	Amoco/Colorado	RQ21-231
9/9/85	Red Triangle/Gleen N. Ward	RF178-16
9/9/85	Husky/E-Z Serve, Inc	RF161-69
9/9/85	Enterprise/White Fuels, Inc	RF156-3
9/9/85	Aminoil/Speaker Propane Gas Co	RF139-130
9/9/85	Aminoil/Moss Amogas Service	RF139-131
9/9/85	Aminoil/White's LP Gas	RF139-132
9/9/85	Aminoil/Stahl Petroleum Co	RF139-133
9/9/85	Aminoil/Dillon Supply Co	RF139-134
9/9/85	Aminoil/Paul Summers Propane Co.	RF139-135
9/9/85	Gulf/Bole Oil Co	RF40-3049
9/9/85	Ayers/Modernaire 66 Service	RF177-3
9/9/85	Field/Bill's Service	RF173-6
9/9/85	LARCO/Valley Petroleum Co	RF112-180
9/10/85	Husky/Crazy Charlie's Truck Stop	RF161-70
9/10/85	Good Hope/Bray Terminals, Inc	RF189-4
9/10/85	St. James/E.R. Heller Fuel Gas, Inc.	RF180-26
9/10/85	Union Texas/ECO Petroleum Corp	RF140-32

REFUND APPLICATIONS RECEIVED—Continued

[Week of Sept. 6 through Sept. 13, 1985]

Date	Name of refund proceeding/name of refund applicant	Case No.
9/10/85	Union Texas/ECO Petroleum Corp.	RF104-7
9/10/85	Amoco/G.W. Seeley Petroleum, Inc.	RF21-12399
9/10/85	Amoco/G.W. Seeley Petroleum, Inc.	RF21-12398
9/10/85	St. James/McCoy Coal & Oil Co	RF180-27
9/9/85	Harris/Broadway Electric, Inc	RF193-1
9/9/85	Harris/A.L. Morris & Son	RF193-3
9/9/85	Harris/Widing Transportating, Inc	RF193-2
9/11/85	APCO/Kwik-Fil, Inc	RF83-143
9/11/85	APCO/Golden Rule Oil Co	RF83-144
9/10/85	Arkla Chemical/Stephens Production.	RF153-23
9/10/85	Arkla Chemical/Arkansas Oklahoma Gas.	RF153-22
9/10/85	Arkla Chemical/Albert Harper	RF153-21
9/11/85	Aminoil/Southern Energy, Inc	RF139-136
9/11/85	Inland/Energy Petroleum Co	RF176-11
9/11/85	APCO/Robson Oil Co., Inc	RF83-142
9/11/85	Allied Materials/Kitchen Oil Co	RF194-1

REFUND APPLICATIONS RECEIVED—Continued

[Week of Sept. 6 through Sept. 13, 1985]

Date	Name of refund proceeding/name of refund applicant	Case No.
9/11/85	Aminoil/Fisher Propane Service	RF139-137
9/12/85	Warren Holding/Lehigh Oil Co	RF169-7
9/12/85	VGS/Jackson Municipal Airport Authority.	RF191-2
9/12/85	Gulf/Gulf 77	RF40-3050
9/13/85	Red Triangle/Daniel T. Vargas	RF178-17
9/13/85	Arkansas Louisiana/Coca-Cola Bottling	RF154-22
9/13/85	Alcoa/Tenneco, Inc	RF4-3
9/13/85	Pan American/Farmland Industries	RF36-2
9/13/85	Brown/Chris Standard et. al	RF39-4, RF39-5, RF39-6
9/13/85	Inland/Star Service & Petroleum Co.	RF176-12

[FR Doc. 85-24062 Filed 10-8-85; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of August 26 Through August 30, 1985

During the week of August 26 through August 30, 1985, the decisions and orders summarized below were issued with respect to applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearing and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Officer of Hearings and Appeals.

September 23, 1985.

Remedial Orders

AD Energy, Inc., 08/29/85, *HRO-0142*

AD Energy, Inc. and Allen L. Dwight (collectively referred to as "AD") objected to a Proposed Remedial Order which the Dallas District Office of the Economic Regulatory Administration (ERA) issued to AD on February 18, 1983. In the Proposed Remedial Order, the ERA found that during the period May 1979 through December 1980, AD received illegal revenues totalling $1,804,574.81 by reselling crude oil at prices in excess of those permitted by 10 CFR 212.186 (the layering regulation), and 210.62 (the normal business practices rule). In concluding that the Proposed Remedial Order should be issued as a final Order, the DOE found that AD failed to show that it performed any economically valuable function in its transactions which would justify a markup. The important issues discussed in the Decision and Order include (i) the substantive and procedural validity of the layering regulation; (ii) the agency's interpretation of the layering regulation; and (iii) the individual liability of Allen L. Dwight.

Petrotech Trading Company et al., 08/30/85, *HRO-0095*

Petrotech Trading Company (Petrotech), David L. Hooper and Kenneth Rogers objected to a Proposed Remedial Order which the Economic Regulatory Administration (ERA) issued to them and to David W. Ratliff, John T. Troland and the West Texas Marketing Corporation (West Texas) on September 30, 1982. In the PRO, the ERA found that the crude oil reselling activities of the PRO respondents violated the layering rule, 10 CFR 212.186. In considering the Statement of Objections, the DOE found no merit to arguments that the layering regulation was not validly promulgated and that the DOE enforcement actions against crude oil resellers were discriminatory. In addition, the DOE found that the layering rule required crude oil resellers to provide some tangible service which facilitated the movement of crude oil from the producer to the refiner or which provided some other function of economic benefit to the crude oil market, and that the PRO recipients had not provided such a service or function. The DOE next determined, pursuant to the agency's statutory authority to effect restitution, that Hooper's and Rogers' participation in the reselling activities of PetroTech and West Texas made them fully liable for the layering violations committed by those firms. The DOE further determined, however, to exercise its discretion to limit the refund obligations of Hooper and Rogers according to the manner in which they had divided the profits of PetroTech and West Texas. In addition, the DOE found PetroTech fully liable for the violations committed by it and West Texas. Finally, the DOE agreed with objections filed on behalf of the Controller of the State of California and directed that all refunds in this matter be distributed pursuant to the procedures set forth in 10 CFR Part 205, Subpart V.

Request for Exception

Farmers Union Co-op Oil Association, 08/29/85, *HEE-0157*

Farmers Union Co-op Oil Association filed an Application for Exception in which the firm sought to be relieved of the requirement to submit Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." In considering the request, the DOE found that the applicant had to devote an excessive amount of time to preparation of the form and that, therefore, exception relief through 1986 was necessary to relieve the applicant of the excessive burden it was incurring as a result of the reporting requirement. Accordingly, exception relief was granted.

Request for Modification and or Rescission

Economic Regulatory Administration, 08/30/85, *HRR-0112*

The Economic Regulatory Administration (ERA) filed an Application for Modification of a July 25, 1985 Remedial Order issued by the DOE to Energy Reserves Group, Inc. (Energy Reserves). *See Energy Reserves Groups, Inc.*, 13 DOE ¶ 83,027 (1985). In its application, the ERA sought modification of the remedial provisions of the Remedial Order to specify that certain overcharge payments to be made by the firm would be subject to the jurisdiction of the United States District Court for the District of Kansas in *In re: The Department of Energy Stripper Well Litigation*, M.D.L. No. 378 (D. Kan.). The DOE concluded that in light of the facts presented by ERA, the Remedial Order should be modified as requested.

Request for Temporary Exception

Holy Cross Hospital, 08/27/85, *HEL-0003*

Holy Cross Hospital filed an application seeking a temporary exception from the regulations at 10 CFR Part 455 which govern the Department of Energy's Institutional Grants Program. These regulations require that the hospital buildings which are the subject of grant requests be occupied on or before April 20, 1977. Holy Cross stated in its application that the Sylmar Earthquake had destroyed one of its buildings and that the structure had not been renovated until May 1977, after the date specified in the regulations. The DOE determined that Holy Cross Hospital met the requirements for temporary exception relief set forth at 10 CFR 205.125. Accordingly, temporary exception relief was granted.

Motion for Discovery

A.V. Wright & Associates, Inc., Petroex Energy Corporation, A.V. Wright, 08/30/85, *HRD-0256*

A.V. Wright & Associates, Inc. (Associates), Petroex Energy Corporation (Petroex), and A.V. Wright (Wright) filed a Motion for Discovery in connection with a Statement of Objections that the parties filed to a Proposed Remedial Order issued to them on May 18, 1984 by the Economic Regulatory Administration (ERA) of the Department of Energy. In the PRO, the ERA alleges that Associates and Petroex violated certain regulations in resales of crude oil, including the layering regulation at 10 CFR 212.186, and that Wright should be held personnally liable for these violations. The PRO recipients sought administrative record discovery and contemporaneous construction discovery of the layering regulation. Based on previous DOE decisions regarding similar requests, these discovery requests were denied. In addtion, the PRO recipients requested information regarding compliance with the safe harbor provision of the reseller price rule at 10 CFR 212.183. The DOE denied this request since any information regarding whether the firm set its prices in compliance with the regulation would necessarily be in the possesion of the PRO recipients. Accordingly, the Motion for Discovery was denied in its entirety.

Implementation of Special Refund Procedures

Big Bend Truck Plaza et al., 08/28/85, *HEF-0036, HEF-0057, HEF-0077*

The DOE issued a Decision and Order establishing procedures for the disbursement of funds totalling $66,678.29 plus accrued interest. The funds were obtained as a result of three separate consent orders entered into by the DOE and Big Ben Truck Plaza, Cougar Oil, Inc., and Gate Petroleum, Inc. The funds will be available to injured resellers (including retailers) and end-users, that purchased (i) diesel fuel from Big Bend during the period November 1, 1973 through April 30, 1976 and (ii) motor gasoline from Cougar and Gate during the periods January 1, 1979 through December 31, 1979, and April 1, 1979 through September 30, 1979, respectively. The DOE will presume injury with respect to resellers or retailers requesting $5,000 or less and with respect to end-users. Specific information required in application for refund, which must be filed no later than 90 days after publication of this Decision and

Order in the Federal Register, is set forth in the Decision. Funds remaining after all meritorious claims are paid will be distributed in a second-stage refund proceeding.

Harris Enterprises, Inc., 08/27/85, *HEF-0087*

The DOE issued a Decision and Order implementing plan for the distribution of $21,200 received as a result of an amended consent order entered into by Harris Enterprises, Inc. and the DOE on July 11, 1980. The DOE determined that the entire settlement fund should be distributed to 22 wholesale customers that purchased specified covered products from Harris during the period November 1, 1973 through August 31, 1974. These customers were identified by a DOE audit and were listed in an attachment to the consent order setting forth specific refunds to 39 customers. These 22 eligible customers were futher identified as having not received their full designated refund amount. Refunds will be allocated on a percentage basis which will permit each customer to receive a minimum of 90.202 percent of the refund that it was entitled to receive under the original consent order. Applications filed by firms not identified in the Decision may also be filed. Any such application will be analyzed and, if necessary, refunds to the identified purchasers will be adjusted to accommodate all successful applicants. Specific information required in applications for refund, which must be filed no later than 90 days after publication of this Decision and Order in the Federal Register, is set forth in the Decision.

The True Companies, 08/29/85, *HEF-0557*

The DOE issued a Decision and Order setting forth the procedures that it will use to distribute $3,500,000.00 which it received as the result of a consent order with The True Companies. The DOE allocated one-third of the monies to crude oil claims and two-thirds of the monies to claims resulting from the purchase of other petroleum products. The crude oil refund pool will be held in escrow pending Congressional action, pursuant to a DOE policy enunciated at 50 FR 27,400 (July 2, 1985). The non-crude oil refund pool will be distributed in a two-stage process. During the first stage the DOE will attempt to refund monies to injured purchasers of True products. The DOE will presume injury with respect to end-users and agricultural cooperatives and with respect to refund claims of $5,000 or less. Specific information required in applications for refund, which must be filed no later than 90 days after publication of the Decision and Order in the Federal Register, is set forth in the Decision. If any funds remain in the non-crude oil refund pool after first stage refund procedures are completed, the DOE will establish appropriate second stage refund procedures.

Refund Applications

Consolidated Gas Supply Corporation/ Agway Petroleum Corporation, 08/30/85, *RF77-3*

Agway Petroleum Corporation filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into with Consolidated Gas Supply Corporation. The firm claimed a refund on the basis of its purchase of 3,144,900 gallons of propane from Consolidated Gas during the consent order period. The DOE determined that Agway's claim was below the presumption of injury level of $5,000. The DOE therefore granted Agway a refund of $352.23 plus accrued interest of $249.79 for a total refund of $60.02.

Gulf Oil Corp./ITT Continental Banking Co. et al., 08/29/85, *RF40-71 et al.*

The DOE issued a Decision and Order concerning 49 Applications for Refund filed by end-users of products purchased from the Gulf Oil Corporation. In its Decision, the DOE granted the 49 applications 12 DOE ¶ 85,048 (1943). The refunds granted in this proceeding total $721,918.00, representing $633,624.00 in principal and $88,294.00 in interest.

Gulf Oil Corporation/W.E. Jersey & Sons, et al., 08/28/85, *RF40-90 et al.*

The DOE issued a Decision and Order concerning 16 Applications for Refund filed by resellers and reseller-retailers pursuant to the consent order entered into with Gulf Oil Corporation (Gulf). In considering the Applications, the DOE found that each of the applicants had demonstrated that they would not have been required to pass through to their customers a cost reduction equal to the refund claimed. Accordingly, the firms were granted refunds totalling $266,256 plus interest of $39,887.

Standard Oil Co. (Indiana)/Mississippi, 08/27/85, *RM21-7*

The State of Mississippi petitioned the DOE to modify the State's previously approved plan to utilize funds allocated to the State in the Standard Oil Co. (Indiana) special refund proceeding. Mississippi sought to make the following changes: (1) To expand its conservative driving training program to include local and municipal government fleet operations; (2) to replace a driver monitoring device known as a vacuum gauge with a tachograph on each training vehicle; and (3) to promote energy conservation among local "civic organizations." The DOE denied the state's request to instruct government fleet operators since instructing such operators was not sufficiently restitutionary to injured private citizens who were motor gasoline and middle distillate consumers. The DOE approved Mississippi's request to install tachographs on training vehicles and sought additional information concerning Mississippi's promotional program for civic organizations.

Dismissals

Name and Case No.

Atlantic Card Company—RF40-1868
C.W. Carey Oil Company—HEE-0151
Don White Oil Service, Inc.—RF40-704
State of Minnesota—HFA-0305
State of Nevada—RF161-4

[FR Doc. 85-24063 Filed 10-8-85; 8:45 am]
BILLING CODE 6450-01-M

Objection to Proposed Remedial Order Filed; Period of August 12 Through August 30, 1985

During the period of August 12 through August 30, 1985, the notice of objection to the proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceedings the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: September 12, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Thriftway Company, Farmington, New Mexico: HRO-0303

On August 30, 1985 the Thriftway Company, 710 East 20th Street, Farmington, New Mexico 87401, filed a Notice of Objection to a Proposed Remedial Order which the DOE Washington, DC Office of Enforcement Programs issued to the firm on July 26, 1985.

In the PRO the Office of Enforcement Programs found that during the period December 1976 through January 1977, Thriftway violated 10 CFR 211.66(h)(4), 211.67(d), and 205.202 by filing erroneous Refiners Monthly Reports. The PRO finds that these violations resulted in receipt by the company of unwarranted small refiner bias entitlements.

According to the PRO the alleged violation resulted in Thriftway's receipt of $670,923 of excess revenue.

[FR Doc. 85-24064 Filed 10-8-85; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF-422; FRL-2908-8]

Pesticide Tolerance Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a pesticide petition relating to the establishment of a tolerance for certain pesticide chemicals in or on the commodity flax seed.

ADDRESS: By mail, submit comments identified by the document control number [PF-422] and the petition number, attention Product Manager (PM-23), at the following address:

Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to:

Information Services Section (TS-757C), Environmental Protection Agency, Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail:

Richard Mountfort, (PM-23), Registration Division (TS-767C), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 237, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA has received a pesticide petition (PP) 5F3295 from the American Hoechst Corp., Agricultural Division, Rt. 202-206 North, Somerville, NJ 08876, proposing to amend 40 CFR 180.385 by establishing a tolerance for the combined residues of the herbicide diclofop-methyl (methyl 2-[4-(2,4-dichlorophenoxy)phenoxy(propanoate) and its metabolites, 2-[4-(2,4-dichlorophenoxy)phenoxy]propanoic acid and 2-[4-(2,4-dichloro-5-hydroxyphenoxy)phenoxy]propanoic acid, each expressed as diclofop-methyl, in or on the raw agricultural commodity flax seed at 0.1 part per million (ppm).

The proposed analytical method for determining residues is gas chromatography.

(21 U.S.C. 346a)

Dated: September 24, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-23982 Filed 10-8-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180681; FRL-2909-6]

Emergency Exemptions; California Department of Food and Agriculture et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pest in the 11 States listed below. Also listed are two crisis exemptions initiated by the California Department of Food and Agriculture and the Massachusetts Department of Food and Agriculture. These exemptions, issued during the months of July and August, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each specific exemption for the name of the contact person. The following information applies to all contact people:

By mail: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Room 716, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-1806).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. California Department of Food and Agriculture for the use of carbofuran on artichokes to control cribrate weevils; August 23, 1985 to October 31, 1985. (Stan Austin)

2. California Department of Food and Agriculture for the use of carbaryl on home garden crops to eradicate Japanese beetles and gypsy moth larvae; August 13, 1985 to July 31, 1986. (Jim Tompkins)

3. California Department of Food and Agriculture for the use of sethoxydim on dry bulb onions to control grassy weeds; June 27, 1985 to September 30, 1985. California initiated a crisis exemption for this use. (Jim Tompkins)

4. Colorado Department of Agriculture for the use of methidathion on field and seed corn to control Banks grass mites; July 2, 1985 to August 31, 1985. (Gene Asbury)

5. Illinois Department of Agriculture for the use of permethrin on pumpkins (for canning) to control squash bugs; July 17, 1985 to November 1, 1985. (Stan Austin)

6. Minnesota Department of Agriculture for the use of metalaxyl on sunflower seeds for export to control downy mildew; August 23, 1985 to April 30, 1986. (Jim Tompkins)

7. Nebraska Department of Agriculture for the use of methidathion on field corn to control Banks grass mites and two spotted spider mites; July 29, 1985 to September 15, 1985. (Gene Asbury)

8. New Mexico Department of Agriculture for the use of monocrotophos on field corn for seeds and grain to control Banks grass mites; July 11, 1985 to November 30, 1985. (Gene Asbury)

9. North Dakota Department of Agriculture for the use of metalaxyl on sunflower seeds for export to control downy mildew; August 23, 1985 to April 30, 1986. (Jim Tompkins)

10. Oklahoma Department of Agriculture for the use of metalaxyl on peanuts to control pythium pod rot; August 14, 1985 to September 15, 1985. (Libby Pemberton)

11. Oklahoma Department of Agriculture for the use of monocrotophos on field corn for seed and grain to control Banks grass mites; July 11, 1985 to November 30, 1985. (Gene Asbury)

12. Oregon Department of Agriculture for the use of carbofuran on mint to control strawberry root weevils; July 25, 1985 to November 30, 1985. (Stan Austin)

13. Texas Department of Agriculture for the use of monocrotophos on field corn to control Banks grass mites; July 11, 1985 to November 30, 1985. Texas initiated a crisis exemption for this use. (Gene Asbury)

14. Texas Department of Agriculture for the use of metalaxyl on spinach to control white rust disease; August 20, 1985 to February 28, 1986. (Gene Asbury)

15. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of methiocarb on ginseng to control slugs; July 19, 1985 to November 1, 1985. (Libby Pemberton)

16. Wisconsin Department of Agriculture, Trade, and Consumer Protection for the use of diazinon on ginseng to control soil and foliar-feeding insects; August 8, 1985 to November 1, 1985. (Libby Pemberton)

Crisis exemptions were initiated by the:

1. California Department of Food and Agriculture on June 7, 1985, for the use of sethoxydim on dry bulb onions to control grassy weeds. The program will end on September 30, 1985. (Jim Tompkins)

2. Massachusetts Department of Food and Agriculture on July 19 1985, for the use of sodium flualuminate on potatoes to control Colorado potato beetles. Since it was anticipated that this program would be needed for more than 15 days, Massachusetts requested a specific exemption to continue it. The need for this program is expected to last until September 30, 1985. (Libby Pemberton)

Authority: 7 U.S.C. 136.

Dated: September 26, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 85-24160 Filed 10-8-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. DS-450]

Advisory Committee on Reduced Orbital Spacing; Meeting

October 2, 1985.

A meeting of the full FCC Advisory Committee on Reduced Orbital Spacing will take place on Tuesday, October 22, 1985. The purpose of this advisory committee is to obtain expert technical and operational recommendations on how to better implement 2° spacing between satellites in the 4/6 GHz and 12/14 GHz frequency bands. Phase II will focus on future activities that might be necessary to effectively address the impact of new technologies and new satellites and earth station designs on satellite spacing in the future. The objective of any recommendations is to measure the impact of new facilities and services at an early stage so that they can be introduced under conditions of reduced satellite spacings with a minimum of regulatory delay and interference to other satellite systems.

Date: October 22, 1985.

Time: 9:30 a.m.

Place: Room 856, Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

Agenda: 1. Adoption of Agenda.

2. Adoption of Minutes from last meeting.

3. Report from Chairman on committee progress to date.

4. Presentation from each of the three working group chairmen on Phase II activities and discussion of draft reports.

5. Other Business.

This meeting is open to the public. For additional information contact Roger Herbstritt at the FCC at (202) 634-1624.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Digital Paging Systems, Inc., et al.; Memorandum Opinion and Order

In re applications of:

Digital Paging Systems, Inc	CC Docket No. 85-279; File No. 50079-CM-P-74.
and	
Midwest Corporation	File No. 50024-CM-P-75.
and	
VideOhio, Inc	File No. 50032-CM-P-75.
For Construction Permits in the Multipoint Distribution Service for a new station on Channel 2 at Detroit, Michigan.	
and	
Private Networks, Inc	File No. 50182-CM-P-74.
and	
Multipoint Information Systems, Inc.	File No. 50035-CM-P-75.
For Construction Permits in the Multipoint Distribution Service on Channel 2 at Pontiac, Michigan.	
and	
Greater Media, Inc	File No. 50046-CM-P-75.
For Construction Permits in the Multipoint Distribution Service for a new station on Channel 2, at Royal Oak, Michigan.	

Adopted September 5, 1985.

Released October 2, 1985.

By the Common Carrier Bureau.

1. For consideration are the above-referenced applications. These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 2 at Detroit, Pontiac, and Royal Oak, Michigan to serve the Detroit, Michigan area. The applications are therefore mutually exclusive and require comparative consideration. These applications have been amended as the result of informal requests by the Commission's staff for additional information. There are no petitions to deny or other objections under consideration.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and § 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenient and necessity. In making such a determination, the following factors shall be considered:[1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It Is Further Ordered, That Digital Paging Systems, Inc., Midwest Corporation, VideOhio, Inc., Private Networks, Inc., Multipoint Information Systems, Inc., Greater Media, Inc. and the Chief of Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules, 47 CFR 1.221.

6. It is further ordered, that any authorization granted to Digital Paging Systems, a wholly-owned subsidiary of

[1] Private Networks, Inc. (PNI) filed a petition to designate an additional issue for hearing. In its petition, PNI requested comparative credit for its minority ownership in 25 of the 26 markets, including Detroit, Michigan, where it filed mutually exclusive Channel 2 applications. Minority ownership is not a factor the Commission has found to be relevant in comparative hearings for single channel MDS stations. *See* Frank K. Spain, 77 F.C.C. 2d 29 (1980). Accordingly, we are hereby dismissing the petition.

Graphic Scanning Corporation, as a result of the comparative hearing shall be conditioned as follows:

Without prejudice to reexamination and reconsideration of that company's qualifications to hold an MDS license following a decision in the hearing designated in *A.S.D. ANSWERING Service, Inc., et al.*, FCC 82-391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

7. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

James R. Keegan,

Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 85-23615 Filed 10-8-85; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1539]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

October 2, 1985.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to § 1.429(e). Oppositions to such petitions for reconsiderations must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Morehead City, North Carolina) (MM Docket No. 84-790, RM-4801).

Filed by: Robert A. Beizer, Craig J. Blakeley & Linda M. Wellstein, Attorneys for WITN-TV, Inc., (WITN-TV). 1fm.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 85-24088 Filed 10-8-85; 8:45 am]

BILLING CODE 6712-01-M

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. Denali Broadcasting Co. Inc.; Ketchikan, AK.	BPH-840501IB	85-281
B. Advancom, Inc.; Ketchikan, AK.	BPH-840625IE	
C. Media, Ltd.; Ketchikan, AK.	BPH-840719IG	

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 heading 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 application's name, above, is used below to a signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Comparative, A, B, C
2. 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 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. 85-24075 Filed 10-8-85; 8:45 am]

BILLING CODE 6712-01-M

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. Locher Development Corp.; Juneau, AL.	BPH-840327CA	85-280
B. Empire Communications, Inc.; Juneau, AL.	BPH-840627IC	
C. Advancom, Inc.; Juneau, AL.	BPH-840717IA	

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 heading 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, A, B
2. Comparative, A, B, C
3. 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, DC 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 85-24074 Filed 10-8-85; 8:45 am]

BILLING CODE 6712-01-M

Federal-State Joint Board to Meet Friday October 11, 1985

October 4, 1985.

The Federal-State Joint Board will consider issues related to assistance measures to aid low income households in affording telephone service, and issues concerning the permanent allocation of costs in Account 645 in *MTS and WATS Market Structure* and *Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, CC Docket Nos. 78-72 and 80-286.

This meeting is open to the public and will commence at 2 p.m. in room 856, at 1919 M Street NW., Washington, DC.

Additional information concerning this meeting may be obtained from Claudia Pabo, Margot Bester, or Susan O'Connell of the Common Carrier Bureau, telephone number (202) 632-6363.

Issued: October 4, 1985.

William J. Tricarico,

Secretary.

[FR Doc. 85-24177 Filed 10-8-85; 8:45 am]

BILLING CODE 6712-01-M

New FM Stations; Applications for Consolidated Hearing; Sherry Sanders and Rambo Broadcasting

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. Sherry Sanders; Russellville, AL.	BPH-821004AL	85-282
B. James Rambo and Katherine Rambo, d/b/a Rambo Broadcasting; Russellville, AL.	BPH-830214AG	

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
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.

Appendix.—Additional Issue Paragraph

1. To determine with respect to the following applicant whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph,* the applicant is financially qualified: B (Rambo).

[FR Doc. 85-24178 Filed 10-8-85; 8:45 am]

BILLING CODE 6712-01-M

* Paragraph 8 reads as follows: The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency: APPLICANT(S) B (Rambo). DEFICIENCY: B. (Rambo) answered "no" to Section III, question 1, of FCC Form 301, which asks the applicant to certify that sufficient net liquid assets are on hand or are available from committed sources to construct and operate the requested facilities for three months without revenue.

New FM Stations; Applications for Consolidated Hearing; VBM Enterprises, Inc., et al.

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. VBM Enterprises, Inc.; Springfield, FL.	BPH-840514IA	85-278
B. Springfield Communications, a limited partnership; Springfield, FL.	BPH-840531IA	
C. Matthew D. Wiggins, Jr.; Springfield, FL.	BPH-841113ME	
D. Ogden Broadcasting of Florida, Inc.; Springfield, FL.	BPH-841114MC	
E. Piedmont Communications Corporation; Springfield, FL.	BPH-841114MD	
F. Springfield 5-Star Media, a limited partnership; Springfield, FL.	BPH-841114ME	

A sixth applicant, Peggy Nicholson and Gary Shanley d/b/a S&N Broadcasting, was returned by letter dated December 28, 1984. The letter was undeliverable, e.g. "no such number, addressee unknown." A copy of the letter sent to the individual and address for communications specified in Section 1 of the application was not returned to the staff.

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,D,E,F
2. Comparative, All Applicants
3. Ultimate, All Applicants

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 Represenative, Room 242, 1919 M Street NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Audio Service Division, Mass Media Bureau.

[FR Doc. 85-24176 Filed 10-8-85; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to te Secretary, Federal Maritime Commission, Washington, DC 20573, within 15 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-007540-044.

Title: United States Atlantic and Gulf/Southeastern Caribbean Conference.

Parties:

Puerto Rico Maritime Shipping Authority
Sea-Land Service, Inc.
Shipping Corporation of Trinidad and Tobago, Ltd.

Synopsis: The proposed amendment would add intermodal service authority to the scope of the agreement. It would also restate the agreement to conform with the Commission's reguations concerning form and format would delete Concorde Nopal Line as a party to the agreement.

Agreement No.: 207-009498-005.

Title: Atlantic Container Line Agreement.

Parties:

The Cunard Steam-ship Company, plc
Intercontinental Transport (ICT) B.V.
Compagnie Generale Maritime
Rederiaktiebolaget Soya
Aktiebolaget Soya
Aktiebolaget Svenska Amerika Linien
Rederiaktiebolaget Transatlantic

Synopsis: The proposed amendment would restate the agreement to conform with the Commission's format, organization and content requirements. It would enlarge the scope of the agreement to include U.S. Gulf Coast

ports and authorize the parties to operate up to fifteen vessels.

Agreement No.: 202–009502–015.

Title: United States/South and East Africa Conference Agreement.

Parties:

The Bank Line Limited.

Lykes Bros. Steamship Co., Inc.

South African Marine Corp.,Ltd.

United States Lines(S.A.), Inc.

Synopsis: The proposed amendment would add U.S. Pacific Coast ports to the scope of the agreement and would provide for expedited independent action with respect to certain geographic areas. Additionally, it would restate the agreement to conform to the Commission's regulations concerning form and format.

Agreement No.: 207–010836.

Title: Pacific Europe Express Joint Service Agreement by and between Compagnie Generale Maritime and Intercontinental Transport (ICT) B.V.

Parties:

Compagnie Generale Maritime.

Intercontinental Transport (ICT) B.V.

Synopsis: The proposed agreement would establish a joint service arrangement between the parties in the trade between ports on the U.S. Pacific Coast and Canada, the Hawaiian Islands, Guam and Alaska, and ports in the United Kingdom, Scandinavia and Continental Europe (Including wayports in Mexico, Central America, the East Coast of South America and the West Indies); and between such ports and/or inland points served via such ports. It would allow the parties the use of the trade name "Pacific Europe Express"; to designate joint agents, coordinate management and issue joint bills of lading; and to share in revenues and expenses. It would also allow the parties to join or resign from any lawful conference in the trade, and publish their own tariff where the parties are not conference members.

Agreement No.: 213–010837

Title: U.S. Pacific Coast/Europe Space Charter and Sailing Agreement by and among Compagnie Generale Maritime, Hapag-Lloyd Aktiengesellschaft, and Intercontinental Transport (ICT) B.V.

Parties:

Compagnie Generale Maritime

Hapag-Lloyd Aktiengesellschaft

Intercontinental Transport (ICT) B.V.

Synopsis: The proposed agreement would permit the parties to schedule sailings and charter space on each others vessels for the transportation of cargo between ports on the U.S. Pacific Coast and Canada, the Hawaiian Islands, Guam and Alaska, and ports in the United Kingdom, Scandinavia and Continental Europe (including wayports in Mexico, Central America, the East Coast of South America and the West Indies); and between such ports and/or inland points served via such ports. It would permit the parties to join any other cross charter and sailing agreement and to interchange cargo containers. It would also allow each party or joint service to solicit and book cargoes for their own account and issue their own bills of lading.

Dated: October 4, 1985.

By Order of the Federal Maritime Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–24204 Filed 10–8–85; 8:45 am]

BILLING CODE 6730–01–M

Filing and Effective Date of Assessment Agreement

The Federal Maritime Commission hereby gives notice, that on September 30, 1985, the following agreement was filed with the Commission pursuant to section 5, Shipping Act of 1984, and was deemed effective on that date, to the extent it constitutes an assessment agreement as described in paragraph (d) of section 5, Shipping Act of 1984.

Agreement No.: 201–000082–008.

Title: West Gulf Marine Association Assessment Agreement.

Parties:

West Gulf Marine Association (WGMA)

International Longshoremen's Association AFL–CIO (ILA)

Synopsis: The amendment provides for the reduction of the cargo assessment provided for in the WGMA Resolution of May 22, 1984, effective October 1, 1985. The resolution provides for an assessment calculated on the basis of tonnage handled in the Ports of the West Gulf. The assessment will continue to be known as the Guaranteed Annual Income Program and fringe Benefits Contracts Administration Assessment. It is the responsibility of the direct employer of labor under the bargaining agreements between the WGMA and the ILA to remit the assessment to the WGMA based on the rates set out for specific types of cargo. The assessment is to be collected by the WGMA and the funds generated therby are to be administered by the WGMA to meet its obligations under the various agreements existing between it and the ILA.

Dated: October 4, 1985.

By Order of the Federal Maritime Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–24203 Filed 10–8–85; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Bank of Boston Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consumation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, deceased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 1, 1985.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Bank of Boston Corporation,* Boston, Massachusetts; to acquire

Hospital Trust Financial of Connecticut, Inc., Hartford, Connecticut and thereby engage in making, acquiring or servicing loans or other extensions of credit for the company's account or for the account of others under § 225.25(b)(1) of Regulation Y. These activities would be conducted in the state of Connecticut.

Applicant has also applied to acquire HT Investors, Inc., Providence, Rhode Island, and thereby engage to serve as an investment advisor to open-end investment companies, under § 225.25(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, October 3, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-24103 Filed 10-8-85; 8:45 am]

BILLING CODE 6210-01-M

Mifflinburg Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or 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 November 1, 1985.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Mifflinburg Bancorp, Inc.*, Mifflinburg, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Mifflinburg Bank and Trust Company, Mifflinburg, Pennsylvania.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *One Valley Bancorp of West Virginia, Inc.*, Charleston, West Virginia; to acquire 100 percent of the voting shares of New River Banking & Trust Company, Oak Hill, West Virginia.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Southeast Arkansas Bank Corporation*, Lake Village, Arkansas; to become a bank holding company by acquiring 81 percent of the voting shares of Bank of Lake Village, Lake Village, Arkansas.

D. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Alaska Northern Banc Corp.*, Fairbanks, Alaska; to become a bank holding company by acquiring 100 percent of the voting shares of Alaska National Bank of the North, Fairbanks, Alaska.

Board of Governors of the Federal Reserve System, October 3, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-24104 Filed 10-8-85; 8:45 am]

BILLING CODE 6210-01-M

Starr Banc Shares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 30, 1985.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Starr Banc Shares, Inc.*, Hutchinson, Kansas; to become a bank holding company by merging with the following bank holding companies: Ark-Valley Bancorp, Inc.; Garden Banc Shares, Inc.; Sante Fe Trail Banc Shares, Inc.; Southeast Kansas Banc Shares, Inc.; and Valley Bancorp, Inc., all located in Hutchinson, Kansas, thereby indirectly acquiring at least 80 percent each of their respective subsidiary banks: Commerce Bank of Hutchinson, N.A., Hutchinson; Fourth Bank of Garden City, N.A., Garden City; The Haskell County State Bank, Sublette; First National Bank of Meade, Meade; and Valley State Bank, Syracuse, all located in Kansas.

Applicant has also applied to acquire Thayer Leasing, Inc., Hutchinson, Kansas, and engage in the activity of leasing real and personal property pursuant to § 225.25(B)(5) of Regulation Y.

Board of Governors of the Federal Reserve System, October 3, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-24104 Filed 10-8-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974—Revision and Update of Notice of System of Records

This notice updates and revises the information which the Department of the Interior has published describing systems of records maintained which are subject to the requirements of Section 3 of the Privacy Act of 1974, as amended, 5 U.S.C. 552a. The Department's Office for Equal Opportunity is making changes to the system of records notice titled "Discrimination Complaints—Interior, Office of the Secretary—18", which was previously published in the **Federal Register** on May 3, 1983 (48 FR 19945).

The notice is being revised to: (1) Update and clarify the scope of complaints covered by the system of records and the authorities for maintaining the system; (2) reflect the automation of certain segments of the records for managing and tracking the processing of complaints; (3) add a reference to the National Archives and Records Administration's records schedule which governs the retention and disposal of the records; and (4) identify an additional system manager for certain classes of discrimination complaint records. Other minor editing changes have been made throughout the notice, which is published in its entirety below.

Since these changes do not involve any new or intended use of the information in the system, this notice shall be effective October 9, 1985. Additional information regarding these revisions may be obtained from the Department Privacy Act Officer, Office of the Secretary (PIR), Room 7357, Main Interior Building, U.S. Department of the Interior, Washington, D.C. 20240

James P. Jadlos,

Acting Director, Office of Information Resources Management.

Dated: October 2, 1985.

Interior/OS-18

SYSTEM NAME:

Discrimination Complaints—Interior, Office of the Secretary—18.

SYSTEM LOCATION:

(1) Office of Equal Opportunity, U.S. Department of the Interior, 18th & C Streets, Northwest, Washington, D.C. 20240. (2) Bureau of Land Management, Alaska State Office, 701 "C" Street, Box 13, Anchorage Alaska 99513. (3) Bureau/Office Equal Employment Opportunity Offices. A current listing of such offices may be obtained from System Manager "(a)" below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who claim to have been discriminated against on the basis of race, color, sex, religion, national origin, handicap and age in violation of various statutes including: Title VI and VII of the Civil Rights Act of 1964 as amended (42 U.S.C. 2000d and 42 U.S.C. 2000e, et seq); in violation of Section 501 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 791, et seq); in violation of Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794 et seq) and its implementing regulations; in violation of the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 621, et seq); in violation of Title IX of the Education Amendments of 1972 (Pub. L. 92-318); and in violation of Section 403 of the Trans-Alaska Pipeline Authorization Act (Pub. L. 93-153, 87 Stat. 576).

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains complaints of discrimination; reports of complaints investigation and supplementary documentary evidence; correspondence, including requests for information from other Federal agencies, and from minority, civil rights, women's and community organizations; documents obtained from recipients of permits, rights-of-way, public land orders, or other Federal authorizations, and their agents, contractors, and subcontractors, under the Trans-Alaska Pipeline Authorization Act (87 Stat. 576); and miscellaneous relevant statistical data obtained from various sources.

Within the Departmental Office for Equal Opportunity, an automated system of records (complaints management information system) will be used to manage and track the processing of complaints received by the Office for Equal Opportunity concerning discrimination based on race, color, national origin, religion, sex, age and/or handicap.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d) and its implementing regulations (43 CFR Part 17, Subpart A); Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e, et seq) and its implementing regulations (29 CFR Part 1613); Section 501 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 791, et seq); Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794 et seq) and its implementing regulations (43 CFR Part 17, Subpart B); the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 621 et seq); Title IX of the Education Amendments of 1972 (Pub. L. 92-318); Section 403 of the Trans-Alaska Pipeline Authorization Act (Pub. L. 93-153, 87 Stat. 576).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary use of the system of records is for the investigation and resolution of complaints of discrimination and for the compilation of statistical information on complaints of discrimination in violation of the aforementioned legislation cited under "Authority for Maintenance of the System". Disclosures outside the Department of the Interior may be made: (1) To other Federal agencies charged with the enforcement of equal employment opportunity laws, orders and regulations, on a need-to-know basis to assist these agencies in their enforcement activities; (2) to the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the disclosure is deemed by the Department of the Interior to be relevant or necessary to the litigation, and (c) the Department of the Interior determines that disclosure is compatible with the purpose for which the records were compiled; (3) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (4) to a Member of Congress from the record of an individual in response to an inquiry made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders and in automated records systems.

RETRIEVABILITY:

Files maintained in manual systems may be retrieved by: (1) Name, (2) docket control number; (3) bureau; (4) political jurisdiction; or (5) any combination of those identifiers.

Additionally, within the automated system of records, information is retrieved by: (1) Bureau, (2) docket control number, (3) name, or (4) any combination of those identifiers.

SAFEGUARDS:

Records are maintained with safeguards meeting the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a) and the Departmental Regulations (43 CFR Part 2, Subpart D). Standards for the maintenance of records subject to the Privacy Act are described in the Departmental regulations (43 CFR 2.48) and involve the content of the records, data collection practices, and the use, safeguarding, and disposal of personal information in the records.

Records system areas are posted with warnings to include access limitation, standards of conduct for employees in handling Privacy Act records (383 DM 9), and possible criminal penalties for violation. Access to hard-copy records is restricted by containing records in a locked metal file cabinet or locked room. Keys to rooms containing system of records are off-master.

Records subject to the Act that are maintained in automated data processing form are subject to safeguards based on recommendations of the National Bureau of Standards contained in "Computer Security Guidelines for Implementing the Privacy Act of 1974" (FIPS Pub. 41, May 30, 1975).

Each bureau is responsible for ensuring that specific procedures are developed for maintaining each of its systems of records with appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records, and to protect against the possibility of substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained. These procedures are developed for both manual and computerized records, as detailed in the Department's regulations (43 CFR 2.51) and in 383 DM 8.

RETENTION AND DISPOSAL:

Records are retained and disposed in compliance with the National Archives and Records Administration's General Records Schedule No. 1, Item No. 26.

In addition, the Departmental Office of Information Resources Management and the Department Office for Equal Opportunity will coordinate responsibility for archival record transfers and record storage and disposal methods for the automated system within the Departmental Office for Equal Opportunity.

SYSTEM MANAGER(S) AND ADDRESS:

(a) For complaints of discrimination arising under Title VI and VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d and 42 U.S.C. 2000e, respectively), Section 501 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 791, et seq); Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794 et seq) and its implementing regulations; the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 621 et seq); Title IX of the Education Amendments of 1972 (Pub. L. 92-318)—Director, Office for Equal Opportunity, Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C.

(b) For complaints arising under Section 403 of the Trans-Alaska Pipeline Authorization Act (Pub. L. 93-153, 87 Stat. 576—Alaska State Office Director, Bureau of Land Management, Alaska State Office, 701 'C' Street, Box 13, Anchorage, Alaska 99513.

(c) For complaints of discrimination arising under Title VII of the Civil Rights of 1964, as amended (42 U.S.C. 2000e) which are filed against the Departmental Office for Equal Opportunity, the alternative responsibility for recordkeeping rests with the Human Relations Officer, Human Relations Office, Office of the Secretary, U.S. Department of the Interior, 18th and C Streets, Northwest, Washington, D.C. 20240.

NOTIFICATION PROCEDURES:

A written and signed request stating that the requester seeks information concerning records pertaining to him/her is required, and shall be addressed to the appropriate System Manager. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A written and signed request for access shall be addressed to the appropriate System Manager and shall meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the appropriate system manager and must meet the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Complainants; recipients of permits, rights-of-way, public land orders, or other Federal authorizations, and their agents, contractors, and subcontractors, under Section 403 of the Trans-Alaska Pipeline Authorization Act (87 Stat. 576) and their employees; the administrators and receipient of Government funds from programs administered by the Department of the Interior; Federal, State, and local government agencies; community, minority, civil rights, and women's organizations; unions, Members of Congress and their staffs; bureaus and offices of the Department of the Interior, and confidential informants, to the extent they possess relevant data otherwise unavailable.

[FR Doc. 85-24120 Filed 10-8-85; 8:45 am]
BILLING CODE 4310-10-M

Fish and Wildlife Service

Environmental Impact Statement on North Key Largo (Florida) Habitat Conservation Plan and Endangered Species Act Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of: (1) Availability of Draft Scoping Document and (2) Second Scoping Meeting.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (FWS) has developed a draft scoping document as part of the preparation of an Environmental Impact Statement (EIS) for the North Key Largo (Florida) Habitat Conservation Plan (HCP) and proposed Endangered Species Act section 10(a) permit. The HCP is being prepared by the North Key Largo Habitat Conservation Plan Study Committee in conjunction with the preparation by Monroe County, Florida of a Comprehensive Plan for development of the County. The FWS is working closely with the County and the Florida Department of Community Affairs (DCA) in preparation of the EIS. On May 16, 1985, the FWS held a scoping meeting to receive comments from the public. The draft scoping document is based upon comments received at that meeting and upon written comments received by the Service. A second scoping meeting will be held to address the draft scoping document.

DATES: *Public Scoping meeting*—A second public scoping meeting will be held in conjunction with meetings of the Habitat Conservation Plan Study Committee. The scoping meeting will be held at 1 p.m. on October 23, 1985.

Written comments—Written comments related to the scoping

document will be accepted until November 15, 1985.

ADDRESS: *Public scoping meeting*—The October 23, 1985, meeting will be held at the Monroe County Public Library, Key Largo Branch, 2nd Floor, First Federal Savings and Loan Building, Waldorf Plaza, Mile Marker 100.

Written comments—Should be addressed to: David Wesley, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207.

FOR FURTHER INFORMATION CONTACT: David Wesley, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207, (904) 791-2580.

SUPPLEMENTARY INFORMATION:

Description of the Proposed Action

The FWS may issue a permit pursuant to section 10(a) of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1539(a), that would authorize the take of endangered species incidental to development and other activities in North Key Largo, Florida. Section 10(a) of the Endangered Species Act was amended in 1982 to authorize the issuance of permits to take endangered species as an incident to otherwise lawful activities provided that the permit application is supported by a habitat conservation plan that will further the long term conservation of the species. The proposed issuance of the incidental take permit may have significant effects on the quality of the human environment and thus will be the subject of an EIS prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 43323(2)(C).

Monroe County, Florida, within which North Key Largo is located, is in the process of preparing a Comprehensive Plan for development of the County under the Florida Area of Critical State Concern process, Florida Statutes, Chapter 380. Any successful HCP for North Key Largo must be consistent with the requirements of the Monroe County Comprehensive Plan. In addition, Congress has allocated $98,000, to be matched with non-Federal funds, for the development of an HCP for North Key Largo. The FWS has subsequently entered into a grant agreement with the DCA under which the County, in cooperation with the DCA, will prepare an HCP for North Key Largo. In preparing the HCP, the County and its staff will work with the North Key Largo Habitat Conservation Plan Study Committee to explore the possibilities for allowing reasonable levels of development on North Key Largo, while meeting the goals of section 10(a), which include ensuring the long term conservation of any affected listed species. Pursuant to the FWS-DCA grant agreement and in accordance with 40 CFR Part 1506, the FWS will be working closely with the County to prepare an EIS on the possible incidental take permit.

Scoping Process

On May 16, 1985, FWS held a scoping meeting as part of the process of preparing the EIS. Announcement of this meeting was made in the **Federal Register** on April 11, 1985 (50 FR 14299). The meeting was attended by 33 persons and 3 written comments were received. A draft scoping document was prepared, based upon information received at the public meeting and written comments. The draft scoping document includes a brief description of the background of the HCP, and lists the significant issues to be considered in the EIS and the alternative courses of actions. Copies of the draft scoping document have been sent to all persons who attended the May 16, 1985, meeting as well as all persons who have attended who have attended the HCP meetings. Copies of the draft scoping document are available; see "For Further Information Contact," above.

In order to gather further information, the FWS will hold a second public scoping meeting in conjunction with meetings of the North Key Largo Habitat Conservation Plan Study Committee. The meeting will be held at 1 p.m. on October 23, 1985, in Key Largo at the place noted above under "ADDRESS." The purpose of the second scoping meeting will be to address the draft scoping document and any other information pertinent to the scope of the EIS. Following this meeting a final document setting forth the scope of issues and significant issues that will be addressed in the EIS will be prepared and distributed. The comment period on the scoping document will remain open until November 15, 1985.

The environmental review of this proposed action is being conducted in accordance with the requirements of NEPA, the regulations of the Council on Environmental Quality, 40 CFR Parts 1500-1508, other applicable Federal regulations, and FWS procedures for compliance with those regulations.

Dated: October 1, 1985.

James W. Pulliam, Jr.,

Regional Director, FWS, Atlanta, Georgia

[FR Doc. 85-24307 Filed 10-8-85; 8:45 am

BILLING CODE 4310-55-M

Bureau of Land Management

Salt Lake District Proposed Resource Management Plan and Final Environmental Impact Statement for Box Elder County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Proposed Resource Management Plan and Final Environmental Impact Statement.

SUMMARY: Pursuant to section 202(f) of the Federal Land Policy and Management Act (FLPMA) and section 103(2)(C) of the National Environmental Policy Act (NEPA), the Bureau of Land Management (BLM) has prepared a proposed Resources Management Plan (RMP) and final Environmental Impact Statement (EIS) for Box Elder County, Utah.

The proposed RMP and final EIS is published in an abbreviated format and is designed to be used with the Draft RMP/EIS published in March 1983. This proposed RMP and final EIS when combined with the Draft EIS describe and analyze four alternatives for management of public lands and resources in Box Elder County. The proposed plan is patterned after Alternative 2. It focuses on resolving four planning issues but also addresses all resource programs. When the Resource Management Plan becomes final, it will provide a comprehensive management framework for the public lands and resources in Box Elder County.

FOR FURTHER INFORMATION CONTACT: Dennis Oaks, Team Leader, Salt Lake District Office, 2370 South 2300 West, Salt Lake City, Utah 84119, (801) 524-6767.

SUPPLEMENTARY INFORMATION: The proposed RMP will be approved no earlier than thirty days after publication in the **Federal Register** of the Environmental Protection Agency's notice of filing. Approval will be withheld on any portion of the plan protested until final action has been completed on such protest. Protests must conform to the requirements of 43 CFR 1610.5-2 and be filed with the Director of the Bureau of Land Management within thirty days of publication of the notice of filing.

Frank W. Snell,

Salt Lake District Manager.

[FR Doc. 85-24125 Filed 10-8-85; 8:45 am]

BILLING CODE 4310-DQ-M

Montana; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Pub. L. 97–451, a petition for reinstatement of oil and gas lease M 59462 Acquired, Yellowstone County, Montana, was timely filed and accompanied by the required rental accruing from the date of termination, June 1, 1985.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔% respectively. Payment of a $500 administration fee has been made.

Having 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), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased rental and royalty rates cited above, and reimbursement for cost of publication of this Notice.

Cynthia L. Embretson,

Chief, Fluids Adjudication Section.

[FR Doc. 85–24122 Filed 10–8–85; 8:45 am]

BILLING CODE 4310–85–M

California Desert District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of the California Desert District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92–463 and 94–579 that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet formally on Friday, November 15 and Saturday, November 16, 1985, beginning at 8 a.m. each day, at the Elks Club, 1000 Lily Hill Drive, in Needles, California.

Agenda items for the meeting will include a progress report on management achievements in the East Mojave National Scenic Area during FY 1985, and a presentation of objectives planned for FY 1986; a report on threatened and endangered species habitat management within the California Desert Conservation Area; and, a preview of the Environmental Impact Statement covering the 1985 Amendments to the California Desert Plan. Other topics to be discussed include an update on current and upcoming pipeline projects; Windy Point recreation area; State OHV funded projects in the California Desert District in FY 1986 and beyond; and, review of total progress in the California Desert Conservation Area in FY 1985 and plans for FY 1986 program.

All formal Council meetings are open to the public, with time allocated for public comments and time made available by the Council Chairman for comment during the presentation of various agenda items.

Written comments may be filed in advance of the meeting with the California Desert District Advisory Council Chairman, Dr. Loren Lutz, c/o Bureau of Land Management Public Affairs Office, 1695 Spruce Street, Riverside, CA 92507. Written comments are also accepted at the time of the meeting and, if provided to the recorder, will be incorporated in the minutes of the meeting.

FOR FURTHER INFORMATION AND MEETING CONFIRMATION: Contact the Bureau of Land Management, California Desert District, Public Affairs Office, 1695 Spruce Street, Riverside, CA 92507 (714) 351–6383.

Dated: October 3, 1985.

Gerald E. Hillier,

District Manager.

[FR Doc. 85–24067 Filed 10–8–85; 8:45 am]

BILLING CODE 4310–40–M

California Desert District Grazing Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of the California Desert District Grazing Advisory Board.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94–579, Title IV, Section 403, that a public meeting of the California Desert District Grazing Advisory Board will be conducted Thursday, November 7, 1985, from 9:30 a.m. to 12 noon in the Board Room, Barstow Fire District Headquarters, 861 Barstow Road, Barstow, California 92311.

The agenda for the meeting will include:

—Range Improvement projects proposed for FY 1985

—Allotment Management Plans Completed in FY 1985

—Wild Horse and Burro program update

—Rangeland Management in Wilderness Study Areas.

The meeting is open to the public, with time allotted for public comment after each agenda subject has been presented.

Summary minutes of the meeting will be maintained in the California Desert District Office, 1695 Spruce Street, Riverside, California 92507, and will be available there for public insection during regular business hour—7:45 a.m. to 4:30 p.m. (PST)—within 30 days following the meeting.

FOR FURTHER INFORMATION: Contact the Bureau of Land Management, California Desert District Office, 1695 Spruce Street, Riverside, California 92507, (714) 351–6402.

Dated: October 3, 1985.

Gerald E. Hillier,

District Manager.

[FR Doc. 85–24068 Filed 10–8–85; 8:45 am]

BILLING CODE 4310–40–M

Realty Action; Sale of Public Land in Mariposa and Calaveras Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Sale of public land in Mariposa and Calaveras Counties, California.

SUMMARY: The following described land has been examined and, through the development of land use planning decisions based on public input, resource considerations, regulations and Bureau policies, it has been determined that the proposed sale of these parcels is consistent with the Federal Land Policy and Management Act (FLPMA) of October 21, 1976, (90 Stat. 2750; 43 U.S.C. 1713). Sale parcels will be offered for sale December 12, 1985, at no less than the appraised fair market value using modified competitive and competitive procedures.

Serial No.	Legal description	Acres	Fair market value	Bidding procedure
CA 17862	T. 6 S., R. 17 E., MDM; Sec. 25, NE¼SW¼	±40	$14,000	Mod. competitive.
CA 17863	T. 6 S., R. 17 E., MDM; Sec. 12, NW¼SE¼	±40	$10,000	Mod. competitive.
CA 17864	T. 4 S., 16 E., MDM		$22,100	Mod. competitive.
	Sec. 9, Lot 1	33.87		
	Sec. 10, Lot 2	.59		
	Total	±34.46		
CA 17865	T. 4 S., R. 18 E., MDM; Sec. 31, Lot 4	±41.17	$61,500	Competitive.
CA 17866	T. 4 S., R. 16 E., MDM; Sec. 5, Lot 4	±4.0	$4,500	Mod competitive.
CA 17867	T. 4 N., R. 13 E., MDM		$30,000	Competitive.
	Sec. 28, Lot 3	36.88		
	Sec. 28, Lot 4	9.18		
	Total	46.06		

Serial No.	Legal description	Acres	Fair market value	Bidding procedure
CA 17868	T. 4 N., R. 13 E., MDM		$36,500	Mod. competitive.
	Sec. 23, Lot 2	36.79		
	Sec. 23, Lot 1	23.71		
	Total	60.50		
CA 17869	T. 4 S., R. 16 E., MDM, Sec. 10, SE¼SE¼	±40.0	$22,000	Competitive.

The BLM solicits and will accept bids on these lands; and may accept or reject any and all bids, or withdraw any land from sale at any time, if in the opinion of the Authorized Officer, consummation of the sale would not be in the best interest of the United States.

Sale Terms and Conditions Are as Follows

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C 945).

2. All bidders must be United States Citizens; corporations must be authorized to own real property in the State Of California; political subdivisions of the State and State instrumentalities must be authorized to hold property. Proof of meeting these requirements shall accompany bids.

3. CA 17862 is completely surrounded by one ownership and has no access. CA 17862 will be offered by modified competitive bid procedure with the owner of the surrounding property being the designated bidder with the right to meet the high bid. Bidders will be limited to adjacent landowners.

4. CA 17863 and 17868 have no access. In order to avoid jeopardizing the existing uses of adjacent land and the possible dislocation of those uses, these parcels will be offered by modified competitive bid. Bidders will be liminted to adjacent landowners.

5. CA 17866 is in an area of 40-acre minimum zoning. In order to remain consistent with existing zoning, this parcel will be offered to adjacent owners as assemblage parcel.

6. CA 17864 has contained within it a patented parcel. In order to protect the current uses of the inholder and avoid his being landlocked, the inholder will be a designated bidder, and as such will be allowed to meet the high bid.

7. A reservation for an existing road right-of-Way (CA 11953) will be incorporated into the patent for parcel CA 17865 (43 U.S.C. 1761–1771).

8. A reservation for existing right-of-way transmission lines (S 036884, S 040032) and a reservation for an existing telephone line (S 044001) will be incorporated into the patent for parcel CA 17867 (43 U.S.C. 1761–1771).

9. The successful bidders for parcels CA 17865 and CA 17869 agree to take the real estate subject to the existing grazing authorizations, Nos. 4145 and 4149 respectively, and be bound by the terms and conditions of those authorizations until they expire on February 28, 1989. The successful bidder is entitled to receive annual grazing fees from the lessees in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the **FEDERAL REGISTER.**

10. Parcels CA 17867 and CA 17868 have been found to have a known mineral value but the successful bidder for these parcels, by accpeting this Land Patent, acknowledges that the property is encumbered by certian mining claims filed pursuant to the mining laws of the United States 30 U.S.C. 21 et seq. The conveyance will be made subject to the existing claim(s) and the following rights:

(a) Right to continue to prospect for, mine and remove locatable minerals under applicable laws;

(b) Right to obtain mineral patent to both the surface and mineral estate within the mining claim if valid discovery was made prior to the date of FLPMA patent, or;

(c) Right to obtain patent to the mineral estate only if discovery is made subject to the patent.

The United States of America by this conveyance does not intend to preclude the grantee from challenging the validity of any mining claim located on the land conveyed.

Purchaser, by accepting this Land Patent, will hereby waive any liability against the United States in the event of subsequent title litigation.

CA 17867 encumbered by: CAMC 13901, CAMC 13903, CAMC 158277

CA 17868 encumbered by: CAMC 21663, CAMC 21664, CAMC 80743, CAMC 80744, CAMC 80745, CAMC 135352

SUPPLEMENTARY INFORMATION: Upon publication of this notice in the **Federal Register** as provided in 43 CFR 2711.1–2(d) (amended) the above lands will be segregated from appropriation under the mining laws but excepting the mineral leasing laws for a period not to exceed 270 days, or until the lands are sold, whichever occurs first. The segregation effect may otherwise be terminated by the Authorized Officer by publication of a termination notice if the **Federal Register** prior to the expiration of the 270-day period. The above described lands, will be separately offered for sale by sealed bids. The bids will be opened at 10:00 a.m. on December 12, 1985, at the Folsom Resource Area Office, Bureau of Land Management, 63 Natoma Street, Folsom, California 95630. Sealed bids shall be considered only if received at the above address prior to 10:00 a.m. on December 12, 1985. The actual bid amount shall be clearly indicated and each sealed bid shall be accompanied by certified check, postal money order, bank draft or cashier's check made payable to the Department of the Interior-BLM for 10 percent of the bid.

The sealed bid envelopes must be marked on the front lower left corner "Folsom Resource Area, December 1985, Land Sale, Case File Serial # . After opening all sealed bids, if two or more envelopes containing valid high bids of the same amount are received, the determination of which is to be considered the highest bid shall be by supplemental oral bids. The oral bidding, if needed, will be conducted by the Authorized Officer immediately following the opening of the sealed bids. If one or more of the tied winning bidders are not present, the Authorized Officer will set a future date for oral bids. The person declared to have entered the highest qualifying oral bid shall submit payment of 10 percent as specified above, immediately following the close of the sale.

The successful bidder, whether such is a sealed or oral bid, shall submit the remainder of the full purchase price within 180 days of the sale date. Failure to submit the balance of the full bid within the above specified time limit shall result in cancellation of the sale and the deposit shall be forfeited. The next high bid will then be honored.

It has been determined that the lands are without known mineral values and a successful bid for CA 17862 through CA 17867 will constitute a simultaneous request for conveyance of the reserved mineral estate. As such, the successful high bidder will be required to deposit a $50.00 nonreturnable filing fee for conveyance of the mineral estate. If any of the lands described do not receive qualifying bids on December 12, 1985, they will be available over the counter at the fair market value until September 30, 1986. Detailed information concerning the sale, including the land report and environmental assessment report are available for review at the Folsom Resource Area Office, 63 Natoma Street, Folsom, California 95630. For a period of 45 days from the date of first publication of this notice, interested

parties may submit comments to the District Manager, Bakersfield District, Bureau of Land Management, 800 Truxton Avenue, Room 311, Bakersfield, California 93301; (805) 861–4191. Any adverse comments will be evaluated by the District Manager who may vacate or modify this reality action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination.

DATES: Sealed bids must be received by 10:00 a.m. December 12, 1985.

ADDRESS: Bureau of Land Management, Folsom Resource Area, 63 Natoma Street, Folsom, CA 95630.

Dated: September 30, 1985.

David Harris,

Acting Area Manager.

[FR Doc. 85–24124 Filed 10–8–85; 8:45 am]

BILLING CODE 4310–40–M

[U–55636]

Realty Action, Sale of Public Land in Garfield County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Under section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) public land described as: NE¼NE¼NE¼NE¼, N½NW¼NE¼NE¼NE¼, Section 25, T. 37 S., R. 3 W., SLB&M, Utah, totaling 3.75 acres is proposed for direct noncompetitive sale to Gerald and Lora Dawn Stock at the fair market value of $5,000.00. The lands described are hereby segregated from all forms of appropriation under the public land laws, including the mining laws, pending disposition of this action.

SUMMARY: The purpose of the sale is to dispose of public land that is difficult and uneconomical to manage by a government agency.

DATES: Comments should be submitted by November 29, 1985. The sale will be held on December 18, 1985 at 10:00 a.m.

ADDRESS: Detailed information concerning the sale is available at the Kanab Area Office, 318 North First East, Kanab, Utah 84741, (801) 644–2672. Comments should also be sent to the same address.

SUPPLEMENTARY INFORMATION: The terms and conditions applicable to the sale are:

1. The sale will be for the surface estate only. Minerals will remain with the United States Government.

2. There is reserved to the United States a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

3. Title transfer will be subject to valid existing rights.

Any comments received during the comment period will be evaluated and the District Manager may vacate or modify this realty action. In the absence of any objections, this realty action notice will be the final determination of the Department of the Interior.

Dated: September 30, 1985.

Morgan S. Jensen,

District Manager.

[FR Doc. 85–24123 Filed 10–8–85; 8:45 am]

BILLING CODE 4310–DO–M

Minerals Management Service

Development Operations Coordination Document; Mobil Producing Texas and New Mexico Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Mobil Producing Texas and New Mexico Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 3235, Block 139, High Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Galveston, Texas.

DATE: The suject DOCD was deemed submitted on September 30, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OSC Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0876.

SUPPLEMENTARY INFORMATION: 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 DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: October 1, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85–24155 Filed 10–8–85; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–194]

Certain Aramid Fiber; Extension of Deadline for Completion of Investigation

AGENCY: International Trade Commission.

ACTION: Extension of deadline for completion of the above-captioned investigation to November 25, 1985.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Esq., Office of General Counsel, United States International Trade Commission, telephone 202–523–0189.

SUMMARY: The Commission has decided to extend the deadline for completion of the above-captioned investigation to November 25, 1985. This is the 18-month statutory deadline for completion of this investigation.

SUPPLEMENTARY INFORMATION: The Commission has decided to extend the administrative deadline for completion of the above-captioned investigation because of the complexity of the remedy, public interest and bonding issues in this investigation.

The authority for this action is contained in section 337 of the Tariff Act of 1930, 19 U.S.C. 1337.

Copies of all nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Issued: October 2, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–24194 Filed 10–8–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337-TA-222]

Certain Automotive Visor/Illuminated Mirror Packages and Components Thereof; Commission Decision Not To Review Initial Determination Terminating Five Respondents on the Basis of Settlement Agreements; Termination of Investigation

AGENCY: International Trade Commission.

ACTION: Termination of five respondents on the basis of settlement agreements; termination of the investigation.

SUMMARY: The U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 24) terminating five respondents on the basis of settlement agreements. The ID granted the following joint motions filed by complainant Prince Corp. and named respondents: Motion to terminate respondent Cobbs Manufacturing Co. (Motion No. 222-9), filed July 24, 1985, and addendum agreement, filed August 14, 1985; motion to terminate respondent Custom Accessories, Inc. (Motion No. 222-10), filed August 16, 1985; motion to terminate respondent Allied Accessories and Auto Parts, Inc. (Motion No. 222-11), filed August 16, 1985; motion to terminate respondent Walgreen Co. (Motion No. 222-12), filed August 16, 1985; and motion to terminate respondent Rally Accessories, Inc. (Motion No. 222-14), filed August 26,1985. The presiding administrative law judge issued the ID granting the above-mentioned motions for termination on August 30, 1985. There being no other respondents, the ID also terminated the investigation. No petitions for review of the ID were filed nor were any Government agency or public comments received with regard to the ID.

FOR FURTHER INFORMATION CONTACT: Randi S. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-1627.

SUPPLEMENTARY INFORMATION: This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rule 210.53 (19 CFR 210.53).

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

By order of the Commission.

Issued: October 1, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-24196 Filed 10-8-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-215]

Certain Double-Sided Floppy Disk Drives and Components Thereof; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement: TEAC Corporation and TEAC Corporation of America.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on October 3, 1985.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Written comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

By order of the Commission.

Issued: October 3, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-24193 Filed 10-8-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-228]

Certain Fans With Brushless DC Motors; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint and a motion for temporary relief were filed with the U.S. International Trade Commission on September 4, 1985, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Rotron, Incorporated, Hasbrouck Lane, Woodstock, New York 12498. A supplement to the complaint was filed on September 23, 1985. The complaint, as supplemented, alleges unfair methods of competition and unfair acts in the importation of certain fans with brushless DC motors into the United States, or in their sale, by reason of alleged infringement of claims 1-4 and 6-12 of U.S. Letters Patent 4,494,028. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation, conduct temporary relief proceedings, and issue a temporary exclusion order prohibiting importation of the articles in question into the United States, except under bond, and temporary cease and desist orders. After a full investigation, the complainant requests that the Commission issue a permanent exclusion order and permanent cease and desist orders.

FOR FURTHER INFORMATION CONTACT: Patricia Ray, Esq., or Jeffrey Gertler, Esq., Office of Unfair Import Investigations, U.S. International Trade

Commission, telephone 202–523–0440 or 202–523–0115, respectively.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on October 1, 1985, ordered that:

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain fans with brushless DC motors into the United States, or in their sale, by reason of alleged infringement of claims 1–4 and 6–12 of U.S. Letters Patent 4,494,028, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) Pursuant to § 210.24(e) of the Commission's rules, the motion for temporary relief under subsection (e) of section 337 of the Tariff Act of 1930, which was filed with the complaint, shall be forwarded to the presiding administrative law judge for an initial determination pursuant to § 210.53(b) of the rules.

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Rotron, Incorporated, Hasbrouck Lane, Woodstock, New York 12498.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served.

Matsushita Electric Industrial Co., Ltd., 1006 Oaza Kadoma, Kadoma City, Japan 571

Matsushita Electric Corporation of America, 1 Panasonic Way, Secaucus, New Jersey 07094

(c) Patricia Ray, Esq., and Jeffrey Gertler, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 701 E Street NW., Room 125, Washington, DC 20436, shall be the Commission investigative attorneys, a party to this investigation; and

(4) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Pursuant to section 210.24(e) of the Commission's Rules of Practice and Procedure, the presiding administrative law judge shall determine as expeditiously as possible whether or not temporary relief proceedings should be instituted.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to § 201.16(d) and 210.21(a) of the rules (19 CFR 201.16(d) and 210.21(a)), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Responses to the motion for temporary relief may be submitted by the named respondents in accordance with § 210.24(e)(3) of the Commission's rules. Any such responses must be filed within 20 days after service of the motion. Extensions of time for submitting responses to the complaint and/or the motion for temporary relief will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint and motion for temporary relief, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, DC 20436, telephone 202–523–0471. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Issued: October 3, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–24192 Filed 10–8–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–219]

Certain Porch, Patio, and Lawn Gliders; Commission Determination Not To Review Initial Determination Finding Two Respondents In Default and Imposing Procedural Sanctions

AGENCY: International Trade Commission.

ACTION: Nonreview of an initial determination (ID) finding two respondents in default and imposing procedural sanctions.

SUMMARY: The Commission has determined not to review an ID of the presiding administrative law judge (ALJ) that finds respondents Taiwan Lounge Chair Industry Co., Ltd. (TL) and JWP Industries, Inc. (JWP), in default and imposes procedural sanctions.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493.

SUPPLEMENTARY INFORMATION: By order No. 5, TL and JWP were ordered to show cause why they should not be held in default. By Order No. 11, they were ordered to comply with discovery. By Order No. 14, they were again ordered to show cause why they should not be held in default. Neither TL nor JWP responded to any of these orders. On September 9, 1985, the ALJ issued an ID (Order No. 15) finding both TL and JWP in default. The ALJ also ordered that TL and JWP had waived their rights to appear, to be served with documents, and to contest the allegations at issue in the investigation. No petition for review was filed, nor were comments on the ID received from any Government agency.

By order of the Commission.

Issued: September 30, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–24191 Filed 10–8–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–83]

Certain Window Shades and Components Thereof; Institution of Proceeding To Review Exclusion Order; Request for Comments

AGENCY: International Trade Commission.

ACTION: Notice of institution of proceeding to review an exclusion order and request for public comments.

SUMMARY: In light of a Federal district court ruling, currently on appeal, that the patent underlying the Commission's exclusions order in the above-captioned investigation is invalid, the Commission has instituted a review proceeding to determine whether its exclusin order should be modified or vacated. Public comments are requested regarding whether the exclusion order should be modified or vacated.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the

General Counsel, telephone 202-523-0493.

SUPPLEMENTARY INFORMATION: At the conclusion of the above-captioned investigation, the Commission issued an order excluding from entry into the United States window shades and components thereof that infringe claims 1, 2, 7, 8, or 9 of U.S. Letters Patent 4,006,770 ('770 patent) for the remaining term of the patent (i.e., until Feb. 7, 1994), except where such importation is licensed by the patent owner. A recent Federal distsrict court decision held the '770 patent invalid (*Newell Companies, Inc. v. Kenney Mfg. Co.*, 606 F. Supp. 1282 (D.R.I. 1985)). That decision has been appealed. Accordingly, pursuant to 19 CFR 211.57, the Commission has instituted a proceeding to determine whether its exclusion order should be modified or vacated.

Public comments are requested on the question of whether the Commission should vacate or modify the exclusion order in light of the Federal distsrict court decision that the patent underlying the exclusion order is invalid. In addition, public comments are requested on whether the Commission should undertake any such modification or vacation during the pendency of the appeal from the Federal district court ruling.

An original and fourteen (14) copies of all comments must be received in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161, not later than 30 days from the date of publication of this notice.

By order of the Commission.

Issued: September 30, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-24195 Filed 10-8-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-288 (Preliminary)]

Erasable Programmable Read Only Memories (EPROMs) From Japan

AGENCY: International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-288 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of erasable programmable read only memories (EPROMs), provided for in item 687.74 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by November 14, 1985.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: September 30, 1985.

FOR FURTHER INFORMATION CONTACT: Ilene Hersher (202-523-4616), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on September 30, 1985 by Intel Corp., Santa Clara, CA; Advanced Micro Devices, Sunnyvale, CA; and National Semiconductor Corp., Santa Clara, CA.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference.—The Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on October 21, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Ilene Hersher (202-523-4616) not later than October 15, 1985, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions.—Any person may submit to the Commission on or before October 23, 1985, a written statement of information pertinent to the subject of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority

This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: October 3, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-24189 Filed 10-8-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-247 (Final)]

Low-Fuming Brazing Copper Wire and Rod From South Africa

AGENCY: International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-247 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from South Africa of low-fuming brazing wire and rod, wholly or in chief value of copper, provided for in items 612.62 (rod), 612.72 (wire), and 653.15 (flux-coated wire or rod) of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). Unless the investigation is extended, Commerce will make its final LTFV determination on or before December 2, 1985, and the Commission will make its final injury determination by January 17, 1986 (see sections 735(a) and 735d(b) of the act (19 U.S.C. 1673(a) and 1673d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207), and part 201, subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: September 20, 1985.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk (202-523-0165), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of low-fuming brazing copper wire and rod from South Africa are being sold in the United States at LTFV within the meaning of section 731 of the act (19 U.S.C. 1673). The investigation was requested in a petition filed on February 19, 1985, by counsel on behalf of American Brass Co., Rolling Meadows, IL; Century Brass Products, Inc., Waterbury, CT; and Cerro Metal Products, Inc., Bellefonte, PA. In response to that petition the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (50 FR 14174, April 10, 1985). Simultaneously, and in response to the same petition, the Commission also made a preliminary affirmative determination with respect to allegedly LTFV imports of the subject products from New Zealand and negative determinations with respect to allegedly LTFV and subsidized imports of such products from France. The Department of Commerce made its preliminary affirmative LTFV determination concerning imports from New Zealand on August 2, 1985.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff report.—A public version of the prehearing staff report in this investigation will be placed in the public record on November 18, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on December 4, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on November 22, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on November 25, 1985, in room 117 of the U.S. International Trade Commission Building. the deadline for filing prehearing briefs is November 27, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CR 201.6(b)(2))).

Written submissions.—All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rule (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on December 10, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before December 10, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must

be clearly labled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 206.6 of the Commission's rules (19 201.6).

Authority

This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: October 1, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-24190 Filed 10-8-85; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-43 (Sub-No. 127)]

Illinois Central Gulf Railroad Co.; Abandonment in Ouachita, Jackson, and Winn Parishes, LA; Findings

The Commission has issued a certificate authorizing Illinois Central Gulf Railroad Company to abandon its 56.56 mile rail line between West Monroe (milepost 4.0) and Winnfield (milepost 60.56) in Ouachita, Jackson, and Winn Parishes, LA. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Secretary.

[FR Doc. 85-24113 Filed 10-8-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

Applied Information Technologies Corp.; Notice Pursuant to the National Cooperative Research Act of 1984

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. 98-462 (the "Act"), Applied Information Technologies Corporation ("AIT") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notification was filed with the purpose of invoking the Act's provisions limiting recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to AIT and its general areas of planned activities are given below.

AIT is a joint venture corporation, consisting of the following shareholders:

Battelle Memorial Institute, The American Chemical Society, CompuServe Incorporated, Mead Data Central, Inc., Online Computer Library Center, Inc.

AIT will engage in advanced long-term research and development activities in the following general areas of information technology:

1. Artificial Intelligence;
2. Telecommunications;
3. Microelectronics;
4. Information processing;
5. Software engineering; and
6. Systems engineering.

Such activities will include hardware and software development and human factors engineering within the scope of the foregoing areas of technology.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 85-24168 Filed 10-8-85; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984; The Plastics Recycling Foundation, Inc.

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. 98-462 ("the Act"), the Plastics Recycling Foundation, Inc. has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing certain changes in the membership of the Foundation. The changes consist of the withdrawal of the Pepsi-Cola Company from the list of members of the Plastics Recycling Foundation and the addition as members of Allied Corporation, Occidental Chemical Corporation, and Sewell Plastics. The notification was filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances Pursuant to section 6(b) of the Act, the identities of the parties to the Plastics Recycling Foundation, Inc. and its general areas of planned activities are given below.

The Plastics Recycling Foundation, Inc., with the withdrawal of the Pepsi-Cola Company and the addition of Allied Corporation, Occidental Chemical Corporation, and Sewell Plastics, is comprised of the following members:

—Allegheny Leeter-Eater * Division
—Allied Corporation
—Bev-Pak
—Brockway, Inc.
—Coca-Cola Bottling Company of New York
—Coca-Cola USA
—Conair, Inc.
—Continental Plastic Containers
—Eastman Chemical Products, Inc.
—E.I. dupont de Nemours & Company
—Hoover Universal, Inc.
—Nelmor Compnay
—Occidental Chemical Corporation
—Owens-Illinois, Inc.
—Rohm and Haas Company
—The Seven-Up Company
—Sewell Plastics
—The Society of the Plastics Industry, Inc.
—Sundor Brands
—Union Carbide Corporation
—U.S. Industrial Chemicals Company
—Van Dorn Plastic Machinery Company

The objectives of the Plastics Recycling Fundation are as follows:

To sponsor research into improved recycling of all plastic materials, to operate demonstration and research recycling facilities for plastic materials, to disseminate recycling technology, to promote the recyclability of plastics by publicizing the work of the Foundation, and to sponsor research into environmentally sound methods of disposing of all plastics materials.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 85-24169 Filed 10-8-85; 8:45 am]

BILLING CODE 4410-01-M

United States v. American Airlines, Inc. and Robert L. Crandall

Notice is hereby given that public comments have been received with respect to the proposed consent decree

in *United States* v. *American Airlines, Inc. and Robert L. Crandall,* Civil No. CA3–83–0325–D, United States District Court for the Northern District of Texas, Dallas Division. Pursuant to section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States publishes below the public comments that have been received, along with the response of the United States to those comments.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

United States District Court for the Northern District of Texas—Dallas Division

[Civil No. CA3–83–0325–D]

United States of America, Plaintiff, v. *American Airlines, Inc., and Robert L. Crandall,* Defendants.

Response of the United States to Public Comments Relating to the Proposed Final Judgment

I

Introduction

On February 23, 1983, the United States filed a civil antitrust complaint in the United States District Court for the Northern District of Texas under section 4 of the Sherman Act, 15 U.S.C. 4, to enjoin and restrain the defendants, American Airlines, Inc. ("American") and its President, Robert L. Crandall, from continuing or renewing violations of section 2 of the Sherman Act, 15 U.S.C. 2. The United States alleged in its complaint that the defendants attempted joint and collusive monopolization between American and Braniff Airways, Inc. ("Braniff") when the defendant Mr. Crandall, acting in his capacity as President of American, attempted to cause Howard Putnam, then President of Braniff, to raise Braniff's prices. Mr. Crandall made this attempt in a telephone call to Mr. Putnam stating that if Braniff raised its prices, then an American price increase would follow the next morning.

On July 12, 1985, before any testimony had been taken, the United States filed with this Court a stipulation and proposed final judgment, agreed to by all parties in this litigation, and the Government's competitive impact statement. Because this is a civil antitrust action in which the Government is the plaintiff, the proposed consent judgment cannot be entered until the parties have complied with the requirements of section 2 of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)–(h), and this Court has determined that entry of the proposed judgment is in the public interest.

As required under the Antitrust Procedures and Penalties Act, the stipulation, the proposed final judgment, and the competitive impact statement were published in the **Federal Register** on July 23, 1985, at 50 FR 30020–30029. Summaries of those documents were published in *The Washington Times* on July 18–19 and 22–26, 1985, and in *The Dallas Times Herald* on July 18–24, 1985. In accordance with 15 U.S.C. 16 (b)–(d), the **Federal Register** and the newspaper notices invited members of the public to comment upon the proposed final judgment.

The comment period prescribed by 15 U.S.C. 16(b)–(d) expired on September 23, 1985. As of that date, the United States received twenty-nine public comments. These comments, along with the Government's response as set forth in this memorandum, have been submitted to the **Federal Register** for publication. In addition, the twenty-nine public comments are being filed with this Court as an attachment to this memorandum. The United States has carefully considered the submitted comments and concluded that they do not warrant withdrawal of its consent to entry of the proposed decree.

II

Response to Comments

Almost all of the twenty-nine public comments received by the Department of Justice ("the Department") in this matter express the opinion that the proposed consent decree treats the defendants too leniently. Many of the comments state that the proposed decree permits the defendants to "take a walk" and that it amounts to no more than "a mere slap on the wrist" for the defendants' conduct. In addition, one comment argues that the Department's consent to the proposed decree will add only more confusion to the already complex antitrust laws. Finally, a number of the comments urge the Department not to consent to any settlement with American and Mr. Crandall unless both defendants fully and expressly admit their liability.

Addressing first the proposal that the defendants be required to admit their liability, that suggestion appears to be based, at least in part, upon the belief that the proposed consent decree, as presently drafted, makes more difficult any subsequent legal action against American and Mr. Crandall relating to the conduct that was the subject of this litigation.[1] Nothing in the proposed consent decree, however, in any way interferes with or restricts the ability of private citizens or other governmental bodies to seek additional remedies against the defendants. The relevant section of the proposed final judgment provides only that the judgment shall not constitute "any evidence against or admission by any party with respect to any . . . issue" of fact.

This language is found in many of the government's civil antitrust consent decrees entered into before evidence has been taken, and it merely reflects the legislative determination that, in antitrust cases brought by the United States, consent decrees entered into before any testimony has been taken shall not be *prima facie* evidence against the defendant in any other actions brought against that defendant. *See* 15 U.S.C. 16(a).[2] The use of such provisions, as explicitly sanctioned in 15 U.S.C. 16(a), provides a strong incentive for antitrust defendants to enter into early settlements with the United States, and these early settlements enable the government to obtain desirable injunctive relief without having to incur either the expense or the risk of litigating a complex antitrust trial.[3]

Turning to the comment that argues that the proposed consent decree will "only add more confusion" to the antitrust laws and will cause a "loss of respect for the law," that comment, submitted by the Membership of Individual Travel Agents on July 19, 1985, states in part that:

> We feel this decree will only add more confusion to already complex antitrust legislation. Many antitrust cases present fine lines and gray areas, therefore, when a clear cut violation occurs, and then goes unpunished, the result can only be a considerable loss of respect for the law.
>
> Mr. Crandall's attempt to drive away competition through price-fixing was a

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[1] *See, e.g.,* Letter from Donald L. Pevsner, Esq., July 20, 1985 ("The people of Dallas/Forth Worth deserve to bring whatever civil actions they may see fit to pursue in the future against American Airlines, Inc. for its past conduct, expressly including all prior fruits of the Department's own prosecution. But, the terms of the proposed consent decree make this impossible.").

[2] Section 16(a) provides, in part, that:

> (a) A final judgment or decree heretofore or hereafter rendered in any civil or criminal proceeding brought by or on behalf of the United States under the antitrust laws to the effect that a defendant has violated said laws shall be *prima facie* evidence against such defendant in any action or proceeding brought by any other party against such defendant under said law as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto: *Provided,* That this section shall not apply to consent judgments or decrees entered before any testimony has been taken.

[3] In this case, the proposed final judgment was entered into well before any testimony was taken at trial, and even before any depositions had been taken during discovery.

blatant effort to cheat the traveling public. We take issue with the court's original decision that no antitrust violations occurred because Braniff Airlines' president refused to conspire. Howard Putman's honest protected the public and should be commended, not insulted by a decree that ignores the law and winks at the guilty.

Supposedly had Putnam been as dishonest as Crandall, then both of them would have felt the full weight of the law. It is unlikely that his would have happened, however, as then nobody would have been aware of the conspiracy. We are dependent on honest citizens like Putnam to bring our attention to the illegal activities of criminals. And we have been led to believe that attempted price fixing is indeed a criminal offense.

The Department of Justice agrees that Mr. Crandall and American attempted to suppress competition and create an unlawful joint monopoly and that Mr. Putnam's honesty protected the public and should be commended. We disagree, however, with the assertion that this decree will only add more confusion to the already complex antitrust laws. Indeed, it was a major objective of the Department in bringing this civil action to clarify the antitrust laws in this area by seeking a judicial ruling that American's and Mr. Crandall's conduct was an unlawful attempt to monopolize.

Prior to this litigation, no federal court had been presented with the question whether an unsuccessful attempt to control price by means of an explicit proposal to obtain joint monopoly power by engaging in unlawful price-fixing between one competitor and its principal rival might violate Section 2 of the Sherman Act, 15 U.S.C. 2. While it was clear that Section 1 of the Sherman Act, 15 U.S.C. 1, prohibited completed conspiracies and combinations, that section would not reach the defendants' conduct in this case because there was no completed agreement.

The United States brought this action under section 2 of the Sherman Act, alleging an unlawful attempt to monopolize jointly, in part to test the applicability of that section to the defendants' conduct. In addition, because the state of the law regarding this specific issue had never been tested, the United States elected to bring this action as a civil case seeking to enjoin future illegal conduct and not as criminal prosecution seeking to punish the defendants for their past conduct. As explained by then Assistant Attorney General William F. Baxter, "the purpose of the requested injunction was to minimize the risk of future efforts by Crandall and American to attempt collusively to monopolize scheduled airline passenger service." *See* Press Release of William F. Baxter, Assistant Attorney General in charge of the Antitrust Division, February 23, 1983.

After this case was filed, the applicability of section 2 to the defendants' conduct was challenged by the defendants. Although the government believed that the complaint was well-founded both legally and factually, the District Court opinion rejecting our legal theory demonstrates that there was not universal acceptance of our position. *See United States* v. *American Airlines, Inc. et al.*, 570 F. Supp. 654 (N.D. Tex. 1983), *rev'd*, 743 F. 2d 1114 (5th Cir. 1984). The United States Court of Appeals for the Fifth Circuit, however, reversed the District Court and unambigously held that an unaccepted offer to fix price may, under the appropriate economic conditions, be unlawful as an attempt to monopolize in violation of Section 2 of the Sherman Act. *See American Airlines*, 743 F.2d 1114 (5th Cir. 1984). This decision is of major importance and will certainly aid the Antitrust Division in enforcing the antitrust laws. As the Court of Appeals observed, "[t]he application of section 2 principles to defendants' conduct will deter the formation of monopolies at their outset when the unlawful schemes are proposed, and thus, will strenghten the Act." *American Airlines*, 743 F.2d at 1122. Accordingly, the antitrust laws have been clarified and strengthened, not confused, by this litigation. [4]

Finally, the specific injunctive relief obtained against the defendants through the proposed consent decree is more than a "mere slap on the wrist." The proposed decree imposes substantial restraints on the defendants' future conduct and is designed to minimize the likelihood of any future violations by American or Robert Crandall. One of the decree's principal provisions places severe limits on what Robert Crandall can discuss with competitors and sets forth the conditions under which even lawful communications can take place. The proposed final judgment would enjoin Robert Crandall from directly or indirectly discussing or mentioning fares in any communication with any management employee of any scheduled airline passenger carrier other than American. *See* Proposed Final Judgment, Article IX.[5]

In addition, before Mr. Crandall engages in any scheduled communication, as defined in the proposed decree, relating to any aspect of the airline industry with a management employee of another airline, he must first review the anticipated communication with an attorney from American's Office of the General Counsel and discuss the advisability of having an attorney accompany Mr. Crandall. *See* Proposed Final Judgment, Article X. Moreover, Mr. Crandall must maintain a written log of all communications relating to any aspect of the airline industry that he has with any management employee of another airline, he must review each entry with an attorney from American no later than one week following each communication, he must allow the Department of Justice to inspect this log upon reasonable notice, and he must submit quarterly affidavits to the Antitrust division attesting to his compliance with these requirements. *See* Proposed Final Judgment, Article XI. These provisions are not insignificant, and a violation of any one of them may subject Mr. Crandall or American to criminal sanctions for contempt of court.[6]

III

Conclusion

The proposed final judgment was agreed to by all parties to this litigation during the pre-trial stage. Thus, the United States was able to secure desirable injunctive relief against

[4] To the extent that any confusion arose from the fact that this case was pursued through a civil action rather than by criminal prosecution, that confusion should now be eliminated. The primary reason for this prosecutorial decision was that this case presented an issue of first impression in the federal courts. From this point forward, however, the Department will be completely justified in responding to similar future conduct with criminal prosecution when the specific circumstances warrant.

[5] The employees of American are similarly enjoined from discussing fares with representatives of other airlines except pursuant to certain exceptions and conditions. *See* Proposed Final Judgment, Article VII.

[6] In an anonymous public comment dated July 30, 1985, the writer stated that one of American's management employees has a "relationship" with a management employee of another airline. The writer expressed concern that Mr. Crandall might circumvent the restrictions contained in the proposed decree by using this American management employee covertly and improperly to pass on information to the other carrier.

The proposed final judgment prohibits American and Mr. Crandall from soliciting, requesting, or authorizing any person to engage in conduct that, if done by the defendants, would violate any provision of the decree. *See* Article XIII. This requirement, coupled with the general prohibitions applicable to American and its employees, see Article VII, is sufficient to cover the situation described by the anonymous comment. Thus, there is no need to modify the proposed final judgment, and there is no need to reveal the names of the two people identified in the anonymous letter. Accordingly, their names, as well as their specific corporate titles, have been redacted from the comment with the consent of American, Mr. Crandall, and this Court.

continuing antitrust violations by the defendants without incurring the expense and risk of fully litigating a complex antitrust trial. Entry of this consent judgment will also leave intact the ruling of the United States Court of Appeals for the Fifth Circuit, a decision that should significantly deter similar conduct by others and aid the Department in enforcing the antitrust laws.

The relief set forth in the proposed final judgment is significant and substantial, and when the possible alternative injunctive provisions are viewed in the light of the costs and risks of further litigation, entry of the proposed decree is clearly in the public interest. Moreover, entry of the proposed decree is consistent with the long-standing judicial policy that encourages compromise of contested claims, a "policy [that] continues to be applied with equal force under the Antitrust Procedures and Penalties Act." *United States* v. *ARA Services, Inc.*, 1979-2 Trade Cases ¶ 62,861 at p. 78,989 (E.D. Mo. 1979). Finally, in evaluating the proposed decree's effect on future competition, which is the principal measure of its conformance to the public interest, "[t]his Court must also give appropriate recognition . . . to the fact that every consent judgment normally embodies a compromise, and that the parties each give up something which they might have won had they proceeded to trial." *United States* v. *Mid-America Dairymen, Inc.*, 1977-1 Trade Cases ¶ 61,508 at p. 71,980 (W.D. Mo. 1977).

The United States has carefully considered the public comments that have been submitted and still believes that entry of the proposed final judgment is in the public interest. Accordingly, the United States respectfully requests this Court to enter the proposed final judgment as provided for in the previously-submitted stipulation signed by all parties to this lawsuit.

Respectfully submitted,

Elliott M. Seiden,

Chief, Transportation, Energy, and Agriculture Section.

James R. Weiss,

Assistant Chief, Transportation, Energy and Agriculture Section.

Anne E. Blair,

Michael H. Simon,

Attorneys, Transportation, Energy, and Agriculture Section, Antitrust Division, U.S. Department of Justice, P.O. Box 481, Washington, DC 20044 (202) 724-6528

Membership of Individual Travel Agents, Inc.

July 19, 1985.

Mr. Elliott M. Seiden
Chief, Transportation Section, Anti-trust Division, Department of Justice, Room 8120, 414 Eleventh Street, NW., Washington, D.C. 20530

Re: Department of Justice Anti-trust Suit Against American Airlines.

Dear Mr. Seiden: On behalf of our 9,000 members, I am writing to state that we are angered and appalled by the proposed American Airlines consent decree. American's chairman, Robert Crandall, has apparently been caught in a price fixing scheme and is being allowed to get away with a hand slap.

We feel this decree will only add more confusion to already complex anti-trust legislation. Many anti-trust cases present fine lines and gray areas, therefore, when a clear cut violation occurs, and then goes unpunished, the result can only be a considerable loss of respect for the law.

Mr. Crandall's attempt to drive away competition through price fixing was a blatant effort to cheat the traveling public. We take issue with the court's original decision that no anti-trust violation occurred because Braniff Airlines' president refused to conspire. Howard Putnam's honesty protected the public and should be commended, not insulted by a decree that ignores the law and winks at the guilty.

Supposedly had Putnam been as dishonest as Crandall, then both of them would have felt the full weight of the law. It is unlikely that this would have happened, however, as then nobody would have been aware of the conspiracy. We are dependent on honest citizens like Putnam to bring our attention to the illegal activities of criminals. And we have been led to believe that attempted price fixing is indeed a criminal offense.

We are requesting that the Department of Justice investigate these violations further and pursue a remedy of appropriate punishment for the guilty. And we request the court to define if, in fact, a price fixing attempt is illegal or not, what punishment will be applied to the guilty, and then ensure that everyone, regardless of their position, be treated equally under the law.

Sincerely,

William E. Stephan,

President.

International Headquarters, 27281 Las Ramblas, Suite 200, Mission Viejo, California 92691, (714) 831-6225

—

Donald L. Pevsner, Miami, FL, July 20, 1985

Re.: *U.S. v. American Airlines, Inc. and Robert Crandall*

Dear Sir: The undersigned files the following comments on the proposed consent decree between the parties in the above-styled action, pursuant to the Department's promulgation of a 60-day period for public comments thereupon, acting in a *pro bono publico* capacity:

(1) *Under no circumstances should the Department consent to any entry into a consent decree with either American Airlines, Inc. or its chairman, Mr. Robert Crandall, that does not contain express admissions of liability by both defendants in this matter.*

The Securities and Exchange Commission, where the concept of the consent decree originated, has reportedly refused to enter into such decrees in particularly egregious cases unless admissions of liability were made as part of such agreements.

In this case, former Braniff chairman Howard Putnam *raped* American chairman Robert Crandall's bald invitation to fix prices. Had Mr. Putnam accepted Mr. Crandall's invitation, the transaction would have constituted a *prima facie* criminal and civil violation of the antitrust laws.

Mr. Putnam commendably refused the invitation of Mr. Crandall, who was locked in a "price war" with Braniff at the time of the offer that was diminishing American's already huge yields and revenues from the Dallas hub. Instead, he turned over his tape to the Department. Mr. Crandall and his employer, American Airlines, Inc., were thereafter prosecuted by the Department. Though a lower court rejected the Department's allegations of liability for illegal price-fixing solely because Mr. Putnam had not agreed to play Mr. Crandall's game, an appellate court gave the Department the opportunity to pursue a civil count of attempted joint monopolization against both Mr. Crandall individually and against his employer, American Airlines, Inc.

Instead, faced with strong legal defense by American's "blue-chip" corporate law firms, the Department has unaccountably decided to let both American and Mr. Crandall off the hook completely as to liability for Mr. Crandall's egregious conduct, which is worthy of a Jay Gould. The restrictions set forth in the consent decree will result in a mere administrative annoyance for Mr. Crandall as he goes about his daily duties. Worse, the terms of this proposed agreement prohibit its use as evidence of wrongdoing in any subsequent litigation by the Department or by any third parties.

American Airlines, Inc., under Mr. Crandall's stewardship, tried its very best to run Howard Putnam's Braniff out of business. In fact, after Braniff declared bankruptcy, American paid the Braniff trustees a mutli-million-dollar sum to settle a long laundry-list of alleged "dirty tricks," some of which involved American's alleged misuse of its SABRE computer reservations system against Braniff. This agreement, too, provided that no admission of liability would be made by American, in consideration of the sum paid. The Braniff estate needed every cent it could get to satisfy Braniff's bereft employees and other creditors. The United States

Government is not, and should not be, quite so desperate.

It is important to look at whether or not a defendant has "clean hands" before permitting him, or his corporate employer, to escape the consequences of his own wrongdoing. Under Mr. Crandall's stewardship, American Airlines, Inc. has emerged as the nation's most aggressive airline, regularly engaging in tactics that many have termed predatory. American is currently a defendant in a massive civil suit brought by many other airlines that alleges gross misuse of its oligopolistic SABRE computer reservations system.[1] In pricing matters, unless American is forced to compete with a Braniff-type carrier that offers low, unrestricted fares, the policy of this carrier is to harshly penalize those passengers who cannot make reservations at least 30 days in advance. If the rest cancel their trips, American invented the extraction of 25 percent of their fares as a penalty. It regularly floats restrictive fare proposals in the industry that invite its competitors to match it in its repression of passengers: the most recent example was a proposal to levy a 10 percent cancellation penalty on all of its other excursion fares, other than the aforesaid "Ultimate Super Saver" fare penalty of 25 percent. The only reason why this proposal did not take effect on July 19 is that only three major competitors of American chose to match it. Nothing in the proposed consent decree will stop American Airlines, Inc. from floating similar proposals in the future. The Department admits, in its competitive impact statement, that: "the airline industry, because each separate city-pair is likely to have few participants, is readily susceptible to monopolistic or joint monopolistic behavior if there are barriers to entry."

There are indeed barriers to entry, and, as long as Mr. Crandall floats future repressive proposals in the form of public announcements instead of in conspiratorial telephone calls to other airline CEO's, there is a strong likelihood that his continued presence at American's helm will represent a continuing threat to the U.S. airline passenger's economic well-being.

American Airlines, Inc., in this writer's view, did indeed attempt "joint monopolization" of the Dallas/Fort Worth International Airport hub in 1982. Had Mr. Crandall, its chairman, succeeded in his pitch to Braniff's Howard Putnam, American's only low-fare competition at its principal hub would have been effectively neutralized. As things happened, Braniff went out of business anyway, and American's fares in all of the former Braniff markets promptly returned to their prior, rapacious levels. A significant period of time passed before a reorganized, more limited Braniff re-entered the Dallas market (Braniff now has 15 aircraft instead of its prior 50), and the only other low-fare competitor in the wings is People Express, which launches Dallas-Newark service on August first.

[1] Travel-agent groups are also suing American, alleging predatory contract language that harshly penalizes SABRE subscribers who change to another carrier's system.

The people of Dallas/Fort Worth deserve to bring whatever civil actions they may see fit to pursue in the future against American Airlines, Inc. for its past conduct, expressly including all prior fruits of the Department's own prosecution. But, the terms of the proposed consent decree make this impossible. The net effect of the agreement is that the taxpayers of the United States have spent a lot of money to pay for Departmental prosecution of this case, and all of this money will have been wasted in the absence of ultimate equity being achieved. It may be convenient to give up now and "save face" by obtaining a harsh-sounding list of restrictions upon Mr. Crandall and his employer. However, in actual fact, this is a relatively empty return on a considerable taxpayer investment in the desire for justice in this case.

(2) *For all of the foregoing reasons, the Department should reverse its course of intended action, and should pursue its case against both American Airlines, Inc. and its chairman, Robert Crandall.* It should not even consider entering into a consent decree with these defendants unless express admissions of liability are made by both of them. Vigorous prosecution of this case, all the way down the line, is the only thing that will surely deter any airline chairman in a similar position from ever having the utter gall to do what Mr. Crandall did in the future.

Respectfully submitted,

Donald L. Pevsner,

Attorney-at-Law.

(Author: *"Travel Wise,"* Universal Press Syndicate; *"Legal View," Consumer Reports Travel Letter;* Senior Editor-U.S.A., *Business Traveller* Magazine (London))

[Personal names and corporate titles and affiliations have been redacted from this letter by the United States with the consent of the defendants and the District Court]

July 30, 1985

Mr. Elliott Seiden,

Chief of the Transportation Section, Antitrust Division, Department of Justice, Tenth Street & Pennsylvania Avenue, NW., Washington, D.C. 20530

Dear Mr. Seiden: Based on what I've read in the papers, you should know that the proposed resolution in the Crandall-Putnam issue, while it may prevent direct communication of pricing information, does not prevent indirect communication of pricing and other strategic information.

Specifically, one of Crandall's immediate staff has a relationship with [a management employee] of another airline that is like an open phone line from Crandall to the other [management employee] and beyond him, who knows.

American's [management employee] and [a management employee of another airline] have a relationship (they may even be married) that represents a conflict of interest. Everything [the American management employee] knows, and she knows all of American's long range plans and strategies, she can pass on to [the other airline's management employee]. They spend two or three weekends a month together and, I'm told, she always takes a full briefcase with her.

What arrangement [the other airline's management employee], Crandall and the other airline presidents have for the transmission of sensitive information is something you should examine.

Crandall can pass secret information to [the other airline's management employee] and he can pass it on to others and still be in compliance with his narrow agreement with you.

Before you finalize your agreement, you should be sure that it will really accomplish what you think it will. After all, how often do you think you'll have a wimp like Putnam to help you?

[Anonymous]

Donald L. Pevsner Miami, FL, August 6, 1985

Re.: *U.S. v. American Airlines, Inc. and Robert Crandall*

Chief: Antitrust Division,

U.S. Department of Justice, Washington, DC 20530

Dear Sir: The undersigned hereby files the following supplementary comment against the proposed consent decree between the parties in the above-styled case.

Said comment consists of an editorial column from *The Miami HERALD* of August 6, 1985. I endorse the sentiments expressed therein totally.

My comments of July 20, 1985 in this matter are hereby incorporated by reference as if same were fully set forth herein. The sole *caveat* is added that, as to my footnote at Page Two thereof, defendant American Airlines, Inc. is engaged in a DOT complaint—not a civil suit—with travel-agent groups.

Respectfully submitted,

Donald L. Pevsner,

Attorney-at-Law.

(Author: *"Travel Wise"*, Universal Press Syndicate; *"Legal View"*, Consumer Reports Travel Letter; Senior Editor-U.S.A., *Business Traveller* Magazine (London).)

IDA B. HERST, HERMAN HERST, JR., BOCA RATON, FL, August 17, 1985

Chief

Anti-Trust Division, U.S. Dept. of Justice, Washington D.C. 20530

Dear Sir: I was shocked to read of the substantiated evidence in your possession of the attempt of American Airlines to fix prices, and your department's reluctance to do anything about it.

This coming on top of Mr. Meese's similar reluctance to punish anyone in the illegal practices of E.F Hutton & Co. makes me wonder what is going on between big business and your department.

I would protest as strongly as possible the seeming indifference of the Department of Justice to illegalities when practiced by big business.

Perhaps there is something about this that I do not know. Would you kindly let me know if such is the case? Thank you.

Very truly yours,

Herman Herst, Jr.

[Typewritten from handwritten original]

August 17, 1985.

Chief, Antitrust Division,
U.S. Department of Justice, Washington, D.C. 20530.

Dear Sir: In a *Sacramento Union* news article on August 11, 1985, Mr. D. Pevsner, Travel Reporter, pointed out American Airlines' recent procedural travel action: cancellation penalty on new 14-day advance purchase fare of 15%. United Airlines also increased fares and matched these restrictions, as well as TWA. This does not reflect a true economy class fare. Since Air Travel deregulation this shows what happens when a few airline competitors offer the same amount and price to a great number of consumers. This letter is protesting such illegal price-fixing.

The Justice Department's recent "consent decree" by a lower court ruling that illegal price-fixing did not exist, is not considered adequate for the consumer and taxpayer.

Enclosed is a copy of my letter to United Airlines and their reply, for a disappointing trip I experienced in buying a super fare (similar penalty/restrictions) round trip on January 31, 1985, departing from Philadelphia, PA on May 12, 1985. I feel United Airlines was negligent in not providing return flight to Sacramento. On a standby basis we were able to return by U.S. Air to San Francisco, since United cancelled all flights from the East to Sacramento. In addition, a travel agent did comment passenger reimbursement occurred for return flight to Sacramento from San Francisco. My claim request was denied.

I strongly urge the Justice Department to reconsider Braniff case vs. American Airlines, that American should admit liability in the above mentioned illegal price-fixing situation.

Yours truly,

James V. Carroll, 6369 Meadowvista Drive, Carmichael, California 95608.

Ed. J. Brenner, 3280 N/E 170th St., N. Miami Beach, Fla. 33160, 305-949-9875

August 18, 1985.

Chief-Antitrust Division,
U.S. Dep't of Justice,
Washington, D.C. 20530

Re: American Airlines.

Gentlemen: Why is it that the airlines seem to be able to get away with their nefarious schemes to gouge the flying public despite the feeble attempts of our Justice Department?

Specifically my complaint refers American Airlines blatant attempt to fix prices in conjunction with Braniff. If American gets away with a slap on the wrist for its scandalous telephone conversation with Braniff President Howard Putnam it would appear that you are trying to discourage reports of these disgraceful attempts to get around antitrust laws. A "consent decree" in this case is a travesty on justice. Attorney General Edward Meese has no concern for the traveling public.

I respectfully request that the maximum punishment under the law be given against American Airlines. People will just not report violations of the law if they feel your enforcement is so weak.

Sincerely,

Ed J Brenner.

CC: Mr. Donald Prevsner
Chief-Antitrust Division,
U.S. Department of Justice, Washington, D.C. 20530.

Dear Sir: I do not believe that American Airlines or its Chairman, Robert Crandall, should take a walk in the recent decree handed down by the Justice Department and should, at the very least, be forced to admit liability in its attempt to monopolize fares at the Dallas/Fort Worth Airport.

A mere slap on the wrist will make no impact on this man and his airline when he has already demonstrated conduct which is a blatant attempt to deal with the public in a high handed and self serving attitude.

Very truly yours

Robert E. Henshaw Jr., 8790 SW 96th St., Miami, Fl. 33176.

August 18, 1985.

[Typewritten from handwritten original]

August 18, 1985.

Chief, Antitrust Division,
U.S. Department of Justice, Washington, D.C. 20530.

I believe that neither American Airlines nor its chairman Robert Crandall should walk away free of responsibility. As I understand it a "consent decree" would be compared to a slap on the wrist. Take proper measures to protect the public and be careful of how the taxpayer money is used! If they are guilty of violations of antitrust laws or any other, punish them!

Rebecca Shapiro, 345 W. 42nd Street, #8, Miami Beach, Florida 33140.

[Typewritten from handwritten original]

August 18, 1985.

Chief, Antitrust Division,
U.S. Department of Justice, Washington, D.C. 20530.

Gentlemen: Please make note American Airlines and Robert Crandall *should have* to pay *maximum* penalty for their duplicity! For a change let justice be done!!

Harriett Smith, 317 Davenport Lane, Las Vegas, Nevada 89107.

[Typewritten from handwritten original]

August 18, 1985.

Chief, Antitrust Division,
U.S. Department of Justice, Washington, D.C. 20530.

Dear Sir: I sincerely hope that American Airlines and Mr. Crandall will be given a sufficiently severe penalty that they will not attempt any further illegal activities.

As a taxpayer and a person who has always tried to be honest, it is very discouraging to see the country's top corporations so eager to cheat and steal.

Sincerely,

Ann M. Spohn, 2320 N. Orchard Drive, Burbank, California 91504.

[Typewritten from handwritten original]

August 18, 1985.

Chief—Antitrust Division,
U.S. Department of Justice, Washington, D.C. 20530.

Dear Sir: Regarding American Airline's President R. Crandall, and Braniff's H. Putnam, both should be treated as *severely* as the *law* will *allow*, no easy out, they were out to screw the public! No excuse, no technicalities.

Fred Feldman, 9 Cormorant Drive, Key Largo, Florida 33037.

[Typewritten from handwritten original]

August 19, 1985.

Chief, Antitrust Division,
U.S. Department of Justice, Washington, D.C. 20530.

Gentlemen: In response to a recent travel article I read in our local newspaper about American Airlines and Robert Crandall, he deserves whatever you will dish out to him. As far as his airline is concerned, myself nor none of my family [sic] will ever travel on another one.

My family was treated so poorly just this past month. I will proceed to tell you what happened.

We bought four roundtrip tickets from Lafayette, LA to Las Vegas, NV. On the return to Lafayette, they had to stop in Dallas. Upon arriving in Dallas, they were told the plane they said the weather was too bad to leave. They were then told they would take to Lafayette had engine trouble, then later they would leave in the morning. They were never offered a motel room or any kind of help. The age of the people involved was such that they were confused and didn't know what they should do. I might include they were 76, 21, 21, 11 & 6 weeks old. My daughter-in-law's father drove to Dallas which was a 10 hr. trip there and 10 hrs. back. They were so exhausted they were sick.

When they tried to get a refund on the tickets, they were told they would give them $20! The one way fare to Lafayette from Dallas sure isn't $20. They are a bunch of rip-offs and something should be done about this. I don't know who to send this to but maybe you could direct this letter to the right party. I would like to file a formal complaint.

Considering the price you pay for a ticket, I think you should be better treated than this.

I'm willing to go out of my way in order not to fly American. The greed has completely taken over them.

Sincerely,

Sid Turner, 4013 Evening Breeze Court, Las Vegas, Nevada 89107.

[Typewritten from handwritten original]

August 19, 1985.

Chief, Antitrust Division,
U.S. Department of Justice, Washington, D.C. 20530.

Dear Sir: I am violently opposed to any further pussyfooting on the part of my Justice Department regarding corporate crime. Howard Crandell [sic] and American Airlines are guilty of criminal and civil violation of our antitrust laws. You should be ashamed of yourselves for taking two and one half years to find this out—not to mention the obvious waste of taxpayers' money.

What recourse do we taxpayers have when our highest law enforcement agency mismanages the administration of justice as blatantly as you did in the E.F. Hutton crime

and are proposing to do with Crandall and American Airlines?

B.L. Hambleton, 1896 Mooringline Drive, Vero Beach, Florida 32963.

[Typewritten from handwritten original]

August 19, 1985.

Chief, Antitrust Division,
U.S. Department of Justice, Washington, D.C. 20530.

Chief: Certainly Robert Crandall should *not* "take a walk" in regards to the telephone talk with Howard Putnam.

Why should Crandall be allowed his scandalous actions when other try to abide by the law?

Attorney General Edward Meese needs a big stick.

Millions of people are sick, sick and disgusted with the constant drain on taxpayers' money. The rich do not pay.

Delta seems to run a successful airline.

Sincerely yours,

Edith Boxwell, 14162 ½ Sylvan S., Van Nuys, California 91401.

August 20, 1985.

Gerald E. Melton,
R.D. 2, 31 Fredonia Road, Newton, NJ 07860.

U.S. Department of Justice,
Washington, DC 20003.

Dear Sirs, I would like to comment on an article appearing in the July 22, 1985 issue of Aviation Week & Space Technology magazine concerning the decision on punitive action to be taken against Robert L. Crandall, president and chairman of American Airlines, for antitrust infraction while dealing with Howard Putnam, president of Braniff Airlines. According to my understanding of the decision, Mr. Crandall will not receive any punishment but will simply be prohibited from having the opportunity to commit the same offense again, at the expense of your time and the taxpayer's dollars.

I was not aware that this was the way our system of justice worked. I thought that whenever a person did something that they knew was against the law that they would be given sufficient punishment to make them think seriously about the consequences of their crime should they ever be tempted to commit it again. It would seem to me that this should especially be the case in a situation, such as the one mentioned in the article, which would have resulted in essentially robbing the citizens of this country. Instead it appears that in Mr. Crandall's case the taxpayers through the Justice Department are responsible for devising a plan to prevent him from having an opportunity to commit the same offense again.

If we were to follow that same line of reasoning with every crime, when someone robbed a bank and was caught then we could simply have him document every time he goes to the bank for two years and that would keep him from repeating his offense. Pretty crazy, huh? I hope you will reconsider this grave injustice.

Sincerely,

Gerald E. Melton

copy to:
Office of the President,
Senator Paul Laxalt.

2724 La Verta Court, Rancho Cordova, CA 95670, August 12, 1985.

Chief, Antitrust Division,
U.S. Dept. of Justice, Washington, D.C. 20530.

Sir: We are aware of the fact that the Justice Dept. prosecuted both Mr. Crandall and American Airlines for violations of the antitrust laws.

We also are aware that last month, after two and one-half years of taxpayer expense, the Justice Department announced a proposed "consent decree" with American Airlines and Mr. Robert Crandall. We object strenuously to this slap-on-the-wrist tactic, and also we feel that big business should have to pay the costs, currently billed to the taxpayers.

Very truly yours,

Martin and Bonnie Karver.

[Typewritten from handwritten original]

August 20, 1985.

Chief, Antitrust Division,
U.S. Department of Justice, Washington, D.C. 20530.

To whom it may concern: I think what Robert Crandall tried to do is in violation. I think he and American Airlines should be punished. We cannot allow large corporations to price fix, it hurts us all.

Prosecute to full extent of the law!

Regards,

J. Kleinwachter, 1890 W. Hillcrest #592, Newbury Park, California 91320.

[Typewritten from handwritten original]

August 20, 1985.

Chief, Antitrust Division,
U.S. Department of Justice, Washington, D.C. 20530.

Chief: I think it would be scandalous for American Airlines and its chairman Robert Crandall to be able to "take a walk" in violation of the antitrust laws, with Braniff, and not admit its liability.

C. G. Erreger, 5010 Indian River #9, Las Vegas, Nevada 89103.

[Typewrtten from handwritten original]

August 20, 1985.

Chief, Antitrust Division,
U.S. Department of Justice, Washington, D.C. 20530.

Dear Chief: First—Bear with writing—Have but 12% vision—Writing by instinct! Am an old [illegible] retired New Jersey State Police Captain. Read with magnifying glass—very slowly.

Read recently re: a character—a bum—Robert Crandall—American Airlines—talking (and recorded) to chairman of Braniff to "fix rates," etc. and he was quoted as much as to say "to Hell with the Public—give 'em the business," etc.

I hope to [illegible] that this dirty [illegible] doesn't beat this rap! It sounds that he's going to get off with a slap on the wrist. Cool down—That's to me.

Do everything in your power to nail him and TWA and United—but good!

Hold the Fort.

Capt. Joseph J. Orzechowski, 606 SW Natura Blvd. #210, Deerfield Beach, Florida 33441.

Mr. and Mrs. Joseph Platwick,
18071 Biscayne Blvd, N. Miami Beach FL 33160, August 22, 1985.

Chief-Antitrust Division, Washington, D.C. 20530.

U.S. Department of Justice.

Dear Sir: I read in the newspaper about the President of American Airlines, Robert Crandall suggesting to another airline carrier that there be collusion in setting fares. With things like that going on, we cannot hope to maintain our free enterprise system as we know it.

We see prices set by various businesses, and somehow or other the prices do not vary too far apart. We always wonder why.

As a businessman, I set my prices according to my costs and profit margin. If I had set my prices together with others in the same industry at a high figure, we all would have had different profits at the end of the year. By having different prices, we would have about the same profit at the end of the year based on investment, because costs are usually about the same for materials and labor (unless materials are bought in bulk).

By looking at the year end statements of companies in the same field, I wonder if you can determine price collusion.

Nevertheless, anyone who is caught trying to set prices should be given the maximum penalty to set an example.

Sincerely,

Joseph Platnick.

August 24, 1985.

Justice Department
Chief, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530.

Gentlemen: Reference advertisement in the Las Vegas Review Journal, dated 18 August 1985 (copy attached). My opinon is that American Airlines and Chairman Robert Crandall should be forced to admit liability to the Justice Department.

I am a senior citizen and feel airfares are prohibitive for the majority of us seniors plus the 7 and 14 day advance reservations and cancellation policy is ridiculous. I would like to see legislation passed for discount fares for Seniors 62 years and up with no advance or cancellation fees. I take Modern Maturity Magazine and the leading airlines place ads like the enclosed ad for Eastern. Why not change the age to 62 and hopefully seniors on a limited income will be able to travel more. If there is sickness or a death in a family there would be very few seniors who could afford to buy a ticket at a reasonable price.

Request I be notified of the decision made as referenced in paragraph one.

Thank you.

Very truly yours,

Genevieve B. Compton,
569 Greenbriar Townhouse Way, Las Vegas, NV 89121.

August 24, 1985.

RE: American Airlines/Crandal Consent Decree

Chief, Anti-trust Division, U.S. Department of Justice Washington, DC 20530

Dear Sir: I suspect the "deregulation" tactics by American Airlines as outlined in the attached article may well be just the tip of the iceberg. American airlines and others

(BF Hutton) have little to lose by such activities as if caught they are too big to touch or, if fined, the company takes care of it and the principals are free to walk.

Those in government and big business are not concerned nor affected by these practices as their travel is either paid for (government) or written off (business). Those using airlines at their own expense no longer have any recourse when fare manipulation takes place.

I believe punitive action should be taken against the individuals involved in such action as Mr. Crandall apparently was so they might come to know that free enterprise is not to be equated with gouging the public.

Ignoring this type of business dealing is likely to be a factor in future elections where more practical heads may stress, and even insist on, corporations acting responsibly.

Very truly yours,

Robert W. Grunska,

4903 Sunshine Dr., Montgomery, AL 36116.

[Typewritten from handwritten original]

August 28, 1985.

U.S. Department of Justice
Chief, Antitrust Division, Washington, DC 20530.

Dear Sir: Please read the enclosed article and see if you can find any "justice" in the treatment Mr. Crandall and American Airlines are getting.

Please don't let American Airlines "take a walk"—they deserve to be "taken to task" for such scandalous conduct.

Yours truly,

Riva Quitt,

5411 Tyrone Avenue, Apt. 106, Van Nuys, CA 91401.

[Typewritten from handwritten original]

August 26, 1985.

U.S. Department of Justice
Chief, Antitrust Division, Washington, DC 20530.

Another example of American Airlines unfair practices—Convict Robert Crandall—he deserves it.

Sincerely,

Sidney J. Turner, Jr.,

5010 Indiana River Drive, Las Vegas, NV 89103.

[Typewritten from handwritten original]

September 3, 1985.

Chief, Antitrust Division,
U.S. Department of Justice,
Washington, D.C. 20530.

I wish to protest the proposed "consent decree" with American Air Lines and its president Mr. Crandall. After spending 2½ years of investigation, this is a case for prosecution under the law. I might add that the E.F. Hutton case was a bitter disappointment and in my opinion scandalous.

Irving A. Schau,

6632 Villa Bonita Road, Las Vegas, Nevada 89102.

Howard H. Knighten Jr.,
P.O. Box 802,
Miami, Arizona 85539.
August 28, 1985.

Chief, Antitrust Division,
U.S. Department of Justice,
Washington, D.C. 20530.

Dear Sir: I am writing concerning the upcoming Justice Department decision pertaining to American Airlines president Robert Crandall and the February 1st 1982 telephone conversation with the Braniff president in which federal antitrust laws were violated.

Should Mr. Crandall and American Airlines go free on a "consent decree" with no fine or even an admission of guilt or payment of government costs in this case, then indeed the Justice Department and the Attorney General of these United States have sold their souls to Crandall and American Airlines.

Surely the Justice Department expectation of citizen co-operation and help in other criminal matters would be diminished.

I strongly urge you to punish this white collar crime.

Sincerely yours,

Howard H. Knighten, Jr.

Mr. and Mrs. Ben Adler,
1042 Northwest 87th Ave.,
Plantation, Florida 33322.
September 30, 1985.

[sic—letter received 9/5/85]

Chief, Antitrust Division,
U.S. Department of Justice,
Washington, D.C. 20530.

Dear Sir: Is it too late to offer my opinion on the American Airlines case?

The facts of the case seem to me to warrant the most severe penalties that the law allows.

If this were a case of two small businessmen, the guilty one would, I am sure, have the book thrown at him. Apparently, the bigger the transgressor, the smaller the punishment.

I hope that the Department of JUSTICE in this instance will prove that justice will prevail.

Sincerely,

Henrietta Adler.

[Typewritten from handwritten original]

September 11, 1985.

Chief, Antitrust Division,
U.S. Department of Justice,
Washington, D.C. 20530.

If the collusion Mr. Pevsner outlines in the attached copy of his article is as provable as it seems, I don't feel Robert Crandall should be permitted to continue his disregard for the people of this country or the laws they have had enacted.

I have witnessed and been part of many similar conversations over the years, so, I'm not shocked. It is a shame though that our millions of dollars of tax dollar expenditures don't seem to have discouraged the practice at all.

Mr. Average Citizen,

/s/ V. Burke,

Box, 3074, Mercury, Nevada 89023.

[FR Doc. 85-24171 Filed 10-8-85; 8:45 am]

BILLING CODE 4410-01-M

Proposed Modification of Final Judgment; Parker Hannifin Corp.

Notice is hereby given that on September 19, 1985, the United States Department of Justice ("Department") tentatively consented to a modification of the final judgment in *United States of America* v. *Parker Hannifin Corporation*, Civil No. C-72-493 (N.D. Ohio). The Department's consent was contained in a stipulation filed with a motion for modification by Parker Hannifin Corporation ("Parker") in the United States District Court for the Northern District of Ohio, Eastern Division, in Cleveland, Ohio. If approved by the District Court, the modification would allow Parker to seek the Department's permission to complete the company's proposed acquisition of Scovill Inc.'s Schrader Bellows Automation Group ("Schrader Bellows"). The Department had previously advised Parker and Scovill Inc. that the acquisition would violate the existing final judgment. If the court enters an order modifying the final judgment, the Department of Justice, based on information presently known, would consent to Parker's acquisition of Schrader Bellows.

The final judgment ended a 1972 suit in which the Department alleged that Parker had violated Section 7 of the Clayton Act by acquiring the Ideal Corporation, which manufactured, among other things, tire hardware. Section VIII of the judgment, entered on November 1, 1977, prohibits Parker from making certain acquisitions for a period of ten years. Included in this prohibition is an acquisition of any company that manufactures blow guns or automatic quick change couplers. Blow guns release compressed air through a nozzle and are used for cleaning purposes. Quick change couplers are devices that cut off the flow of compressed air or fluid when a line with compressed air or fluid is connected or disconnected. Schrader Bellows manufactures both types of products in the United States and abroad.

The proposed modification of Section VIII would replace the judgment's current absolute bar against certain acquisitions with a provision that would allow Parker to make otherwise prohibited acquisitions if prior written consent were given by the Department.

The terms of the stipulation filed in the District Court provide that Parker, at its own expense, is required to publish in two consecutive issues of *The Wall Street Journal* a notice that describes the terms of the Department's agreement to the modification. Parker is also required

to serve copies of this notice on fifteen manufacturers of quick change couplers and fifteen manufacturers of blow guns. The stipulation also provides that, unless the Department has withdrawn its consent to the modification by the thirty-sixth day after the last publication in the *Wall Street Journal* or service upon the blow gun or quick change coupler manufacturers, either party may request the District Court to enter an order consistent with the terms of the stipulation.

The Department has filed with the District Court a memorandum setting forth the reasons why the Department believes that termination of the judgment would serve the public interest. Copies of the complaint, final judgment, Parker's motion and supporting memorandum, the stipulation containing the Department's consent to the modification, the Department's memorandum and all further papers filed with the District Court in connection with this motion are available for inspection in the Legal Procedure Unit of the Antitrust Division, Room 7233, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, DC 20530 (telephone 202–633–2481), and at the Office of the Clerk of the United States District Court for the Northern District of Ohio, Eastern Division, Cleveland, Ohio. Copies of any of these materials may be obtained from the Legal Procedure Unit upon request and payment of the copying fee set by Department regulations.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 85–24173 Filed 10–8–85; 8:45 am]

BILLING CODE 4410–01–M

Proposed Termination of Final Judgment; The Mead Corp.

Notice is hereby given that the Mead Corporation ("Mead") has filed with the United States District Court for the Southern District of Ohio a motion to terminate the final judgment in *United States* v. *The Mead Corporation*, Civil No. 3576; and the Department of Justice ("Department"), in a stipulation also filed with the court, has consented to termination of the judgment, but has reserved the right to withdraw its consent for at least seventy (70) days after the publication of this notice. The complaint in this case (filed on July 8, 1968) alleged that Mead's acquisition of eight paper merchants and a partial ownership interest in four others violated Section 7 of the Clayton Act, 15 U.S.C. 18. The judgment (entered on May 14, 1970) orders Mead to divest within three years twenty-one of the paper merchant houses operated by the acquired merchants and, at its option, a group of either two or six additional such houses. The judgment enjoins Mead from reacquiring the divested houses and from acquiring, for a period of ten years, another paper merchant with printing and fine paper sales in excess of a specified amount without the prior approval of the Department.

The judgment has been complied with and has expired by its own terms, except for a provision which perpetually enjoins Mead from reacquiring the divested houses. Mead divested on schedule its interest in the twenty-one houses and the group of six additional houses. The ten-year restriction on acquiring paper merchants expired on May 14, 1980. The only legal restraint Mead is subjected to under the judgment is the prohibition on reacquisition of the divested houses.

The Department has filed with the court a memorandum setting forth the reasons why the Department believes that termination of the judgment would serve the public interest. Copies of the complaint and final judgment, Mead's motion papers, the stipulation containing the Government's consent, the Department's memorandum and all further papers filed with the court in connection with this motion will be available for inspection in the Legal Procedure Unit of the Antitrust Division, Room 7233, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, DC 20530 (telephone 202–633–2481), and at the Office of the Clerk of the United States District Court for the Southern District of Ohio, Western Division, United States Post Office and Courthouse, 200 West Second Street, Dayton, Ohio 45402. Copies of any of these materials may be obtained from the Legal Procedure Unit upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the decree to the Department. Such comments must be received within sixty days, and will be filed with the court. Comments should be addressed to John W. Poole, Jr., Chief, Special Litigation Section, Antitrust Division, Department of Justice, Washington, DC 20530 (telephone 202–633–2425).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 85–24172 Filed 10–8–85; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

MAP and MAP II Application Announcements for Fiscal Year 1986

AGENCY: Institute of Museum Services, NFAH.

ACTION: MAP and MAP II Application Announcements for Fiscal Year 1986. This grant application announcement applies only to the Museum Assessment Program (MAP and MAP II).

Following date of publication of this announcement, the Institute of Museum Services (IMS) will be receiving applications for grants under the Museum Assessment Program (MAP and MAP II) for Fiscal Year 1986.

Nature of Program: The Director of IMS makes grants under the Museum Assessment Program (MAP and MAP II) to assist museums in carrying our institutional assessments. MAP is designed to help museums—particularly those with small budgets—to provide better services and broaden their bases of private and other non-Federal financial support through an independent professional assessment of their programs and operations. *Only museums meeting the definitions in 45 CFR 1180.3 may apply for a MAP grant.* A museum which receives a MAP grant for a fiscal year may not receive another MAP grant in the same or any sequential fiscal year. Accordingly, a museum which received a grant under the MAP program in Fiscal Years 1981, 1983, 1984 or 1985 (the only prior years in which grants were made) is ineligible for such assistance in Fiscal Year 1986 or any subsequent year.

A MAP II grant serves as a follow-up to a MAP grant and is a one-time, non-competitive award which enables eligible museums to receive technical assistance on the care and maintenance of museum collections. Through an on-site evaluation by a museum professional experienced in the care and maintenance of collections, MAP II assists museums in assessing their needs and developing priorities for collections management and conservation. Only museums that have been awarded and completed a MAP grant may participate in MAP II.

A museum must use the MAP and MAP II grants for assessment assistance to pay for: Expenses of institutional assessments such as registration fees; surveyor honoraria; travel and other expenses of surveyors; and technical assistance materials. The amount of a MAP or MAP II grant may not exceed $1,000.

Grant Application Procedures

The Director considers an application (on a form supplied by IMS) by a museum for MAP or MAP II grant only if (1) the museum applies for assessment to an appropriate professional organization as defined in the regulations and (2) the professional organization notifies IMS that the application (to the professional organization) for assessment is complete and that the museum applying for assessment is eligible to participate as a museum as defined in 45 CFR 1180.3 of the regulations. The American Association of Museums (AAM) is an organization which has been designated as an appropriate professional organization. To participate in MAP or MAP II, a museum must apply to AAM and complete the self-study questionnaire and IMS MAP/MAP II application provided by AAM. IMS supplies the AAM with application forms and instructions. These are forwarded by AAM to applicant museums. IMS applications are supplied to AAM until available funds are exhausted or until July 25, 1986, whichever occurs first. Interested museums should contact AAM for further information: The American Association of Museums, 1055 Thomas Jefferson Street, NW., Washington, DC 20007. Telephone: (202) 338–5300.

The Director of IMS approves applications meeting the MAP and MAP II requirements on a first-come, first-served basis (i.e., in the order in which an application is received and has been determined to have met applicable requirements). Applications are approved for awards, subject to the availability of funds, until a given date in the fiscal year established by publication in the **Federal Register**. For Fiscal Year 1986, IMS establishes two such dates for MAP, October 25, 1985 and April 25, 1986 and two such dates for MAP II, January 31, 1986 and July 25, 1986. If a museum's MAP or MAP II application is received on or before the indicated dates, it will be processed together with other MAP or MAP II applications received during that period. Applications received after the indicated dates will be processed during the subsequent MAP or MAP II date. In no event will MAP applications received after April 25, 1986 and MAP II applications received after July 25, 1986 be processed for Fiscal Year 1986 awards. There are no selection criteria. Matching requirements do not apply.

Applicable Regulations: Applicable regulations may be found in 45 CFR 1180.70, 1180.76.

FOR FURTHER INFORMATION CONTACT: Steven B. Shwartzman, Museum Program Specialist, 110 Pennsylvania Avenue, NW., Room 609, Washington, DC 20506 (202) 786–0539.

(Catalog of Federal Domestic Assistance No. 45.301 Institute of Museum Services)

Dated: September 30, 1985.

Monika Edwards Harrison,

Acting Director, Institute of Museum Services.

[FR Doc. 85–24228 Filed 10–8–85; 8:45 am]

BILLING CODE 7036–01–M

NUCLEAR REGULATORY COMMISSION

Bi-Weekly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (Pub. L.) 97–415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. Pub. L. 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last bi-weekly notice which was published on September 25, 1985 (50 FR 38909), through September 30, 1985.

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments may also be delivered to Room 4000, Maryland National Bank Building, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m., Monday through Friday.

By November 8, 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. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the 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 as 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 south 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 granding 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.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day noticie period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

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, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commisison 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 (*Branch Chief*): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Wahington, DC 20555, and to the 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 Commisison, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arkansas Power and Light Company, Docket No. 50-368, Arkansas Nuclear One Unit No. 2, Pope County, Arkansas

Date of amendment request: August 30, 1985.

Description of amendment request: The proposed amendment would change Technical Specification 3.1.3, "Moveable Control Element Assemblies." This Techncial Specification requires that (1) acceptable power distribution limits are maintained, (2) the minimum shutdown margin is maintained, and (3) the potential effects of Control Element Assembly (CEA) misalignment are limited to acceptable levels. Technical Specification 3.1.3.1 requires that all full and part length CEAs be moveable and operable and specifies the maximum allowed deviation in the position of a single CEA from any other CEA within its group. Technical Specification 3.1.3.6 specifies the allowable CEA withdrawal and insertion limits. Techncial Specifications 3.1.3.7 specifies insertion position limits and insertion time limits for part length CEAs. The requirements of these specifications are implemented by the Core Protection Calculator (CPC) and Core Element Assembly Calculator (CEAC) software, which applies penalty factors in the calculation of Departure from Nuclear Boiling Ratio (DNBR) and Local Power Density (LPD) upon the detection of a CEA position deviation.

The CPC system, which is an integral part of the reactor protection system at ANO-2, monitors certain NSSS variables and initiates a reactor trip if fuel design limits are approached as a result of an abnormal event. The CEACs, as part of the CPC system, calculate individual CEA deviation form the position of the other CEAs in their subgroup. DNBR and LPD are fuel design limits. Maintaining core conditions such that these values are within the acceptable limits ensures that fuel cladding will not overheat during normal and abnormal operation.

Technical Specification 3.2.4 requires that the DNBR margin be maintained by operating within the region of acceptable operation of Figure 3.2-3 or 3.2-4, as applicable. Figure 3.2-3 specifies the DNBR margin operating limit based on the Core Operating Limit Superviosry System (COLSS). Figure 3.2-4 specifies the DNBR margin operating limit based on the CPCs and is used when the COLSS is out of service. The COLSS is a monitoring system which continuously calculates and advises operators of margind to core operating limits on fuel design and the licensed power level. The COLSS provides an alarm if any one of the core operating limits is exceeded.

Surveillance Requirement 4.1.3.1 requires that the position of each full and part length CEA periodically be determined to be within specified limits. The proposed changes would revise Technical Specification 3.1.3.1 to require a reduction in core power after a detection of a CEA deviation (i.e., one CEA is inserted 7 or more inches further

than the other CEAs in its group) rather than the application of penalty factors in the calculation of DNBR and LPD as required by the existing Technical Sepcification. The power reduction is in accordance with the new Figure 3.1–1A. Application of the existing penalty factors in the CPC/CEAC software will typically result in a reactor trip when a CEA deviation occurs. The proposed reduction of these penatly factors will require a power reduction by the operator, but may prevent unnecessary reactor trips due to erroneous CEA position indication, electrical noise and actual CEA drops. The proposed change also revises Figure 3.2–4 to ensure that efficient marginal is reserved for the single CEA inward deviation event when the COLSS is out of service.

This change would provide assurance that the plant is operated within the acceptable fuel design limits and that the operators are required to compensate for the change of CEA inward deviation penalty factors.

An additional change to the related Surveillance Requirement 4.1.3.1.1 is also included with this amendment application to eliminate a redundant portion of this requirement. The requirement deleted from this specification is present in a more detailed format in table 3.3–1 ACTION 5, which is a more appropriate location in the Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870) of amendments that are considered not likely to involve significant hazards consideration. Example (vi) relates to a change which either may result in some increase in the probability of consequences of a previously-analyzed accident or may in some way reduce a safety margin, but where the results are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan (SRP). Example (i) is a purely administrative change: for example, a change to achieve consistency throughout the Technical Specifications, correction or an error, or a change in nomenclature.

Section 4.3 of the SRP delineates acceptance criteria for reactivity control systems. Specifically, the reactivity control systems must assure with high probability that acceptable fuel design limits are not exceeded during normal operation or anticipated operational occurrences. The elimination of penalty factors currently applied to the calculation of DNBR and LPD would be compensated for by the reduction in core power following an inward CEA deviation event required by the proposed specification. In addition, thermal margin would be maintained by the LCO on DNBR margin (Technical Specification 3.2.4). These would preserve the current level of protection and assure that acceptable fuel design limits are not exceeded. Thus, these portions of the proposed changes appear to be similar to Example (vi).

The proposed change to Technical Specification 4.1.3.1.1. appears to be similar to example (i) in that the portion of the requirement proposed to be deleted is already present in a more detailed form in Table 3.3–1.

Therefore, since the application for amendment involves proposed changes similar to examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Attorney for licensee: Nicholas S. Reynolds, Esq., Bishop, Liberman, Cook, Purcell & Reynolds, 1200 Seventeenth Street, NW., Suite 700, Washington, DC 20036

NRC Branch Chief: Edward J. Butcher, Acting.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of amendment request: September 9, 1985.

Description of amendment request: The proposed amendment would change the Technical Specifications (TS) by adopting the boiling water reactor (BWR) Standard Technical Specifications limiting condition for operation (LCO) concerning operability of the rod worth minimizer (RWM) when the reactor is at 20% or less than rated termal power. This change would add the following to the LCO:

Action: With the RWM inoperable, verify control rod movement and compliance with the prescribed control rod pattern by a second licensed operator or other technically qualified member of the operational staff who is present at the reactor control console. Otherwise, control rod movement may be made only by actuating the manual scram or placing the reactor mode switch in the shutdown position.

The licensee's reason for this change is that the present LCO would not allow plant startup if the RWM is inoperable after the station computer is replaced during refueling outage #7.

Basis for proposed no significant hazards consideration determination: The RWM assists and supplements the plant operator with an effective backup control rod monitoring routine that enforces adherence to established startup, shotdown, and low power level control rod patterns. Double checking of rod positions against established patterns by a second qualified person will adequately ensure that unacceptable patterns are not established. Therefore, the substitution of a qualified person for the RWM would be within the criteria in the Standard Review Plan and the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated, it does not create the possibility of a different kind of accident from any previously evaluated, and it does not involve a signicicant reduction in a margin of safety. On this basis, the staff proposes to determine that the amendment request involves no significant hazards considerations.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W.S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment: August 7, 1985.

Description of amendment request: The proposed amendment would revise the license for Brunswick Steam Electric Plant, Unit 2 to allow this unit to receive, possess and use byproduct, source and special nuclear material in the same quantities permitted by the Unit 1 license.

Currently, Unit 1 is licensed under 10 CFR Part 50, to receive, possess and use in amounts as required any byproduct, source and special nuclear material without restriction to chemical or physical form, for sample analysis or instrument calibration or associated with radioactive apparatus or components in accordance with 10 CFR Parts 30, 40 and 70. Unit 2 is also licensed under 10 CFR Part 50 to receive, possess, and use at any time 100 millicuries each of any byproduct and

100 milligrams each of any source or special nuclear material for sample analysis or instrument calibration in accordance with 10 CFR Parts 30, 40 and 70. Radioactive materials are currently received under Unit 1 license and transferred to Unit 2 in the quantities allowed by the license. This transfer of radioactive materials from one unit to another causes a significant amount of unnecessary administarative effort.

The proposed amendment would change the Unit 2 license to be consistent with the Unit 1 license. Also, under the proposed requirements, Unit 2 would use the same administrative, operational, and training procedures, equipment and personnel that Unit 1 has been using.

The proposed amendment also includes a correction to a typographical error to the Unit 1 Facility Operating License.

Basis for proposed no significant hazards consideration determination: The licensee has determined that the requested amendment per 10 CFR 50.92 is considered an administrative change and, as such, does not affect the configuration, function, operation or failure analysis of any plant system. The staff has reviewed the licensee's determination and finds that we agree that it does not affect the configuration, functions, operation or failure analysis of any plant system. In addition, only the amount of nuclear materials permissible to be received, possessed, and used at Unit 2 has been changed. Plant procedures used to handle the materials will be the same as those already in use at Unit 1. Based on the above discussion, the proposed amendment: (1) Does not involve a significant increase in the probability or consequences of an accident previously evaluated; (2) does not create a new or different kind of accident from any accident previously evaluated; or (3) does not involve a significant reduction in a margin of safety.

Therefore, the staff proposes to determine that the proposed amendment meets the criteria of 10 CFR 50.92(c) and, therefore, does not involve a significant hazards consideration.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment: August 20, 1985.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) for the Brunswick Steam Electric Plant, Units 1 and 2, Table 3.3.3–1, Emergency Core Cooling System (ECCS) Actuation Instrumentation, by adding a footnote to allow required surveillance without placing the trip system in the tripped condition.

Currently, when performing required surveillance on the ECCS Actuation Instrumentation, the TS require that the inoperable channel be placed in the tripped condition and/or that the associated ECCS be declared inoperable. This requirement places an unnecessary restriction on plant operation during instrument testing. The proposed TS adds a footnote to Table 3.3.3–1, ECCS actuation instrumentation, to allow placing a channel in an inoperable status for up to two hours for required surveillance without placing the trip system in the tripped condition provided at least one operable channel in the same trip system is monitoring the affected parameter. This change reflects the guidance provided in NUREG-0123, the Standard Technical Specifications (STS). In addition, this capability is already allowed by the current TS for instrumentation of the Reactor Protection System (TS 3/4.3.1), Isolation Actuation (TS 3/4.3.2), Control Rod Withdrawal Block (TS 3/4.3.4), and Reactor Core Isolation Cooling System (TS 3/4.3.7). The proposed TS also reformat the table notations in Table 3.3.3–1; the latter is an administrative change only.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from accidents previously evaluated; or ((3) involve a significant reduction in a margin of safety. Carolina Power & Light Company has determined that the requested amendment:

1. Does not involve a significant increase in the probability or consequences of accidents previously evaluated because allowing for testing of a channel as specified by the proposed TS does not prevent the instrumentation from performing its design function. The proposed TS provide the limiting conditions for operation necessary to preserve the ability of the system to perform its intended function even during periods when instrument channels may be out of service because of maintenance. Therefore, when necessary, one channel may be made inoperable for brief intervals to conduct surveillance.

2. Does not create the possibility of a new or different kind of accident than previously evaluated for the same reasons as described in item (1) above.

3. Does not involve a significant reduction in a margin of safety. In addition to the reasons already given above, the proposed TS is consistent with the guidance provided in NUREG–0123, the STS. The proposed change will not significantly affect the ability of the system to meet its design functions of initiating actions to mitigate the consequences of accidents. The margin of safety, therefore, is maintained.

The staff has reviewed the licensee's determination and finds it acceptable. Based on the above, the staff proposes to determine that the proposed changes meet the criteria of 10 CFR 50.92(c) and, therefore, do not involve significant hazards considerations.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Branch Chief: Domenic B. Vassallo.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment: September 6, 1985.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) for the Brunswick Steam Electric Plant, Units 1 and 2 (BSEP–1 and BSEP–2). The proposed revisions involve administrative corrections to both BSEP–1 and BSEP–2 and a technical correction to BSEP–1.

The administrative corrections include misspellings, inadvertent

omissions, mislabeling, incorrect referencing of TS Tables and sections, and deletion of footnotes.

The technical correction deals with the operation of the fire suppression system pumps to determine operability. The BWR/4 Standard Technical Specifications, NUREG-0123 (STS) and the BSEP-2 require operation of the fire suppression system pumps for at least 15 minutes where the BSEP-1 TS require operation of the pumps for at least 20 minutes. A revision of BSEP-1 TS is requested in order to provide consistency between BSEP-1, BSEP-2, and the STS.

Basis for proposed no significant hazards consideration determination: the Carolina Power & Light Company (CP&L) has reviewed this request and has determined that the proposed revisions do not increase the possibility or consequences of an accident previously evaluted, or create the possibility of a new accident previously because there are no physical alterations of the plant configuration or changes to setpoints or operating parameters. The proposed administrative revisions merely correct typographical errors. Due to the administrative nature of these revisions, the margin of safety is not reduced.

CP&L has also determined that revision the fire suppression pump operability time for BSEP-1 to be consistent with that referenced in the BSEP-2 and STS does not increase the probability or consequences of an accident previously evaluated, or create the possibility of a new accident because there are no physical alterations of the plant configuration or changes to setpoints or operating parameters. The purpose of the surveillance requirements is to assure that the fire suppression pumps are operable. The operability can be verified as readily in 15 minutes as it can be in 20 minutes. Therefore, no significant reduction in a margin of safety is involved.

CP&L has reviewed the request for the proposed administrative revisions and the proposed minor non-significant technical revision and determined that these revisions do not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. Therefore, the proposed revisions involve no significant hazards consideration.

The NRC staff has reviewed the proposed amendment and the CP&L determination and finds it acceptable. Therefore, the staff proposes to determine that no significant hazards consideration is involved in the proposed amendment.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Attorney for licensee: George F. Trowbridge, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Branch Chief: Domenic B. Vassallo.

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, La Salle County Station, Units 1 and 2, La Salle County, Illinois

Date of amendment requests: August 27, 1985.

Description of amendment requests: The proposed amendments to Operating License NPF-11 and Operating License NPF-18 would revise the La Salle Units 1 and 2 Technical Specifications by adding new action statements for conditions involving inoperable pressure and level monitors in the control rod scram accumulator and removal of the upper limit on the accumulator setpoint.

The purpose of the control rod drive (CRD) system is to provide high pressure charging water to the under-piston area of the control rod drive mechanisms to scram the reactor when required. During normal plant operations, reactor pressure provides the driving force to insert the control rods during a scram. When the plant is not at full operating pressure, the CRD accumulator, which all control rods are equipped with, provide the motive force for reactor scrams.

In Specification 3.1.3.5 of the La Salle Units 1 and 2 Technical Specifications, no action statement is provided for an inoperable level or pressure monitor. The licensee proposes that for either of these events, plant operations will be allowed to continue while repairs are affected, but increased checks every 12 hours will be made to ensure the accumulator remains operable.

In addition, the licensee proposed removal of the upper limit on the accumulator alarm setpoint which is presently set at 940 psig, +30, −0 psig. The licensee proposes to set the alarm setpoint at greater than or equal to 940 psig, on the basis that this tolerance band is not required to ensure the operability of either the pressure monitor or the accumulator, any pressure setpoint at or above 940 psig is acceptable and will allow operational flexibility while not posing a safety concern since any higher pressure than 940 psig is on the conservative side.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined and the NRC staff agrees that the proposed amendments will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because no decrease in the availability of the scram function or timeliness of the scram function will occur. Appropriate actions to ensure continued operability are provided.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because this change does not remove any equipment or affect the performance of any equipment during an accident.

(3) Involve a significant reduction in the margin of safety because it adds additional actions which are to be taken when remove alarm(s) are unavailable or degraded.

Accordingly, the Commission proposes to determine that the proposed changes to the Technical Specifications involve no significant hazards considerations.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348.

Attorney for licensee: Isham, Lincoln and Burke, Suite 840, 1120 Connecticut Avenue, NW., Washington, DC 20036.

NRC Branch Chief: Walter R. Butler.

Commonwealth Edison Company, Docket Nos. 50-295 and 50-304, Zion Nuclear Power Station, Unit Nos. 1 and 2, Benton County, Illinois

Date of application for amendments: August 19, 1985, supplemented September 13, 1985.

Description of amendments request: These amendments would change specimen capsule withdrawal schedule to reflect low leakage loading patterns and requirements of 10 CFR Part 50, Appendix H.

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment will involve a no significant hazards consideration if the proposed amendment does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

In accordance with 10 CFR 50.91(a)(1) the licensee submitted the following analysis of the amendment using standards in 10 CFR 50.92.

Criterion 1 This change only affects the withdrawal schedule for the specimen capsules installed inside of Zion's reactor vessels. This schedule is not a factor in any of the previously analyzed accidents. Thus, the change does not alter the possibility or consequences of any accident previously evaluated.

Criterion 2 As discussed above, this change only addresses the timing of capsule withdrawal. The withdrawal of specimen capsules was considered in Zion's design and has previously taken place on numerous occasions. Thus, this change does not create the possibility for a new or different kind of accident.

Criterion 3 While Zion's margin of safety is insensitive to changes in capsule withdrawal schedules, this change will allow for a more meaningful reactor vessel surveillance program. Thus, the future properties of Zion's vessels can be more accurately predicted, providing a slight increase in the margin of safety.

Therefore, since the application for amendment satisfies the criteria specified in 10 CFR 50.92, Commonwealth Edison Company has made a determination that the application involves no significant hazards consideration.

The staff has reviewed licensee's analysis and concludes that the amendments satisfy the three criteria listed in 10 CFR 50.92. Based on that conclusion the staff proposes to make no significant hazards consideration determination.

Local Public Document Room location: Zion-Benton Library District, 2600 Emmaus Avenue, Zion, Illinois 60099.

Attorney to licensee: P. Steptoe, Esq., Isham, Lincoln and Beale, Counselors at Law, Three First National Plaza, 51st Floor, Chicago, Illinois 60602.

NRC Branch Chief: Steven A. Varga.

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: February 14, 1983, as supplemented August 14, 1985.

Description of amendment request: This submittal supplements the request for amendment dated February 14, 1983 which was noticed in the **Federal Register** on September 21, 1983 (48 FR 43133). The proposed Technical Specification Revision would revise portions of Consolidated Edison's February 14, 1983 license amendment application to clarify the sections relating to control of heavy loads. The revision would provide a statement of applicability in Section 3.8.B to indicate that the conditions of 3.8.A also apply during activities covered by 3.8.B. The revision would rename the fuel storage building refueling crane to spent fuel pit bridge in order to make it consistent with the crane designation in the Indian Point Unit No. 2 Final Safety Analysis Report (FSAR). Section 3.8.A.2 would be revised to include an action statement for effective implementation. In addition several editorial changes would be made.

Basis for proposed no significant hazards consideration determination: Consistent with the Commission's criteria for determining whether a proposed amendment to an operating license involves no significant hazards considerations, 10 CFR 50.92 (48 FR 14871), the proposed revisions will not involve a significant increase in the probability or consequences of an accident previously evaluated; or create the possibility of a new or different kind of accident from any previously evaluated, or involve a significant reduction in margin of safety. The proposed revisions to the licensee's February 14, 1983 submittal are for clarification purposes only and do not affect the technical content of the proposed Technical Specification.

Therefore, the staff proposes to determine that the requested action would involve no significant hazards.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Attorney for licensee: Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003.

NRC Branch Chief: Steven A. Varga.

Consumers Power Company, Docket No. 50-155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: August 5, 1985.

Description of amendment request: The application for amendment to the Big Rock Point Plant Administrative Controls Technical Sepcifications (TS) proposes changes to support a reorganizaiton of the facility staff. The purpose of the reorganization is to reduce the number of levels of management in certain areas below the Superintendent level; to provide additional analytical staff in the plant performance section; to consolidate procurement and material services; to centralize plant planning; and to increase coordination of maintenance and engineering functions.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for a no significant hazards determination by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (i) of actions not likely to involve a significant hazards consideration relates to a purely administrative change to the TS such as a change to achieve consistency throughout the TS, correction of an error, or a change in nomenclature. The proposed changes to the first and last paragraphs of TS Section 6.2.2.g (operations to operator and be to been) are to correct typographical errors issued in Amendment 63 dated January 4, 1984. The proposed changes also involve titular changes for the position of Operations and Maintenance Superintendent and for the position of Maintenance Superintendent. These Changes fit example (i) described above as they are administrative and corrective.

Another example (ii) of actions not likely to involve a significant hazards consideration is a change that constitutes an additional limitation, restriction, or control not presently included in the TS. The position of Maintenance Superintendent, whose title is proposed to be changed to Engineering and Maintenance Superintendent, will also be elevated to the level reporting directly to the Plant Superintendent. Removing a managerial layer (level) in this area provides for increased upper management awareness and control. A new position of Planning and Administrative Services Superintendent is being created in order to bring together the various planning and adminstrative functions under one

manager. This change will increase control of these activities at the facility. Both of the above proposed changes fit exampel (ii) described above because both changes provide for increased control of activities currently performed at the facility.

A new plant performance group will be created and the responsibility for this group will be assigned to the Operations and Maintenance Superintendent (new title to be Production and Performance Superintendent). The reactor engineering function, which currently is the responsibility of the Technical Superintendent, is being aligned with operations in order to improve communications. All of the other engineering functions, such as electrical, mechanical, civil, and instrumentation and control, which are currently the responsibility of the Technical Superintendent, are being aligned with maintenance in order to improve cummunications and coordination between functions. This change will enhance preventive and corrective maintenance activities.

The new position of Planning and Administrative Services Superintendent will have the responsibility for planning, outage coordination (formerly an Operations and Maintenance Department responsibility), the facility Integrated Living Schedule (formerly a Technical Department responsibility), property protection, overall materials management, and all other existing administrative duties.

The composition total for the plant review committee (PRC) will remain at the current TS requirement of 10 and will continue to be composed of "key" plant staff members.

The authority of the Plant Superintendent to approve deviations from overtime restrictions (currently established in TS 6.2.2.g) has been proposed to be changed to include the new Production and Performance or Engineering and Maintenance Superintendents. Since these individuals have the principal supervisory responsibility for personnel covered by TS 6.2.2.g, increased attention will be provided to any overtime deviations authorized.

All of the above staff changes will continue to meet N18.7–1976/ANS 3.2. The proposed TS changes do not reduce the expertise or qualification requirements for the facility staff.

On these bases, the staff proposes to determine that the requested action does not involve a singificant hazards consideration in that it (1) does not involve a significant increase in the probability or consequences of an accident previously evaluated, (2) does not create the possibility of a new or different kind of accident from any accident previously evaluated and (3) does not involve a significant reduction in a margin of safety.

Local Public Document Room location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: John A. Zwolinski.

Florida Power and Light Company, et al., Docket No. 50-389, St. Lucie Plant, Unit No. 2, St. Lucie County, Floria

Date of amendment request: August 27, 1985.

Description of amendment request: The proposed amendment would make changes in the technical specifications of St. Lucie Plant, Unit No. 2 to reflect the recommendations contained in Generic Letter 84–15, "Proposed Staff Actions to Improve and Maintain Diesel Generator Reliability," July 2, 1984. The amendment would also incorporate the changes that were made to the North Anna 2 Technical Specifications in North Anna 2 Amendment No. 48. Specifically, the amendment would change the Limiting Conditions for Operation 3.8.1.1 as follows:

(1) Action a—This Action Statement would be separated into two statements (forcing the relettering of the remaining Action Statements). The first Action Statement, a, addresses the loss of an offsite circuit and reduces the diesel generator test frequency. The second Action Statement, b, addresses the loss of diesel generator and reduces the diesel generator test frequency.

(2) Action b—This Action Statement would be added as discussed above in item (1).

(3) Action c (previously Action b)—This Action Statement would be changed to reflect the reduced diesel generator test frequency.

(4) Action d (previously Action c)—This change would reflect the relettering of the Action Statements.

(5) Action e (previously Action d)—This Action Statement would be changed to reflect the reduced diesel generator test frequency.

(6) Action f (previously Action e)—This Action Statement would be changed to reflect the reduced diesel generator test frequency.

(7) Action g (previously Action f)—This Action Statement would be changed to reflect the reduced diesel generator test frequency.

The above changes, (1) thru (7), are consistent with the recommendations of Generic Letter 84–15, similar to the NRC approved changes to North Anna 2 Technical Specifications and/or editorial (relettering of Action Statements).

The amendment would change the Surveillance Requirements of 4.8.1.1.2 as follows:

(8) Requirement a.4—This specification would be changed to delete the fast cold start requirement of the Table 4.8–1 test frequency, thereby reducing the frequency of diesel generator fast cold starts.

(9) Requirement a.5—This specfication would be changed to allow gradual loading of the diesel generator. It would also reduce the load to 3485KW from 3685KW to allow for instrument error of 200KW. The 3845KW value is greater than the worst case Final Safety Analysis Report value of 3260KW.

(10) Requirement d.—The present specification would become Specification 4.8.1.1.2e.12 and a new specification would be added to reduce the diesel generator test frequency for fast cold starts and loading. Also the 3685KW value would be changed to 3485KW as discussed in item (9) above.

(11) Requirement 3.7—This specification change would lower the 3985KW value to 3785KW and the 3685KW value to 3485KW. This would account for the 200KW instrument error and prevent overloading the diesel generators.

(12) Requirement e.8.—This specification change would correct the 2000-hour rating value. The correct 2000-hour rating, as provided in the vendor's technical manual, is 3935KW, not 3985KW as currently shown in the technical specifications.

(13) Requirement e.12—This specification would be added and is the current specification 4.8.1.1.2d (See item (10) above) and would changed the 12-month surveillance interval to 18 months. The electropneumatic timing relays that required the 12-month surveillance have been replaced with solid state devices that are more accurate and reliable and need to be verified on an 18 month interval only.

(14) Table 4.8–1—This Table would be changed to reflect more recent diesel generator testing schedules based on test failure experience.

The above changes, (8) thru (14), are consistent with the recommendations of Generic Letter 84–15, similar to the NRC approved changes to North Anna 2 Technical Specifications and/or editorial.

(15) Specification 4.8.1.2 would be changed to delete the reference to Specification 4.8.1.1.3. A request to

delete Specification 4.8.1.1.3 was made in the licensee's application for amendment dated May 21, 1984. This change to Specification 4.8.1.2 is contingent on approval of the May 21, 1984 request.

(16) Bases 3/4.8—These changes would include appropriate excerpts from Generic Letter 84–15 and the approved Amendment 48 to the North Anna 2 operating license, NPF–7.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

A discussion of these standards as they relate to this amendment follows:

Standard 1—Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The probability of the occurrence of an accident previously evaluated in the Final Safety Analysis Report has not been affected since the diesel generators are not considered in determining the probabilities of accidents. The consequences of an accident previously evaluated in the Final Safety Analysis Report has not been adversely affected. Reducing the test frequency and modifying the starting requirements to be consistent with the diesel generator manufacturer's recommendations are intended to enhance diesel generator reliability by minimizing severe test conditions that can lead to premature failures. In addition, the probability of a malfunction of equipment important to safety previously evaluated in the Final Safety Analysis Report has been reduced since the severe test requirements have been reduced. This will result in increased diesel generator reliability. Furthermore, the consequences of a malfunction of equipment important to safety has not changed since the new surveillance requirements will not affect the operation or operability of the diesel generators or any other safety related equipment. Based on this, the criteria set forth in 10 CFR 50.92(c)(1) are satisfied.

Standard 2—Create the Possibility or a New or Different Kind of Accident from any Accident Previously Evaluated

The possibility of a new accident or a different kind of accident than evaluated in the Final Safety Analysis Report has not been created since the change affects the frequency of starting and the loading practices during testing of the diesel generators only and has no impact on actual accident analyses. Based on this, the criteria set forth in 10 CFR 50.92(c)(2) are satisfied.

Standard 3—Involve a Significant Reduction in a Margin of Safety

The margin of safety is not reduced by the proposed changes. Changes in the testing requirements do not affect the ability of the diesel generators to perform their function and have no impact on safety margins. Based on this, the criteria set forth in 10 CFR 50.92(c)(3) are satisfied. Based on the above considerations, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450.

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzinger, 1615 L Street, NW., Washington, DC 20036.

NRC Branch Chief: Edward J. Butcher, Acting.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of amendments request: August 20, 1985.

Description of amendments request: These proposed amendments would revise the Turkey Point Plant Units 3 and 4 Technical Specifications in three areas. The first change revises the immediate notification requirements and the Licensee Event Reporting System per guidance provided in the NRC staff's Generic Letter 83–43 to assure compliance with the revised § 50.72 and the new Section 50.73 of Title 10 the Code of Federal Regulations. The second change revises the Off-Site Organization for Facility Management and Technical Support and revises the Plant Organization Chart to reflect the current structure. The third change revises the surveillance requirements regarding fire hose hydrostatic testing, deletes the Technical Specification concerning a training program for the fire brigade. In addition to the revisions, bases are updated for the fire suppression water system and steam generator inspection results to support existing technical specifications and reflect the proposed change in the reporting requirements.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870, April 6, 1983). One of these examples (vii) of actions not likely to involve a significant hazards consideration relates to a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. The first requested change is similar to the example in that the changes are proposed based on the NRC staff's guidance provided in Generic Letter 83–43 to assure compliance with the reporting requirements of 10 CFR 50.72 and 50.73. Since this portion of the amendment request only revises the reporting requirements in accordance with the regulations and does not change any current limitations related to the operation of the plant, the staff proposes to determine that this portion of the amendment request is similar to the example and since no operation limitations are being changed the staff proposes to determine that the change do not involve a significant increase in the probability or consequences of an accident previously evaluated, do not create the possibility of a new or different accident from any accident previously evaluated and do not involve a significant reduction in margin.

The second change revises the Off-Site Organization and Plant Organization Chart to reflect the current organizational structure. These changes would not change any current limitations related to the operation of the plant. Since no operational limitations are being changed, the staff proposes to determine that this portion of the amendment request do not involve a significant increase in the probability or consequences of a accident previously evaluated, do not create the possibility of a new or different accident from any accident previously evaluated and do not involve a significant reduction in a margin of safety.

The third change revises the test interval for the fire hose hydrostatic tests from 3 years to 1 year to be consistent with 10 CFR Part 50 Appendix R test requirements for outside hose stations. This is a more stringent surveillance requirement and is consistent with 10 CFR Part 50

Appendix R. Specification 6.4.2 states that a training program for the Fire Brigade shall be maintained and shall meet the requirements of 10 CFR Part 50 Appendix R. The required training program for the Fire Brigade is described in 10 CFR Part 50 Appendix R and duplication in the Technical Specifications is not necessary. Since these changes provide more stringent surveillance requirements and eliminates duplication in the Technical Specifications to achieve consistency with the regulations, the staff proposes to determine that this portion of the amendment request do not involve a significant increase in the probability or consequences of an accident previously evaluated, do not create the possibility of a new or different accident from any accident previously evaluated and do not involve a significant reduction in a margin of safety.

The Bases section relating to the fire suppression water system and the steam generator inspection results has been changed to reflect the current Technical Specifications and the proposed change in reporting requirements.

Based on the above, the staff therefore proposes to determine that none of the changes requested in the amendments involve a significant hazards consideration.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holtzer, P.C., 1615 L Street, NW., Washington, DC 20036.

NRC Branch Chief: Steven A. Varga.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, Appling County, Georgia

Date of amendment request: August 20, 1985.

Description of amendment request: The Technical Specification changes proposed by this submittal are a partial revision to the changes requested in the licensees' June 15, 1983, and September 1, 1983, amendment requests which were previously noticed in the **Federal Register** on February 24, 1984 (49 FR 7036). This August 20, 1985, submittal adds limiting conditions for operation and surveillance requirements for primary containment excess flow dampers.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). An example of actions involving no significant hazards consideration is an amendment involving a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. These proposed Technical Specification modifications impose additional limitations, restrictions and controls and therefore fall within this example.

Therefore, since the application for amendment involves proposed changes that are similar to an example for which no significant hazards considerations exist, the Commission has made a proposed determination that the application for amendment involves no significant hazard considerations.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Attorney for licensee: G. F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Branch Chief: John F. Stolz.

Mississippi Power & Light Company, Middle South Energy, Inc., South Mississippi Electric Power Association, Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: August 30, 1985, as amended September 25, 1985.

Description of amendment request: The amendment would permit an exception to examination prerequisites for two candidates for senior reactor operator licenes by excepting them from the requirements referenced in the Technical Specifications Section 6.0 "Administrative Controls."

Basis for proposed no signficant hazards consideration determination: The Technical Specifications Section 6.3 "Unit Staff Qualifications" and Section 6.4 "Training" require, among other things, that the licensees' unit operating staff meet or exceed the requirements specified in Sections A and C of Enclousre 1 to the NRC letter dated March 28, 1985. Section A of this letter requires that an applicant for senior reactor operator (SRO) license shall have 4 years of experience as a control room operator in either fossil or nuclear power plants. This experience requirement is a prerequisite for taking the SRO examination; however, the principal requirement is that the SRO candidates pass the NRC license examination. Section A of this letter allows exceptions to the experience requirements for SRO applicants for plants that are not yet licensed because there is no opportunity to obtain such experience on their plants. The proposed exception to the Technical Specifications is requested for a similar reason in that Grant Gulf Unit 1, which received a low power license in June 1982 and full power authorization in August 1984, has not been in operation long enough to provide an opportunity for reactor to obtain 4 years of control room operator experience. The two SRO candidates, if they pass NRC license examinations, would be made shift supervisors to allow staffing for six shift rotation. Use of six shifts reduces the number of hours the operating staff work, thus improving the staff's alertness and efficiency. The two SRO candidates were selected because of their proven performance as licensed control room operators and their demonstrated capabilities as supervisors of non-licensed personnel.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration by application of the standards in 10 CFR 50.92. The Commission's staff has determined that should this request be implemented, it would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the two SRO candidates are highly trained on Grand Gulf Unit 1, each has held a reactor operator license on Grand Gulf Unit 1 for more than two years and each would be required to pass the SRO license examination; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the SRO candidates are experienced, licensed reactor operators and have demonstrated supervisory skills in directing the work of non-licensed operations personnel at Grand Gulf Unit 1; or (3) involve a significant reduction in a margin of safety because the candidates are required to pass the NRC examination for an SRO license, and the six shift rotation to be implemented will result in shorter work hours and improved efficiency for operations personnel.

Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Bishop, Liberman Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, DC 20036.

NRC Branch Chief: Elinor G. Adensam.

Northeast Nuclear Energy Company, et al., Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of amendment request: August 26, 1985.

Description of amendment request: The proposed amendment would approve technical specification changes to the Minimum Critical Power Ratio (MCPR) operating limits and Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) curves for Cycle II plant operation for the reconstructed core configuration that includes 200 new (unirradiated) fuel assemblies. Also included are corrections for typographical errors, clarification, and reference updates.

Basis for proposed no significant hazards consideration determination: The 200 new fuel assemblies are identical to the 200 new fuel assemblies that were approved and inserted into the Millstone Unit No. 1 core for fuel Cycle 10. (Cycle 10 is expected to end in October 1985). The licensee, using calculational methods previously accepted by the staff, has calculated new MAPLHGR and MCPR limits that maintain the same safety margins. On the basis of its analysis the licensee has concluded that the proposed amendment does not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee has reviewed the proposed changes in accordance with 10 CFR 50.92, and has concluded that they do not involve a significant hazards consideration. The basis for this conclusion is that the criteria of 10 CFR 50.92(c) are not comprised, a conclusion which is supported by the licensee's determinations made pursuant to 10 CFR 50.59.

In addition, the Commission has provided guidance concerning the application of standards in 10 CFR 50.92 by providing certain examples (48 FR 14870, April 6, 1983). The proposed changes to the operating limits for MCPR for Cycle II and the revised curves for MAPLHGR verus Planar Average Exposure fall within the envelope of example (iii) in that they involve a change resulting from a nuclear reactor core reloading and no fuel assemblies are involved which are significantly different from those found acceptable to the NRC for a previous core at Millstone Unit No. 1. No significant changes have been made to the acceptance criteria for the technical specifications, and the analytical methods used to demonstrate conformance with the technical specifications and regulations are not significantly changed from those which the NRC has previously found to be acceptable.

The proposed changes to correct existing typographical errors and provide clarification fall within the envelope of example (i) of actions not likely to involve a significant hazards consideration. Example (i) involves a purely administrative change to technical specifications; for example, a change to achieve consistency throughout the technical specifications, correction of an error or change in nomenclature. The proposed changes providing typographical corrections and clarifications are administrative by nature and in no way affect the safety of the plant.

Based on the information provided by the licensee, the staff proposes to determine that the license amendment request involves no significant hazards considerations.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Branch Chief: John A. Zwolinski.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: November 24, 1982.

Description of amendment request: The proposed amendment will delete Technical Specifications (TSs) Section 6.7.C.2 concerning the reporting requirement for an Annual Nonradiological Environmental Monitoring and Ecological Studies Program Report and add a new section entitled, "Other Environmental Reports (non-radiological, non-aquatic)". The change will provide new reporting requirements on nonradiological, nonaquatic environmental events, which might occur on the plant site, to substitute for Environmental Technical Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). Example (ii) states, "A change that constitutes an additonal limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement."

The proposed change is more restrictive since it requires a written report within 30 days of any environmental event which may result in a significant increase in environmental impact. The report shall describe, analyze and evaluate the event and in addition, describe the probable cause with the corrective action to preclude repetition of the event. For any proposed changes in tests or experiments, which may result in a significant increase in environmental impact which was not previously reviewed or evaluated, the licensee shall evaluate all environmental impacts and submit a report 30 days prior to the proposed activity.

The above changes provide additional restrictions or controls that are not included in the present Technical Specifications, and fit example (ii). The staff therefore proposes that the changes do not involve significant hazards considerations.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: June 24, 1983.

Description of amendment request: The proposed amendment would modify the Technical Specifications to add a number of specifications in conformance to NUREG-0737, "Clarification of TMI Action Plan Requirements" and following certain system changes made at the Monticello site. The proposed changes to the Technical Specifications provide Limiting Conditions of Operation and Surveillance Requirements for the following items:

(1) Overtime Limitations.

(2) Reporting Safety/Relief Valve Failures and Challenges.

(3) Reactor Core Isolation Cooling (RCIC) and RCIC Suction Transfer.

(4) Isolation of RCIC Modifications.

(5) Additonal Accident Monitoring Instrumentation.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for making a no significant hazards consideration determination by providing certain examples (48 FR 14870).

One of these examples (ii), is a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement. The proposed amendment matches this example in that the only changes are additional restrictions, imposed by NUREG–0737, not presently included in the Technical Specifications.

Therefore, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NCR Branch Chief: Domenic B. Vassallo.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: April 29, 1985, as revised June 14, and September 4, 1985.

Description of amendment request: The proposed changes reflect the installation of the Combustible Gas Control System (CGCS) to comply with the requirements of 10 CFR Part 50 § 50.44. The proposed amendment would revise Section 3.5 to change the oxygen concentration in the primary containment atmosphere from 5% by weight to 4% by volume and add Sections 3.7(E) and 4.7(E) to the Technical Specifications. The new sections provide the Limiting Conditions for Operation (LCO) and the surveillance requirements for the CGCS.

Basis for proposed no significant hazards consideration determination: The Commission has provide guidance concerning the application of the standards in 10 CFR 50.92 by providing examples (48 FR 14870, April 6, 1983) of actions likely to involve no significant hazards considerations. One of the examples (vii) in this guidance is a change to make the license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations. This proposed change would add Technical Specifications for the CGCS, which operates after a loss-of-coolant accident (LOCA) to maintain the concentrations of combustible gases within the containment, such as hydrogen, below flammability limits. The proposed changes to the Technical Specifications are in accordance with the requirements of 10 CFR Part 50, § 50.44 and closely follow the guidance provided in the Standard Technical Specifications for General Electric Boiling Water Reactors (NUREG–0123).

This change is of the type in example (vii) of the Commission's guidance and therefore, the staff concludes that the proposed change would not involve a significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Wshington, DC 20036.

NRC Branch Chief: Domenic B. Vassallo.

Pennsylvania Power & Light Company, Docket Nos. 50–387, 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: December 21, 1984 as supplemented on July 1, 1985, August 7, 1985, August 23, 1985 and September 4, 1985

Description of amendment request: On December 21, 1984 the licensee requested a change to Technical Specifications 3.8.1.1 and 3.7.1.2 for both Units 1 and 2 to extend the Limiting Conditions of Operation (LCO) for these Technical Specifications in order to perform the necessary preparations for electrical, mechanical and instrumentation tie-ins for the installation of the fifth diesel generator at Susquehanna. These tie-in preparations are being performed so that the fifth diesel can replace any of the four diesels, presently at Susquehanna, as a manual swing spare. The licensee has proposed to extend the LCO for the four diesel generators for an accumulated time of 60 days.

Technical Specification 3.7.1.2, Action a.1 has been revised to clarify that an Emergency Service Water (ESW) pump may remain inoperable until its associated diesel generator is restored to OPERABILITY.

The following is a description of the proposed changes to Technical Specification 3.8.1.1:

Footnote #: the opening paragraph requires that prior to removing a diesel from service, all diesels must be surveilled per surveillance requirement 4.8.1.1.2.a.4 within the previous 24 hours to show OPERABILITY of all diesels.

ACTION a

1. The reference to the loss and restoration of one offsite circuit has been deleted since in order to be in the proposed action it is assumed that one diesel generator is already out of service and therefore a loss of one offsite circuit would be covered in ACTION b.

2. The testing requirements for the remaining diesel generators have been modified to allow the diesel generators to be tested within 72 hours and then every 72 hours. The increased time between tests provides assurance that the diesel generators will be OPERABLE without the risk of degrading the performance of the diesels. This interval is equivalent to the testing requirements for diesels with four or more failures per last 100 valid tests and is consistent with the testing frequency contained in Generic Letter 84–15.

3. The time one diesel generator can be out of service was revised to an accumulated 60 days for all four diesel generators. This accumulated 60 days is only applicable to the diesel generators when they are taken out of service to perform the necessary preparation for interconnections associated with the installation of the fifth diesel generator.

4. The exception to the requirements of Specification 3.0.4 has been added to allow restart of the units if they should have to shutdown.

ACTION b

1. The testing requirements for the remaining diesel generators have been modified to allow the diesel generators to be tested within 72 hours. Testing on a frequency of once per every 72 hours consistent with the maximuum testing frequency required for diesels with four or more failures per the last 100 valid tests.

2. This action has been rewritten to clarify that when the two offsite circuits have been restored, a diesel generator may remain out of service provided it is out of service for work connected with the preparation for installation of the fifth diesel generator.

ACTION c

1. The words "except as noted in Specification 3.7.1.2" have been added to alert the operators that the ESW pump associated with the inoperable diesel generator will not automatically start upon demand.

ACTION d

1. This action statement has been revised to allow only three diesel generators to be OPERABLE instead of four.

2. The time to restore both offsite circuits has been revised to be consistent with proposed ACTION b.

3. This action has been rewritten to clarify that when the two offsite circuits have been restored, a diesel generator may remain inoperable provided it is inoperable for work connected with the preparation for the installation of the fifth diesel generator.

ACTION e

1. This action has been rewritten to clarify that when the three diesel generators have been restored, a diesel generator may remain inoperable provided it is inoperable for work connected with the preparation for the installation of the fifth diesel generator. The licensing concludes that this extension to the Limiting Condition of Operation (LCO) is justified by the two reasons detailed below:

1. The design of PP&L's offsite AC circuits is described in Section 8.2 of the Final Safety Analysis Report. Based on historical operating data (1975–81) for the PP&L transmission network, the annual forced outage rate per 100 circuit miles for 500KV and 230KV lines is 1.05 and 2.24 outages, respectively.

Transient stability studies were conducted in 1976–77, 1980–81 and 1983. These studies show that for various 230KV and 500KV bus and line faults, system stability and satisfactory recovery voltages are maintained resulting in uninterrupted supply to the offsite power system. These studies also conclude that no single occurrence is likely to cause a simultaneous outage of all offsite sources during operating, accident or adverse environmental conditions.

In the unlikely event that an area-wide blackout were to occur, offsite power can be re-established to Susquehanna SES from either combustion turbine generators or the Yards Creek Hydroelectric Station. This restoration time is approximately two hours.

The analysis of accident conditions as presented in the Final Safety Analysis Report assumes that only three of the four diesel generators are available. With one diesel generator out of service (unavailable), Susquehanna SES is still bounded by the safety analysis presented in the Final Safety Analysis Report, but cannot meet the single failure criteria with respect to the diesel generators. Current Technical Specifications allow continued dual unit operation for up to three days with one diesel generator inoperable. The associated action statement requires demonstration of operability of the remaining diesel generators and the offsite AC sources. This assures the capability of effecting a safe shutdown and mitigating the effects of a design basis accident. This is maintained with the onsite AC power system (three diesel generators), or the two offsite AC power sources. Since the electrical AC power sources are degraded below the Technical Specifications, a time limit on continued operation is specified. This limits the exposure time in the degraded condition which in turn minimizes the risk associated with this level of degradation. The proposed LCO covering the removal of one diesel generator from service is justifiable due to the redundancy of AC power sources which remain.

2. The results of a probabilistic evaluation on extending the diesel generator LCO was furnished by the licensee. The licensee has completed a probabilistic evaluation of the impact of temporarily extending the diesel generator Limiting Condition of Operation (LCO) from three days per diesel to 60 days total for all four diesel, one at a time. It is estimated that as many as 15 days per diesel could be required to complete the preparation for the tie-in work. Thus without this temporary extension, a dual unit shutdown would be required. A recent draft report prepared by Battelle Columbus Laboratories for the NRC entitled, Determination of Allowed Outage Times (AOTs) from a Risk and Reliability Standpoint (July 1984) states that AOT extensions are only justifiable if there is insufficient time to perform a task and there is no significant increase in total risk. The results of the licensee's analysis show no significant increase in risk.

Several tasks were performed by the licensee to examine the impact this LCO extension would have on the unavailability of systems required to ensure adequate core cooling (the assumed indicator of risk). These steps are outlined below:

1. Identify loss of offsite power (LOOP) sequences which when coupled with a diesel in an LCO would result in inadequate core cooling.

2. Estimate the LOOP frequency and the safety function unavailabilities.

3. Estimate the frequency of inadequate core cooling with and without the temporary Technical Specification change.

Sequences leading to inadequate core cooling are identified using the event tree analysis. The LOOP frequency and system unavailabilities associated with the event tree headings were derived from data available in open literature. The LOOP frequency and system unavailabilities were combined using the event tree logic to obtain the yearly frequency of inadequate core cooling. This yearly frequency was calculated for two conditions: with all four diesel generators in standby, and with three in standby and one in an LCO. The frequency of inadequate core cooling (per year) is then calculated by summing these frequencies weighted by the yearly fraction of time in each condition. The equation for the frequency of inadequate core cooling is as follows:

$$\text{Frequency of Inadequate Core Cooling} = \frac{365.25\text{–days in LCO}_{F_2}}{365.25} + \frac{\text{days in LCO}_{F_3}}{365.25}$$

F_2 = The frequency of inadequate core cooling with all diesels in standby.

F_3 = The frequency of inadequate core cooling with either diesel A or B in an LCO.

For the LOOP frequency and system unavailabilities associated with the event tree headings, the following references were used:

- Loss of Offsite Power at U.S. Nuclear Power Plant—All Years Through 1983, NSAC–80, July 1984, H. Wychaft.
- Precursors to Potential Severe core Damage Accidents: 1980–1981, A Status Report, W. B. Cottrell, et al, ONRL/NSIC–217/VI & 217/V2.
- Precursors to Potential Severe Core Damage Accidents: 1969–1979, A Status Report, J. W. Minerick, C. A Kukielka, ORNL/NSIC–182/VI and 182/V2.
- Reactor Safety Study, Wash–1400, Appendix II, 1975.
- NSAC HPCI/RCIC failure data.

The licensee states that the increased risk associated with continued operation of both units with a diesel generator inoperable for three days is acceptable. In referencing Regulatory Guide 1.93 the licensee has found that in this evaluation risk is defined as the probability of inadequate core cooling during a LOOP. The proposed temporary change in the diesel generator LCO increases the frequency of LOOP sequences leading to inadequate core

cooling from 5.0×10^{-6}/yr. to no more than 6.4×10^{-6}/yr. This represents a minimal impact when considering the uncertainties in the data.

The temporary LCO extension has no impact on the probability of inadequate core cooling when offsite power is available. The design of the onsite AC power supplies is such that only three diesel generators are required to fulfill the electric power requirements for the ECCS equipment assuming a loss of offsite power, a LOCA in one unit and the shutdown of the other unit. As was shown in the evaluation the increased frequency of inadequate core cooling during the LCO extension is small.

In order to assure thoroughness and incorporation of recent ideas on Technical Specification changes, the draft Program Plan for Procedure Evaluating Technical Specifications (prepared for NRC by Brookhaven National Laboratory, October 1984) was reviewed by PP&L. This report identifies 23 issues which should be addressed in the evaluation of Allowed Outage Times (AOTs). Many of these were determined by the licensee to be irrelevant to this request. However, the licensee found the following relevant: analysis level (e.g. system, function, core-damage, etc.), risk importance of the diesel generators, common cause failure, uncertainty, operating accident risk, the length of repair time, and system reconfiguration. Common cause failures, uncertainties, operating accident risk, and system reconfiguration were explicitly addressed in the probabilistic analysis. The length of repair was previously explained as the reason for the LCO extension during the tie-in work.

The impact of the extended AOT on operating accident risk was evaluated with respect to inadequate core cooling (as a measure of core damage). This level of analysis was selected by the licensee as it is a level at which the results can be viewed with a meaningful perspective. The availability of diesel generators only affects accident sequences which include a loss of offsite power (LOOP). These are typically low contributors to core damage frequency and public risk as illustrated through the risk achievement worth. Findings of the NRC Accident Sequence Precursor Program show the risk achievement worth is only 9.8×10^{-6} for emergency power as compared to 3.5×10^{-1} for long term core cooling. This means the diesel generators would have a relatively low risk importance. The results of PP&L's analysis show a negligible increase in the frequency of LOOP sequences which can lead to inadequate core cooling. Therefore, the overall impact on operating accident risk during the AOT is negligible. This negligible increase should be more than offset by the additional capability of the extra diesel generator over the plant lifetime. This diesel is expected to significantly reduce the number of shutdowns and startups of one unit primarily due to the performance of required maintenance (which takes more than three days) during refueling of the other unit. While a diesel generator is removed from service for the modifications, it will not be able to respond to automatic or manual start signals. Therefore, there is no need to consider failures induced during the AOT. The analysis was performed with the assumption that the modifications would be completed in a manner that would not induce a common cause failure of other diesel generators or equipment. A review of the modifications and installation details will insure that a common cause failure will not be induced during the modification work.

Basis for Proposed No Significant Hazards Consideration Determination

The licensee in his letter dated December 21, 1984, as supplemented on July 1, 1985, August 7, 1985, August 23, 1985 and September 4, 1985 stated that:

1. This proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. Since Susquehanna SES is designed to mitigate an accident using three out of the four diesel generators, the removing of one diesel generator from service does not change the accident analysis as presented in the FSAR. Also the work to be performed during the time the diesel generator is out of service only affects the one diesel which is out of service. This work is a modification to the control and power circuitry which enables the licensee to add transfer panels and bus bars.

2. This proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. As stated in the FSAR the loss of one diesel generator is presently considered in the accident analysis. Since the work associated with this proposed change only temporarily removes one diesel generator from service this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. This proposed change does not involve a significant reduction in a margin of safety. The impact of the extended Allowed Outage Time (AOT) on operating accident risk was evaluated with respect to inadequate core cooling (as a measure of core damage). This level of analysis was selected since it did not require reference to a full plant specific PRA and is a level at which the results can be viewed with a meaningful perspective. The availability of diesel generators only affects accident sequences which include a loss of offsite power (LOOP). These are typically low contributors to core damage frequency and public risk as illustrated through the risk achievement worth. Findings of the NRC Accident Sequence Precursor Program show that the risk achievement worth is only 9.8×10^{-6} for emergency power as compared to 3.5×10^{-1} for long term core cooling. This means that the diesel generators would have a relatively low risk importance. The results of the licensee's analysis show a negligible increase in the frequency of LOOP sequences which can lead to inadequate core cooling. Therefore, the overall impact on operating accident risk during the AOT is negligible. This negligible increase should be more than offset by the additional capability of the additional diesel generator over the plant lifetime. This diesel is expected to significantly reduce the number of shutdowns and startups of a unit primarily caused by the need to perform the required maintenance (which takes more than three days) during refueling of the other unit.

The NRC staff has reviewed the licensee's PRA and although the staff's preliminary calculations have not yielded identical results, the staff does find that the increase in the probability of inadequate core cooling during the propsed LCO extension is insignificant.

The NRC staff agrees with the licensee's no significant hazards consideration evaluation and proposes to find that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room Location Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attroney for Licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Branch Chief: Walter R. Butler.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of amendment request: February 19, 1985, as amended on August 22, 1985.

Description of amendment request: The proposed amendments would revise certain Sections of the Radiological Effluent Technical Specifications (RETS) which were issued on August 3, 1984. Namely, the following changes are requested:

(1) Revise Section 4.8.B.3.a.2 (Liquid Radwaste Effluents—Surveillance Requirements) to require verifying that the radwaste discharge valve automatically closes when the radwaste liquid effluent rad monitor indicates an "INOP" failure instead of a "downscale" failure.

(2) Delete Section 4.8.C.6.c (Gaseous Effluents—Hydrogen Analyzers) which references, by error, only the older type recombiner hydrogen analyzers which were supplemented by newer helium-immune hydrogen analyzers prior to the effective date of the RETS. Section 4.8.C.6.b would be changed to include a range of gas concentrations required for calibrating both the older type recombiner hydrogen analyzers as well as the newer helium-immune analyzers. Specific gas concentrations for each instrument type would be contained in the Offsite Dose Calculation Manual (ODCM) by reference.

(3) Revise Sections 4.8.C.4.c and d to permit a reduction in the frequency of performing an instrument check on the main stack sample flow rate monitor from once/day to once/week.

(4) Additionally the licensee indicates that main stack sample system operability is monitored in the main control room by pressure switches. Surveillance tests and calibration tests would be added to the TSs (Section 4.8.C.4.d) for these switches to compensate for the requested change in surveillance frequency as identified in Item 3.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One such example (ii) of an action not likely to involve a significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The addition to the TSs of surveillance requirements and calibration frequency tests for pressure switches (Item 4) which monitor and alarm stack sample flow rates in the control room falls within this example (ii) of an action not involving a significant hazards consideration.

Another example (i) of an action not likely to involve a significant hazards consideration relates to a purely administrative change, for example, the correction of an error. The current TS requires that a functional test be performed once/month to demonstrate that a downscale failure of the radwaste liquid effluent radiation monitor will automatically isolate the radwaste discharge valve and actuate the downscale failure alarm in the control room. By design, a downscale failure, however, does not automatically isolate the radwaste discharge valve. An INOP failure, however, does. The proposed change would change the word "downscale" to "INOP" in Section 4.8.B.3.a.2 to correct this error which was a result of an oversight in the licensee's review of the RETS. The NRC staff concludes that this change (Item 1, above) fits example (i) of an action that is not likely to involve a significant hazards consideration.

A third example (vi) of an action not likely to involve a significant hazards consideration relates to a change which either may result in some increase in the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a change resulting from the application of a small refinement of a previously used calculational model or design method. Item 2, above, fits this example. The proposed change would specify a *range* of gas concentrations required for calibration of both the older recombiner hydrogen analyzers and the newer helium-immune hydrogen analyzers. The specific gas concentrations for each type of hydrogen analyzer would be identified in the ODCM which meets the intent of the NRC staff position presented in NUREG-0473, Revision 1, "Radiological Effluent Technical Specifications for BWRs," and 10 CFR Part 50, Appendix I. Therefore, the proposed change may result in same increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin by not identifying the specific gas concentrations for calibration in the TSs but rather in the ODCM, but the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan and as amplified and clarified in NUREG-0473, Revision 1. The staff, therefore, proposes to determine that this action is not likely to involve a significant hazards consideration.

The Commission has provided standards (10 CFR 59.92(c)) for determining whether a significant hazards consideration exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's proposed change identified as Item 3, above, and has determined that it will not (1) involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed amendments would add TS surveillance requirements on the control room alarm system which monitors trouble with the main stack sample flow system; and will not (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the main stack sample flow monitors will still be checked each week and system operability will be monitored in the control room by an alarm system which will be placed in the TS surveillance program; and finally this change will not (3) involve a significant reduction in a margin of safety because the main stack flow monitors are still required to undergo an instrumentation check every week and compensation for the change in the instrument check frequency has been provided by the additional TS surveillance requirements on the control room alarm system monitoring the main stack sample flow system.

Based on the above, the Commission's staff proposes to determine that the application for amendments does not involve a significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania.

Attorney for licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Branch Chief: John F. Stolz.

Portland General Electric Company, Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: March 12, 1985.

Description of amendment request: The proposed amendment would make the following changes to the technical specifications:

1. *Reactor Trip Instrumentation setpoints.* This change would indicate in Table 2.2-1 the conversion of percentages to voltages of the Undervoltage Trip Setpoint and Allowable Values.

2. *Borated Water Sources—Shutdown.* This change would correct the Operability statement of technical specification 3.1.2.7 to read, "boric acid storage system" rather than boric acid storage "tank" and revise the minimum volume of the system to account for the second tank.

3. *Borated Water Sources—Operating.* This would also correct the minimum volume of the boric acid storage system to account for the second tank.

4. *Reactivity Control Systems.* The proposed changes would remove the word "channel" from the expression "rod position indicator channel" to eliminate the possibility of confusing position channel with indicator channel or system in the event that a position channel becomes inoperable.

5. *Power Distribution Limits.* This change would increase the monitoring of the Axial Flux Difference from every hour to every 30 minutes when the AFD monitor becomes inoperable by Surveillance Requirement 4.2.1.1.b.

6. *Reactor Coolant System.* This change would replace the words "is less than 50° greater than" with "is less than 50° above" in order to clarify technical specification 3.4.1.4.

7. Emergency Core Cooling System. This change corrects a typographical error in the valve listing of Surveillance Requirement 4.5.2.a. from MO 8002A to 8802A.

8. *ECCS Subsystems—T_{avg}* Less than 350 °F. Surveillance Requirement 4.5.3.1 currently refers to the applicable requirements of 4.5.2. The proposed change would spell out the specific parts of 4.5.2 that are applicable.

9. *Component Cooling Water System.* This change would create Technical Specification 3.7.3.2 which requires operability in Modes 5 and 6 for that portion of a Component Cooling Water loop that is necessary to support equipment required to be operable in Modes 5 and 6.

10. *Service Water System.* This change would create Technical Specification 3.7.4.2 which requires operability in Modes 5 and 6 for that portion of a Service Water System train that supports equipment required to be operable in Modes 5 and 6.

11. *Facililty Organization.* This change would correct an error which indicates that assistant shift supervisors are members of the Plant Review Board.

In addition, certain administrative changes are being made to the bases of certain technical specifications. The licensee's original application also proposed a change to the definition of Containment Integrity; however by letter of August 22, 1985 that request has been withdrawn by Portland General Electric Company.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance to the NRC staff for such determinations by providing examples of amendments that are not likely to involve a significant hazards consideration. The proposed changes discussed above are proposed by the staff to be encompassed by example (i), purely administrative changes to the technical specifications and example (ii), changes that constitute additional limitations, restrictions, or controls not presently included in the Technical Specifications. The proposed changes discussed above that fall under example (i) include changes to correct an error (see changes No. 2, 3, 7, and 11 above), changes in nomenclature (see change No. 1 above); and changes and additions in wording which add clarification (4, 6, and 8).

Proposed changes No. 5, 9, and 10 constitute additional limitations and therefore are encompassed by example (ii).

Since the proposed changes are similar to the examples which have been determined not likely to involve a significant hazards consideration, the staff proposes to determine that the application for amendment does not involve a significant hazards consideration.

Local Public Document Room location: Multnomah County Library, 801 S. W. 10th Avenue, Portland, Oregon.

Attorney for licensee: J. W. Durham, Senior Vice President, Portland General Electric Company, 121 S. W. Salmon Street, Portland, Oregon 97204.

NRC Branch Chief: Edward J. Butcher, Acting.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: November 18, 1981, as superseded May 2, 1985.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) to modify the frequency of testing and provide greater flexibility with regard to leakage testing of containment airlocks.

The following revisions have been proposed:

(a) The time specified for testing the airlocks, has been increased from 24 hours to 72 hours after opening during periods when containment integrity is required.

(b) Test pressure and leakage criteria for the airlocks have been specified in accordance with Appendix J of 10 CFR Part 50.

(c) A seal leakage test has been specified in lieu of the full airlock leakage test prior to establishing containment integrity following a period of cold shutdown or refueling when no maintenance has been performed on the airlock during this period that could affect its sealing capability. In the event airlock maintenance has been performed, then the full airlock test would be required.

In addition, several administrative changes have been made to reflect the above revisions.

Basis for proposed no significant hazards consideration determination: Revision (a) has been proposed by the licensee to make the TS conform to Paragraph II.D.2(b)(iii) of Appendix J to 10 CFR Part 50 which requires that an airlock test be performed within 3 day after airlock opening during periods when containment integrity is required. Revision (b) has been proposed to make the TS consistent with parts (i), (ii), and (iii) of Paragraph III.D.2(b) of Appendix J to 10 CFR Part 50 regarding the pressure at which airlock leakage tests should be conducted and part (iv) of Paragraph III.D.2(b) which requires that leakage acceptance criteria be stated in the TS. The Commission provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include: ". . . (vii) A change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in

keeping with the regulations." Revisions (a) and (b) are clearly encompassed by this example.

Revision (c) would substitute a seal leakage test for the full airlock test prior to establishing containment integrity after a period of cold shutdown or refueling, provided that no maintenance has been performed on the airlock during this period. The proposed revision would not involve a significant increase in the probability or consequences of an accident previously evaluated because the periodic 6-month airlock test requirement of Paragraph III.D.2(b)(i) and the 3-day test requirement of Paragraph III.D2(b)(iii) provide assurance that the airlock leakage rate will not be increased as a result of opening during cold shutdown or refueling when no airlock maintenance has been performed. The proposed revision also would not create the possibility of new or different kind of accident from any accident previously evaluated because no plant physical modifications or new modes of plant operation would be introduced. In addition, the proposed change would not involve a significant reduction in the margin of safety because the aforementioned test requirements of Appendix J would compensate to provide adequate assurance that leakage rates have not increased. Thus, the staff finds that the criteria for a no significant hazards consideration determination, as set forth in 10 CFR 50.92(c), are met for revision (c). The staff has, therefore, made a proposed determination that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Attorney for licensee: Mr. Charles M. Pratt, Assistant General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019.

NRC Branch Chief: Domenic B. Vassallo.

Public Service Electric and Gas Company, Docket No. 50–272, Salem Nuclear Generating Station, Unit No. 1, Salem County, New Jersey

Date of amendment request: August 6, 1985.

Description of amendment request: The proposed change would increase the Unit 1 licensed core power from 3338 MWT to 3411 MWT. The necessary Technical Specification changes are as follows:

a. Section 1.25, change RATED THERMAL POWER from 3338 MWT to 3411 MWT.

b. Section 2.2, change RTS setpoints for core flow from 88,500 gpm/loop to 87,300 gpm/loop.

c. Section 3.2.5, change DNB parameters for RCS Tavg from 581 °F to 582 °F.

The changes to Section 1.25 and 3.2.5 are a direct result of the power uprate.

The changes to Section 2.2 for core flow is for consistency with the core flow requirements of Section 3.2.5 which requires a flow of 349,200 gpm total for four loops or 87,300 gpm per loop. The value of 87,300 gpm is consistent with Unit 2 Technical Specifications and with the design flow used for the thermal design calculation for both plants.

Basis for proposed no significant hazards consideration determination: The initial 3338 MWT for Salem Unit 1 was limited by the main turbine couplings; but, modifications to the turbine in subsequent refueling outages now permits operation of the Unit 1 turbine at loads in excess of the requested power uprate. Increasing the Unit 1 rated thermal power to that of Unit 2 will not increase the probability of any previously analyzed accident. The proposed operation of Salem Unit 1 at the higher power level will not introduce any new accident and margins of safety will remain the same as the original design margins because the uprate will not exceed the original design power. The original analyses and evaluations were done at the time Unit 1 applied for its operating license. On these bases the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Salem Free Library, 122 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Conner and Wetterhann, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Branch Chief: Steven A. Varga.

Tennessee Valley Authority, Docket Nos. 50–259, 50–260 and 50–296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of amendment request: August 5, 1985.

Description of amendment request: The amendments would modify the Technical Specifications (TS) to permit both offgas post-treatment radiation monitors to be taken out of service for up to one hour for purging in conjunction with required surveillance testing. Under the terms of the present TS both instruments must be declared inoperable, and the event reported, when the required testing is performed.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment could not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated, or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated, or

(3) Involve a significant reduction in a margin of safety.

The wording of the present TS is such that the plant is required to (1) initiate an orderly shutdown and isolate the offgas system within 10 hours and (2) file a report, each time the NRC required surveillance test is performed. The proposed amendment eliminates these adminstrative actions by permitting the instruments to be considered operable during purge periods of less than 1 hour. It does not extend the period of time which the instruments are permitted to be inoperable or out-of-service for testing or due to failure, and the actual test procedure is not changed. Since the amendment would not affect the actual operation of the instrument nor its reliability/availability, the amendment would not involve any of the three above criteria.

Since the application for amendment involves proposed changes that are encompassed by the criteria for which no significant hazards consideration exists, the staff has made a proposed determination that the application involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Attorney for licensee: H. S. Sanger, Jr., Esquire, General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, E 11B 33C, Knoxville, Tennessee 37902.

NRC Branch Chief: Domenic B. Vassallo.

Virginia Electric and Power Company, et al., Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendments request: September 9, 1985.

Description of amendments request: This submittal modifies a pending

request for amendment dated April 12, 1985 with regard to revising the TS for adding Limiting Conditions for Operation (LOCs) and Surveillance Requirements (SRs) for the reactor trip breakers, undervoltage trip logic and shunt trip logic in accordance with NRC Generic Letter 83-28 dated July 24, 1984.

The April 12, 1985 request was noticed in the **Federal Register** on July 31, 1985 (50 FR 31075). The instant submittal modifies the April 12, 1985 request to include subsequent NRC staff guidance provided in the NRC Generic Letter 85-09 dated May 23, 1985. Generic Letter 85-09 provided the NRC staff guidance for addressing TS changes for Generic Letter 83-28, Item 4.3, for the LCOs and SRs for the reactor trip and bypass breakers, undervoltage and shunt trip logic and the manual scram switches.

Basis for proposed on significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications, Example (ii), is explicitly considered not likely to involve significant hazards. The proposed changes add LCOs and SRs, and action statements for reactor trip bypass breaker, undervoltage trip logic and shunt trip logic as required by the NRC Generic Letters 83-28 and 85-09. Therefore, the proposed change is enveloped by example (ii). Accordingly, the Commission proposes to determine that the changes involve no significant hazards consideration.

Local Public Document Room location: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Gibson, P. O. Box 1535, Richmond, Virginia 23212.

NRC Branch Chief: Edward J. Butcher, Acting.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment requests: August 9, 1985.

Description of amendment requests: This amendment would revise Section 3.1.E of the Technical Specifications by adding a requirement which would limit the minimum reactor coolant temperature for criticality to no less than 522° F. The effects of certain accidents considered in Chapter 14 of the Updated Final Safety Analysis Report can be more severe at lower temperatures. The new requirement would provide added assurance that the actual conditions achieved during operations are bounded by the range of conditions assumed in the safety analysis, as required by Section 6.6.2.a(8) of the Specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing examples (48 FR 14870). One of the examples of actions not likely to involve a significant hazards consideration (Example ii) states: "A change that constitutes an additional limitation, restriction or control not presently included in the technical specifications: for example, a more stringent surveillance requirement." Since the proposed change serves to restrict the range of plant operations, the staff proposes to determine that the change does not involve a significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Mr. Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Branch Chief: Steven A. Varga.

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, Washington

Date of amendment request: August 12, 1985.

Description of amendment request: This proposed amendment would revise the Technical Specifications for the Washington Public Power Supply System Nuclear Plant No. 2 (WNP-2). The proposed revision, if approved, would amend the Radioactive Gaseous Effluent Monitoring Instrumentation, Sections 3/4.3.7.12 and 3/4.11.2.7, of the WNP-2 Technical Specifications. The changes are intended to clarify the operating condition for which radioactive effluent monitoring is required.

The proposed changes to section 3/4.3.7.12 will eliminate an inconsistency between the Limiting Condition for Operation in Table 3.3.7.12-1 and the Surveillance Requirements in Table 4.3.7.12-1. As presently worded, the Technical Specifications require the Main Condenser Offgas Post-Treatment Radiation Monitoring to be applicable only during main condenser offgas treatment system operation (Table 3.3.7.12-1) but surveillance is required for this instrumentation at all times (Table 4.3.7.12-1).

Since the WNP-2 offgas system design requires plant operation (nuclear steam) for the system to operate, there is no process flow to sample when the reactor is shut down and the offgas treatment system is not in operation. Consequently the surveillance requirement cannot be met at all times.

Further the Supply System has requested a change to the Action Statement 114 of Table 3.3.7.12-1. The turbine building vent noble gas monitor presently referred to in ACTION 114 does not monitor and can not be placed in a configuration to monitor the activity from the main condenser offgas treatment system. Thus the Supply System has proposed to change the ACTION 114 of Table 3.3.7.12-1 so as to assure appropriate monitoring of the offgas treatment system.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The supply system has reviewed these changes per 10 CFR 50.92 and determined that they do not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed change will continue to require surveillance and monitoring when the offgas system is in service; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated because clarification of the operating conditions for which radioactive effluent monitoring is required will not alter any previous accident evaluation; or (3) involve a significant reduction in a margin of safety, because the change will produce Surveillance Requirements that accurately reflect the actual design of the system.

The NRC staff has reviewed these considerations and concurs with the Supply System's evaluations. Accordingly, the staff has made a proposed determination that the

application for amendment involves no significant hazards consideration.

Local Public Document Room location: Richland Public Library, Swift and Northgate Street, Richland, Washington 99352.

Attorney for licensee: Nicholas Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street, NW., Washington, DC. 20036.

NRC Branch Chief: Walter R. Butler.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301 Point Beach Nuclear Plant, Unit Nos. 1 and 2, Mainitowoc County, Wisconsin

Date of application for amendment: June 28, 1985.

Description of amendment request: The proposed amendments would change the expiration date for the Unit 1 Operating License, DPR–24, from July 19, 2007, to October 5, 2010, and change the expiration date for the Unit 2 Operating License, DPR–27, from July 25, 2008, to March 8, 2013.

Basis for proposed no significant hazards consideration determination: The currently licensed term for Point Beach Nuclear Plant Units 1 and 2 is 40 years commencing with issuance of the Provisional Construction Permits (July 19, 1967 and July 25, 1968 for Units 1 and 2 respectively). Accounting for the time that was required for plant construction, this represents an effective operating license term of 37 years for Unit 1 and 35 years for Unit 2. The licensee's application requests a 40-year operating license term for Point Beach Units 1 and 2.

The licensee's request for extension of the operating licenses is based primarily on the fact that a 40-year service life was considered during the design and construction of the plant. Although this does not mean that some components will not wear out during the plant lifetime, design features were incorporated which maximize the inspectability of structures, systems and equipment. Surveillance and maintenance practices which are implemented in accordance with the ASME code and the facility technical Specifications provide assurance that any unexpected degradation in plant equipment will be identified and corrected.

The design of the reactor vessel and its internals considered the effects of 40 years of operation at full power with a plant capacity factor of 80% (32 effective full power years). Analyses have demonstrated that expected cumulative neutron fluences will not be a limiting consideration. In addition to these calculations, surveillance capsules placed inside the reactor vessel provide a means of monitoring the cumulative effects of power operation.

Aging analyses have been performed for all safety-related electrical equipment in accordance with 10 CFR 50.49, "Environmental qualification of electrical equipment important to safety for nuclear power plants", identifying qualified lifetimes for this equipment. These lifetimes will be incorporated into plant equipment maintenance and replacement practices to ensure that all safety-related electrical equipment remains qualified and available to perform its safety function regardless of the overall age of the plant.

Based upon the above, it is concluded that extension of the operating licenses for Point Beach Units 1 and 2 to allow a 40-year service life is consistent with the safety analysis in that all issues associated with plant aging have already been addressed. Since the proposed amendment involves no changes in the Technical Specifications or safety analyses, we conclude that the proposed amendment would not: (i) Involve any significant increase in the probability or consequences of an accident previously evaluated; or (ii) create the possibility of a new or different kind of accident from any accident previously evaluated; or (iii) involve any reduction in the margin or safety.

Based upon the above, the Commission proposes to determine that the proposed amendments, which provide for a 40-year operating life for Point Beach Units 1 and 2, involves no significant hazards considerations.

Local Public Document Room Location: Joseph P. Mann Public Library, Two Rivers Wisconsin.

Attorney for Licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Branch Chief: Edward J. Butcher, Acting.

Yankee Atomic Electric Company, Docket No. 50–29, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of amendment request: July 19, 1985.

Description of amendment request: The proposed change would delete Technical Specifications (TS) calling for (1) inspection of the control rod shroud tube assemblies at 18-month intervals, and (2) inspection of the pressurizer interior.

Basis for proposed no significant hazards consideration determination: Current TS require inspection of the control rod shroud assemblies at 18-month intervals. Standard TS (STS) call for performing inspections at a 40-month interval in place, and at a 120-month interval with the assembly pulled out of the reactor. The STS are based on ASME Section XI Inserve Inspection (ISI) Program criteria for surveillance intervals. The current TS interval of 18 months had been required to monitor performance of a simplified unitized control rod shroud tube assembly design that had been installed in 1973 to correct problems in the original design. No abnormal wear or shifting of position has been observed with the new design and the licensee proposes to extend the inspection interval to one that is consistent with ASME Section XI.

Cracks in the pressurizer cladding were found during ISIs conducted in 1970 to 1974. In 10 years of inspections since the cracks were found, no significant changes have been noted. The current ASME Section XI no longer has inspection requirements for pressurizer cladding, and the licensee proposes to delete the inspection requirement in the TS, which will make the Yankee TS consistent with ASME Section XI.

These proposed changes to the TS are based on inspections covering 13 years and 10 years, respectively, which have shown no degradation from or repetition of previously observed problems. The accelerated inspection intervals have fulfilled their functions, and the inspected compone.·ts are performing satisfactorily. Performing inspections for the control rod shroud assemblies and pressurizer vessel in accordance with ASME Section XI would, therefore: (1) Not involve any significant increase in the probability or consequences of an accident previousy evaluated; (2) not create the possibility of a new or different kind of accident from any accident previousy evaluated, and (3) not involve a significant reduction in a margin of safety.

Based on this discussion, the staff proposes to determine that the requested action would not involve a significant hazards consideration.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Branch Chief: John A. Zwolinski.

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this bi-weekly notice. They are repeated here because the bi-weekly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Mississippi Power & Light Company, Middle South Energy, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: May 6, 1985.

Brief description of amendment: The amendment would revise Section 5.6 "Fuel Storage" of the Technical Specifications to allow increased spent fuel storage capacity. This increased capacity would be obtained by replacing the spent fuel racks in the upper containment pool and in the spent fuel storage pool with high density spent fuel racks. This spent fuel reracking would increase the upper containment pool capacity used for temporary storage during refueling from 170 to 800 fuel assemblies and increase the spent fuel pool capacity used for long term storage during plant operation from 1270 to 4348 fuel assemblies.

Date of publication of individual notice in **Federal Register:** September 13, 1985 (50 FR 37451).

Expiration date of individual notice: October 15, 1985.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Carolina Power & Light Company, Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendment: December 10, 1984 as supplemented June 28, 1985.

Brief description of amendment: The amendments change the Technical Specifications (TS) to upgrade TS Sections 3/4 8.2.3 and 3/4 8.2.4 to reflect the Brunswick DC system design and load profiles. Administrative changes have also been made to Section 3/4 8.2.5.

Date of issuance: September 20, 1985.

Effective date: September 20, 1985.

Amendment Nos.: 92 and 117.

Facility Operating License Nos. DPR-71 and DPR-62. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 31, 1985 (50 FR 31064) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 20, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Carolina Power and Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: May 15, 1985.

Brief description of amendment: The amendment would revise the Technical Specifications to add requirements for: (1) Shift manning overtime limits, and (2) reporting SV and RV failures.

Date of issuance: September 12, 1985.

Effective date: September 12, 1985.

Amendment No.: 95.

Facility Operating License Nos. DPR-23. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 17, 1985 (50 FR 29007) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 12, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535.

Commonwealth Edison Company, Docket No. 50-249, Dresden Nuclear Power Station, Unit No. 3, Grundy County, Illinois

Date of application for amendment: May 30, 1985.

Brief description of amendment: The amendment deletes License Paragraph 3.F and changes Section 4.6.2 of the Technical Specifications to reflect the removal of the equalizer line between the two recirculation loops along with the valves in the line.

Date of issuance: September 17, 1985.

Effective date: October 27, 1985.

Amendment No. 84.

Facility Operating License No. DPR-25. The amendment revised the license and the Technical Specifications.

Date of initial notice in **Federal Register:** July 17, 1985 (50 FR 29008). The Commission's related evaluation of the amendment is contained in a letter dated September 17, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Commonwealth Edison Company, Docket No. 50–373, La Salle County Station, Unit 1, La Salle County, Illinois

Date of amendment request: July 15, 1985 as supplemented by letters dated August 9 and 12, 1985.

Brief Description of amendment: This amendment extends on a one-time-only basis a limited number of the surveillance requirements in the La Salle Unit 1 Technical Specifications which must be performed every 18 months and which can only be done when the plant is shut down. Since La Salle Unit 1 has been through an extended startup program and has been shut down for various reasons over the past months, the core has not been fully utilized. The scheduled refueling outage date was September 22, 1982. La Salle Unit 1 is currently scheduled to commence a refueling outage on or before October 27, 1985, and upon startup this temporary extension will expire.

Date of issuance: September 20, 1985.

Effective date: September 20, 1985.

Amendment No.: 24.

Facility Operating License No. NPF–11. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 21, 1985 (50 FR 33875) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 20, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: May 29, 1985 superseding the January 18, 1979 submittal.

Brief description of amendment: The amendment approves technical specifications for radiological effluent monitoring which incorporate the requirements of Appendix I to 10 CFR Part 50 into Appendix A, "Technical Specifications," and deletes appendix B, "Environmental Technical Specifications."

Date of issuance: September 5, 1985.

Effective date: January 1, 1986 (corrects effective date as published in 50 FR 38927).

Amendment No. 68.

Facility Operating License No. DPR–61. Amendment revised the Technical Specifications and the license.

Date of initial notice in **Federal Register:** July 17, 1985 (50 FR 29008).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 5, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Russell Library, 124 Broad Street, Middletown, Connecticut 06457.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: May 7, 1985.

Brief description of amendments: The amendments change Technical Specification 3/4.6.5.3 "Ice Condenser Doors" and its associated bases to limit the allowed time of power operation with the ice condenser inlet doors in a closed and inoperable condition and to clarify the definition of "inoperable."

Date of issuance: September 16, 1985.

Effective date: September 16, 1985.

Amendment Nos.: 45 and 26.

Facility Operating License Nos. NPF–9 and NPF–17. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 14, 1985 (50 FR 32794).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 16, 1985.

No significant hazards consideration comments received: No

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: August 30, 1984.

Brief description of amendment: This amendment changes the Technical Specifications to permit the triaxial peak accelograph on top of the reactor vessel head to be inoperable during Modes 5 and 6.

Date of issuance: September 18, 1985.

Effective date: September 18, 1985.

Amendment No.: 81.

Facility Operating License No. DPR–72. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 21, 1984 (49 FR 45950).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 18, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: February 14, 1985.

Brief description of amendment: This amendment changes the Technical Specifications (TSs) to update the reactor pressure-temperature limits to eight effective full power years based on the analysis of the first surveillance capsule. That portion of the application dealing with the deletion from the TSs of surveillance requirements for reactor vessel irradiation specimens was addressed in Amendment No. 80.

Date of issuance: September 23, 1985.

Effective date: September 23, 1985.

Amendment No.: 82.

Facility Operating License No. DPR–72. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 26, 1985 (50 FR 26420).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 23, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida.

Maine Yankee Atomic Power Company, Docket No. 50–309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: June 14, 1985, supplemented August 7, 1985.

Brief description of amendment: These changes modified the Main Yankee Technical Specifications to reflect Cycle 9 power distributions, insertion limits, and peaking factors; reflect the required fuel centerline design limit for each fuel type; reflect replacement of part strength Control Element Assemblies (CEAs) with full strength CEAs; and describe maximum reactor inlet temperature used in modified safety analyses.

Date of issuance: September 30, 1985.

Effective date: September 30, 1985.

Amendment No.: 85.

Facility Operating License No. DPR-36: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 28, 1985 (50 FR 34933 at 34942).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 30, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Wiscasset Public Library, High Street, Wiscasset, Maine.

Mississippi Power and Light Company, Middle South Energy, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: July 3, 1985.

Brief description of amendment: The amendment modifies the Technical specifications to be consistent with planned equipment modifications and adds a license condition to temporarily make the railroad bay area a part of secondary containment.

Date of issuance: September 18, 1985.

Effective date: License Condition 2.C.(39) is effective September 18, 1985, and the Technical Specification changes are effective when the equipment necessitating the Technical Specification changes is installed and made operable.

Amendment No. 4.

Facility Operating License No. NPF-29. Amendment revised the Technical Specifications and license.

Date of initial notice in **Federal Register:** August 14, 1985 (50 FR 32796).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 18, 1985.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of application for amendment: March 13, 1985, as supplemented may 6, 1985.

Brief description of amendment: The revision to the Technical Specifications deletes the list of snubbers and adds Limiting Conditions for Operation and surveillance requirements for both hydraulic and mechanical snubbers.

Date of issuance: September 23, 1985.

Effective date: September 23, 1985.

Amendment No.: 74.

Facility Operating License No. DPR-63. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 14, 1985 (50 FR 32798).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 23, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station Unit No. 2, Town of Waterford, Connecticut

Date of application for amendment: May 29, 1985.

Brief description of amendment: This amendment deletes Appendix B in its entirety and provides new Appendix A Technical Specification sections defining limiting conditions for operation and surveillance requirements for radioactive liquid and gaseous effluent monitoring; concentration, dose and treatment of liquid, and gaseous waste; and total dose.

Date of issuance: September 16, 1985.

Effective date: January 1, 1986.

Amendment No.: 104.

Facility Operating License No. DPR-65. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 14, 1985 (50 FR 32787 at 32798).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 16, 1985.

No significant hazards consideration comments received: No.

Attorney for licensee: Gerald Garfield, Esq., Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut.

Public Service Electric and Gas Company, Docket No. 50-311, Salem Nuclear Generating Station, Unit 2, Salem County, New Jersey

Date of application for amendment: October 15, 1984.

Brief description of amendment: The amendment revises Technical Specifications, Appendix A, Section 3.1.2.1 regarding correction of a typographical error.

Date of issurance: September 16, 1985.

Effective date: September 16, 1985.

Amendment No.: 40.

Facility Operating License No. DPR-75: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 17, 1985 (50 FR 29014).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 16, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

Public Service Electric and Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: December 7, 1984.

Brief description of amendments: The amendments add a surveillance requirement regarding testing of the safety injection pumps.

Date of issuance: September 16, 1985.

Effective date: September 16, 1985.

Amendment Nos.: 66 and 41.

Facility Operating License Nos. DPR-70 and DPR-75: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 23, 1985 (50 FR 16011).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 16, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

Public Service Electric and Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendments: December 7, 1984.

Brief description of amendments: The amendments add technical specifications that incorporate post accident sampling program requirements.

Date of issuance: September 16, 1985.

Effective date: September 16, 1985.

Amendment Nos.: 67 and 42.

Facility Operating License No. DPR-70 and DPR-75: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 17, 1985 (50 FR 29015).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 16, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of application for amendment: March 6, 1985, and supplemented April 30 and August 9, 1985.

Brief description of amendment: The amendment modifies the Technical Specifications to reflect a 1.9% reduction in the thermal design flow.

Date of issuance: September 25, 1985.

Effective date: October 2, 1985.

Amendment No.: 45.

Facility Operating License No. NPF-12: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 23, 1985 (50 FR 16014).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 25, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Southern California Edison Company, et al. Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of application for amendments: January 23, 1985.

Brief description of amendments: The amendments change Technical Specification 3/4.7.6, "Snubbers", to make it more closely conform to the model technical specifications provided by NRC Generic Letter 84-13, "Technical Specifications for Snubbers."

Date of issuance: September 24, 1985.

Effective date: September 24, 1985, to be fully implemented within 30 days of the date of issuance.

Amendment Nos.: 33 and 22.

Facility Operating License Nos. NPF-10 and NPF-15: Amendments revised the Technical Specifications.

Dates of initial notices in **Federal Register:** April 24, 1985 (50 FR 16017).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 24, 1985.

No significant hazards consideration comments were received.

Local Public Document Room Location: San Clemente Library, 242 Avenida Del Mar, San Clemente, California.

Southern California Edison Company, et al. Docket Nos. 50-361 and 50-362 San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of application of amendments: October 1, 1984.

Brief description of amendments: The amendments change Technical Specification 3/4.8.1.1, "Electrical Power Systems—AC Sources—Operating" concerning onsite and offsite electrical power sources.

Date of issuance: September 25, 1985.

Effective date: September 25, 1985 to be fully implemented within 30 days of issuance.

Amendment Nos.: 34 and 23.

Facility Operating License Nos. NPF-10 and NPF-15: Amendments revised the Technical Specifications.

Dates of initial notice in **Federal Register:** December 31, 1984 (49 FR 50843).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 25, 1985.

No significant hazards consideration comments were received.

Local Public Document Room Location: San Clemente Library, 242 Avenida Del Mar, San Clemente, California.

Southern California Edison Company, et al. Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of application for amendments: October 11, 1984.

Brief description of amendments: The amendments modify Technical Specification 3.2.6, "Reactor Coolant Cold Leg Temperature," concerning cold leg temperature limits at power levels less than 70%.

Date of issuance: September 25, 1985.

Effective date: September 25, 1985 and fully implemented within 30 days of the date of issuance.

Amendment Nos.: 35 and 24.

Facility Operating Licenses Nos. NPF-10 and NPF-15: Amendments revised the Technical Specifications.

Dates of initial notice in **Federal Register:** November 21, 1984 (49 FR 45966).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 25, 1985.

No significant hazards consideration comments were received.

Local Public Document Room Location: San Clemente Library, 242 Avenida Del Mar, San Clemente, California.

Southern California Edison Company, et al. Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Dates of application for amendments: May 9 and 30 and June 21, 1985.

Brief description of amendments: The amendments change the following Technical Specifications: (1) 3/4.9.12, "Fuel Handling Building Post—Accident Cleanup Filter System," concerning its operability; (2) 3.1.2.7, "Borated Water Source—Shutdown" and (3) 3.1.2.8, "Borated Water Sources—Operating" concerning the boric acid storage tank volume and concentration for San Onofre Unit 3.

Date of issuance: September 30, 1985.

Effective date: September 30, 1985 and fully implemented 30 days of the date of issuance.

Amendment Nos.: 36 and 25.

Facility Operating Licenses Nos. NPF-10 and NPF-15: Amendments revised the Technical Specifications.

Dates of initial notice in **Federal Register:** August 14, 1985 (50 FR 38202) and August 28, 1985 (50 FR 34947).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 30, 1985.

No significant hazards consideration comments were received.

Local Public Document Room Location: San Clemente Library, 242 Avenida Del Mar, San Clemente, California.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendment: September 22, 1983, as supplemented March 20, 1985.

Brief description of amendment: The amendments change the Technical Specifications to revise the curves in Figure 3.6-1 of reactor pressure versus minimum temperature for hydrostatic pressure testing, heatup and cooldown and core operations to account for potential reduction in vessel metal ductility as a result of accumulated radiation exposure.

Date of issuance: September 16, 1985.

Effective date: 90 days from the date of issuance.

Amendment Nos.: 121, 116, and 92.

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: November 22, 1983 (48 FR 52831) and August 14, 1985 (50 FR 32802).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 16, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendment: June 26, 1985.

Brief description of amendment: The amendments change the Technical Specifications to revise the definition of "Secondary Containment Integrity" to permit maintenance on automatic isolation valves.

Date of issuance: September 19, 1985.

Effective date: September 19, 1985.

Amendment Nos.: 122, 117, and 93.

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: July 31, 1985 (50 FR 31072).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 19, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendment: September 21, 1984, as supplemented June 6, 1985.

Brief description of amendment: The amendments change the Technical Specifications requirements relating to failure of a Reactor Protection System instrument channel.

Date of issuance: September 19, 1985.

Effective date: 90 days from the date of issuance.

Amendment Nos.: 123, 118, and 94.

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: October 24, 1984 (49 FR 42835) and August 14, 1985 (50 FR 32803).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 19, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, a press release seeking public comment as to the proposed no significant hazards consideration determination was used, and the State was consulted by telephone. In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant, a shorter public comment period (less than 30 days) has been offered and the State consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no siginficant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are avilable for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By November 8, 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. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licenising 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.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

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, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that 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 *(Branch Chief)*: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the 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. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Commonwealth Edison Company, Docket Nos. 50–373 and 50–374, La Salle County Station, Units 1 and 2, La Salle County, Illinois

Date of application for amendments: These amendments authorized on a one-time-only basis an extension to the 18 month interval surveillance requirements for Specification 4.5.1.c for La Salle Unit 1 Low Pressure Coolant Injection System and Specification 4.8.1.1.2.d for La Salle Unit 2 Diesel Generator 1A which is shared with Unit 1. The licensee is requesting this waiver in order to extend the Unit 1 refueling outage to better utilize the core as a result of an extended startup program and shutdown for various reasons over the past months. The deferred refueling outage is from September 22, 1985 to October 27, 1985.

Date of Issuance: October 1, 1985.

Effective Date: September 26, 1985.

Amendment No.: 25 and 13.

Facility Operating Licenses Nos. NPF–11 and NPF–18 Amendments revised the Technical Specifications.

Press release issued requesting comments as to proposed no significant hazards consideration: No.

Comments received: No.

The Commission's related evaluation is contained in a Safety Evaluation dated October 1, 1985.

Attorney for licensee: Isham, Lincoln and Burke, Suite 840, 1120 Connecticut Avenue, N.W., Washington, D.C. 20036.

Local Public Document Room Location: Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of application for amendment: September 20, 1985, as supplemented September 23, 1985.

Brief description of amendment: The amendment revises the Technical Specifications to incorporate changes to (1) permit reactor operation with one recirculation loop out of service, (2) provide for detection and suppression of thermal-hydraulic instabilities during both dual loop and single loop operation, and (3) update some references and delete some blank pages.

Date of issuance: September 24, 1985.

Effective date: September 24, 1985.

Amendment No.: 94.

Facility Operating License No. DPR-62. Amendment revised the Technical Specifications.

The Commission's related evaluation of the amendment and final determination of no significant hazards consideration are considered in a Safety Evaluation dated September 24, 1985.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G. D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

Dated at Bethesda, Maryland this 3rd day of October 1985.

For the Nuclear Regulatory Commission.

Edward J. Butcher,

Acting Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 85–24071 Filed 10–8–85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–412]

Duquesne Light Co. et al.; Availability of the Final Environmental Statement for Beaver Valley Power Station, Unit 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Final Environmental Statement (NUREG–1094) has been prepared by the

Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Beaver Valley Power Station, Unit 2 located in Beaver County, Pennsylvania. The owners of Beaver Valley Unit 2 are Duquesne Light Company, Ohio Edison Company, The Cleveland Electric Illuminating Company and the Toledo Edison Company.

The FES is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, DC, and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. The FES is also being made available at the Pennsylvania State Clearinghouse, Governor's Budget Office, P.O. Box 1323, Harrisburg, Pennsylvania 17120, and at the Southwestern Pennsylvania Regional Planning Commission, Manor Building-8th Floor, 564 Forbes Avenue, Pittsburgh, Pennsylvania 15219.

The notice of availability of the Draft Environmental Statement for Beaver Valley and request for comments from interested persons was published in the **Federal Register** on January 18, 1985 (50 FR 2743).

Comments from Federal, State and local officials, and interested members of the public have been included in an appendix to the Final Environmental Statement.

Copies of the Final Environmental Statement (NUREG–1094) may be purchased by calling (202) 275–2060 or (202) 275–2171 or by writing to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082. All orders should clearly identify the NRC publication number and the requester's GPO deposit account, or VISA or Mastercard number and expiration date. NUREG–1094 may also be purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 3rd day of October, 1985.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 85–24200 Filed 10–8–85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–245]

Northeast Nuclear Energy Co. et al; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Appendix R to 10 CFR Part 50 to Northeast Nuclear Energy Company, et al. (the licensee), for the Millstone Nuclear Power Station, Unit No. 1, located in New London County, Connecticut.

Environmental Assessment

Identification of Proposed Action: The exemption would grant relief in five fire areas to the extent that redundant safe shutdown related cable and equipment are not separated and/or protected in accordance with Section III.G.2 of Appendix R. The five fire areas are as follows: Main Control Room, Turbine Building Reactor Feed Pump, Turbine Building Switchgear Area T–19A and T–19CDE, and Reactor Building Northeast.

The exemptions are responsive to the licensee's applications for exemptions dated March 1, 1982, July 16, 1982; April 15, 1983; December 4, 1984; and August 7 and 23, 1985.

The Need for the Proposed Action: The proposed exemption is needed because the features described in the licensee's requests regarding the existing and proposed fire protection at the plant for these items are the most practical method for meeting the intent of Appendix R and literal compliance would not significantly enhance the fire protection capability.

Environmental Impacts of the Proposed Action: The proposed exemption will provide a degree of fire protection such that there is no increase in the risk of fires at this facility. Consequently, the probability of fires has not been increased and the post-fire radiogical releases will not be greater than previously determined nor does the proposed exemption otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential nonradiological impacts, the proposed exemptions involve features located entirely within the restricted area as defined in 10 CFR Part 20. They do not affect nonradiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated wit the proposed exemptions.

Alternative Use of Resources: This action involves no use of resources not previously considered in the Final Environmental Statements for the Millstone Nuclear Power Station, Unit No. 1.

Agencies and Persons Consulted: The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission determined not to prepare an environmental impact statement for the proposed exemptions.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For futher details with respect to this action, see the applications for the exemptions previously listed, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Dated at Bethesda, Maryland, this 2nd day of October 1985.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Assistant Director for Safety Assessment, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 85–24202 Filed 10–8–85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–346]

Toledo Edison Co. and the Cleveland Electric Illuminating Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the approval of a procedure for the disposal of low-level radioactive waste proposed by Toledo Edison Company. Toledo Edison Company and The Cleveland Electric Illuminating Company are the licensees for the Davis-Besse Nuclear Power Station, Unit No. 1, located in Ottawa County, Ohio. The unit is operated by Toledo Edison Company.

Environmental Assessment

Identification of Proposed Action: The proposed action by the NRC would approve the disposal of low-level radioactive waste, as proposed by Toledo Edison Company's request dated July 14, 1983. Supplementary information was provided by the licensee by letters dated July 30, 1984, and January 29, 1985. The request for approval is submitted pursuant to 10 CFR 20.302. The licensee proposes to dispose of periodic low-level radioactive dredgings from the on-site settling basins onto land owned by Toledo Edison Company. Under the proposed method, Toledo Edison would

continue the current practice of transferring each year approximately 1,000 cubic feet of radioactively contaminated secondary-side clean-up resins and about 5,800 cubic feet of nonradioactive wastes from the water treatment facility to on-site settling basins. About six times over the remaining operating life of the facility, i.e., about once every five years, the settling basins would be dredged and the removed material would be disposed of on land, at a minimum thickness of two feet, covered with four inches of clean soil, and seeded.

The Need for the Proposed Action: The secondary system at the Davis-Besse Nuclear Power Station is equipped with a demineralizer system for maintaining purity of the secondary coolant. Although this clean-up system is not intended as a radioactive waste processing system, radioactive material, if present, will accumulate on the clean-up resins. For routine minor leakage typically associated with thermal expansion and contraction of the steam generator, the contamination level will be very low, but for larger tube leaks, the contamination level could be substantially greater.

The clean-up resins, when expended, are replaced with fresh resin. The expended resins are backwashed into a receiving tank and are sampled and analyzed for radioactivity. Depending upon the amount of radioactive contamination, the resins are either transferred for further processing and disposal at an off-site licensed radioactive waste burial site or are transferred to the on-site settling basins.

Over the past years of operation at Davis-Besse Nuclear Power Station, very low levels of contaminated clean-up resins have accumulated in the on-site settling basins, and it is anticipated that the basins will require dredging in the near future and at approximately five-year intervals thereafter. Since the dredgings are slightly contaminated with radioactive materials, the resins must be handled as radioactive waste requiring disposal at a licensed burial site unless an alternative method of disposal is approved.

The off-site disposal at a licensed radioactive waste burial site would require that the dredged resins be further processed, packaged, and transported to the disposal site. These efforts would result in a certain level of personnel exposure to radioactive material which would be unavoidable. Disposal of the dredgings in the manner proposed, according to the licensee, could reduce the time and effort required of plant personnel in radiation areas thereby reducing overall occupational radiation exposure. On-site disposal of the dredgings also would be less costly than off-site disposal at licensed burial sites.

Environmental Impacts of the Proposed Action: Toledo Edison plants to continue to transfer about 1,000 ft ^{3} yr of radioactively contaminated secondary-side clean-up resins to on-site settling basins. Large volumes (about 5,800 ft ^{3}/yr) of nonradioactive wastes from the water treatment facility are also discharged to the on-site basins. Toledo Edison proposes to dredge the settling basins about six times over the operating life of the plant (i.e., one dredging about every five years). The principal radionuclides that would be in the dredgings and their average concentrations (pCi/cc) at the time of dredging are estimated to be as follows: Mn-54, 0.15; Co-58, 3.0; Co-60, 0.08; Cs-134, 2.4; and Cs-137, 3.2. The concentrations of these radionuclides would decreae with time due to radioactive decay. The volume of the dredged material is estimated to be about 34,000 ft ^{3} for a five-year period. The total activity of the dredged material for a five-year period is estimated to be about 8.5 mCi with Co-58, Cs-134 and Cs-137 accounting for the largest fractions (i.e., 0.34, 0.27, and 0.36, respectively) of the total activity.

The Commission's staff has reviewed the potential pathways for exposure to members of the general public from the radionuclides in the disposed dredgings. These potential pathways include: (1) External exposure from standing on the ground above the disposal site; (2) internal exposure from ingestion of food grown on the disposal site; (3) internal exposure from inhalation of resuspended radionuclides; and (4) internal exposure from ingesting ground water. The models used to estimate doses were taken from USNRC Regulatory Guide 1.109, "Calculation of Annual Doses to Man from Routine Releases of Reactor Effluents for the Purpose of Evaluating Compliance with 10 CFR Part 50, Appendix I," Revision 1, October 1977. The dose to a member of the public from the most likely exposure pathway (i.e., external exposure) is conservatively estimated to be less than 1 mrem/yr to the total body (see Table 1, below). The dose to a member of the public from ingesting food grown on the disposal site is conservatively estimated to be less than 3 mrems/yr to the total body (see Table 2, below). However, this pathway of exposure is very unlikely since the licensee is required by its radiological effluent technical specifications to conduct an annual land use survey to detect changes in land use. Doses from inhalation of resuspended radionuclides are estimated to be minimal due to the proposed soil covering. The licensee has estimated that the dose from drinking ground water would be less than 0.1 mrem/yr. The estimated doses from the potential pathways of exposure are small fractions of one year's exposure to natural background radiation (about 100 millirems for the State of Ohio).

Toledo Edison Company has stated that disposal of the clean-up resins on-site is most likely to result in a decrease in occupational exposure because workers would spend less time controlling, processing and packaging these wastes. Doses to workers from exposure during the disposal operations will be limited by 10 CFR Part 20.

TABLE 1.—ESTIMATED DOSES TO AN INDIVIDUAL FROM STANDING ABOVE THE UNCOVERED BASIN DREDGINGS [1]

Nuclide	Average concentration pCi/cc	Average surface deposition, pCi/m ^{2}	External dose factor, mrem/hr per pCi/m ^{2}	Dose rate, mrem/hr	Annual dose, mrem
Mn-54	0.15	1.5 E+04	5.8 E−09	8.7 E−05	0.01
Co-58	3.0	3.0 E+05	7.0 E−09	2.1 E−03	0.21
Co-60	0.079	7.9 E+03	1.7 E−08	1.3 E−04	0.013
Cs-134	2.4	2.4 E+05	1.2 E−08	2.9 E−03	0.29
Cs-137	3.2	3.2 E+05	4.2 E−09	1.3 E−03	0.13
Total	8.8	8.8 E+05		6.5 E−03	0.7

[1] Average concentrations were taken from Table 2 of a letter from R. P. Crouse to J. F. Stolz, dated July 30, 1984. The average surface deposition was estimated by assuming that all of the activities in the top 10 cm of sludge were deposited on the surface, and that the average concentrations of radionuclides in the dried sludge were the same as the measured concentrations (wet weight). These two assumptions tend to counter-balance each other. Dose factors were taken from Regulatory Guide 1.109, Rev. 1, pp. 41–42. In estimating the annual dose the following conservative assumptions have been made: (1) an exposure of 100 hours/year; and (2) no soil covering.

TABLE 2.—ESTIMATED DOSES TO AN INDIVIDUAL FROM INGESTION OF FOOD

Nuclide	Average concentration, pCi/kg		Annual dose, mrem	
	Sludge	Vegetation	Total body	Highest dose to any organ
Mn-54	150	4.4	0.002	0.04 (GI-LLI)
Co-58	3,000	28.	0.027	0.25 (GI-LLI)
Co-60	79	0.74	0.002	0.02 (GI-LLI)
Cs-134	2,400	24.	1.7	2.1 2.0 (liver)
Cs-137	3,200	32.	1.3	2.0 (liver)
Total	8,880	89	3	4

*Based on the transfer factors in Table E-1, p. 37 of Regulatory Guide 1.109, Rev. 1, and assuming no soil covering.

*Based on an adult ingesting 580 Kg of fruits, vegetables & grain, and using the dose conversion factors in Regulatory Guide 1.109, Rev. 1, pp. 56, 57. Doses from ingesting milk or meat would be less than the doses from ingesting fruits, vegetables and grain.

Based on the Commission staff's review of the proposed sludge disposal, the staff concludes that:

(1) The doses to members of the public as a result of exposure to radiation from the disposed dredgings will be well below regulatory limits and very small in comparison to doses members of the public receive each year from exposure to natural background radiation. At the time of decommissioning of the nuclear power plant, the land on which the sludge is disposed is capable of being released for unrestricted use.

(2) The licensee has taken appropriate steps to ensure that occupational doses will be maintained as low as is reasonably achievable and within the limits of 10 CFR Part 20.

Alternatives to the Proposed Action: Since we have concluded that the environmental effects of the proposed action are very small, any alternatives with equal or greater environmental impacts need not be evaluated. The principal alternative would be to deny the requested approval. This would most likely increase the occupational exposure to the plant personnel since the dredgings from the basin would require additional processing and packaging necessary for shipment to an off-site disposal location. Additionally, there would be increased costs to the consumer and transportation impacts related to the shipment between the Davis-Besse Station and the off-site disposal location.

Alternative Use of Resources: The principal result of this action involving the use of resources not previously considered in the *Final Environmental Statement Related to Operation of Davis-Besse Nuclear Power Station, Unit 1,* (NUREG–75/079) is the minor change in land use associated with operating support of the facility. This change in land use is not significant.

Agencies and Persons Consulted: The Commission's staff reviewed the licensee's request and has not consulted other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed action.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the licensees' initial request for approval dated July 14, 1983, and supplemental information submitted July 30, 1984 and January 29, 1985, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Dated at Bethesda, Maryland this 30th day of September 1985.

For the Nuclear Regulatory Commission.

Gus C. Lainas,

Assistant Director for Operating Reactors, Division of Licensing.

[FR Doc. 85–24199 Filed 10–8–85; 8:45 am]

BILLING CODE 7590-01-M

Cancellation of Subagreements 1 and 2 Between the U.S. Nuclear Regulatory Commission and the State of Washington

On August 17, 1981, the Federal Register published two subagreements (46 FR 41646) between the U.S. Nuclear Regulatory Commission and the State of Washington.

Since the Skagit Nuclear Power Project was cancelled prior to completion, there is no longer a need for the following subagreements:

(1) Subagreement 1, between the U.S. Nuclear Regulatory Commission and the Washington State Energy Facility Site Evaluation Council regarding Environmental Reviews Pursuant to the Skagit Nuclear Power Project, Units 1 and 2, and

(2) Subagreement 2, as amended between the Washington State Energy Facility Site Evaluation Council and the U.S. Nuclear Regulatory Commission for the Conduct of Joint Hearings on the Skagit Nuclear Power Project, Units 1 and 2. Amended Subagreement 2 was published on October 6, 1982 at 47 FR 44179.

Therefore, effective September 30, 1985, Subagreement 1 and amended Subagreement 2 between the U.S. Nuclear Regulatory Commission and the State of Washington are terminated.

FOR FURTHER INFORMATION CONTACT: Mindy Landau, OSP, U.S. NRC, Washington, D.C. 20555, Telephone (301) 492–9880.

Dated at Bethesda, Maryland this 2nd day of October 1985.

For the Nuclear Regulatory Commission.

G. Wayne Kerr,

Director, Office of State Programs.

[FR Doc. 85–24197 Filed 10–8–85; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 14736; File No. 812-6206]

Edward D. Jones & Co. and Passport Research, Ltd.; Filing of Application; Temporary Order Exempting Applicants

Notice is hereby given that Edward D. Jones & Co. ("Jones") and Passport Research, Ltd. ("Passport"), (collectively, "Applicants") of which Jones is an affiliated person, filed an application on September 24, 1985, requesting a Commission order pursuant to section 9(c) of the Investment Company Act of 1940 (the "Act"), temporarily exempting them from the provisions of section 9(a) of the Act in respect of the circumstances described below pending the Commission's final determination of their application.

Jones states that it is a Missouri partnership and a registered broker-dealer and registered investment adviser with its headquarters in Maryland Heights, Missouri. Jones acts as co-sponsor, depositor and a principal underwriter for an ongoing series of unit investment trusts (UITs). As depositor, Jones selects and purchases the portfolio securities, obtains insurance covering payment of interest and principal, and delivers the securities to each trust at the time of its formation. Jones makes a secondary market for the UITs.

Further, Jones states that it has also acted as a principal underwriter for most of a series of 151 other unit investment trusts ("Insured Municipals") and that it anticipates acting, from time to time in the future, in similar capacities with respect to the UITs and the Insured Municipals. Jones states that it also acts as a principal underwriter for the Edward D. Jones & Co. Daily Passport Cash Trust (the "Fund"), and, as such engages in the sale and redemption of Fund shares.

In addition, Applicants state that Jones owns a 49% limited partnership

interest in Passport, a Pennsylvania limited partnership which services as an investment adviser to the Fund and is registered under the Investment Advisers Act of 1940.

Jones states that the Commission is about to file in the U.S. District Court for the District of Columbia a Complaint against Jones arising out of its underwriting in 1982 of $100 million aggregate principal amount of 12-year debentures ("Debentures") of the D.H. Baldwin Company ("Baldwin").

The principal allegation of the Complaint against Jones is that after an October 26, 1982 article in the Wall Street Journal discussing possible capital shortages and related regulatory problems of the subsidiaries, Jones, having already completed the underwriting of $75 million of the Debentures, recklessly continued to underwrite the remaining $25 million of Debentures without, among other things, contacting the Arkansas Insurance Department or reviewing Baldwin's regulatory correspondence. Pursuant to Jones' Consent, which neither admits nor denies the allegations of the Complaint, Jones anticipates that the Court will enter a Final Judgment of Permament Injunction (the "Final Judgment"), enjoining Jones from violating Section 17(a) of the Securities Act of 1933 in the offer or sale of any securities as an underwriter and requiring certain actions with respect to Jones' due diligence policies and procedures.

Section 9(a) of the Act disqualifies any person or company from serving or acting in the capacity of, among other things, an investment adviser, depositor or principal underwriter of any registered open-end company or registered unit investment trust, if such person or company has been enjoined from engaging in or continuing to engage in any conduct or practice in connection with the purchase or sale of any security. It also disqualifies a company from such activities if any of its "affiliated persons," within the meaning of Section 2(a)(3) of the Act, is ineligible by reason of Section 9(a) to serve or act in the foregoing capacities.

Section 9(c) of the Act provides that upon application the Commission shall by order grant an exemption from the provisions of Section 9(a) unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of Section 9(a), as applied to the applicant, are unduly or disproportionately severe, or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

In support of their position that the Commission should grant them an exemption from the provisions of Section 9(a) of the Act, Applicants represent that the Complaint does not allege that Jones intentionally misrepresented any facts to investors or that Jones, or any of its partners, employees or agents intentionally violated the antifraud provisions of the Federal securities laws; Jones has never previously been the subject of a Federal or State regulatory enforcement action except for actions against it arising out of sales of the Debentures and Baldwin's single premium deferred annuity products, which occurred almost three years ago; neither Jones nor Passport has ever before applied for an exemption pursuant to Section 9(c) of the Act; Jones has already taken steps to implement policies and procedures called for by the Final Judgment which are designed to improve its due diligence and assure that the events which occurred in 1982 do not recur; the allegations of the Complaint and the terms of the Final Judgment and the facts and circumstances to which they relate do not involve in any way the activities of the UITs, the Insured Municipals, the Fund or Passport, or any activity of Jones on their behalf; and the prohibition in Section 9(a) would unfairly deprive the UITs of Jones' market making activities and administrative services, and would deprive the Fund of Jones' distribution services and Passport's advisory services, thereby causing a significant detriment to the UITs, their unitholders, and the Fund and its shareholders.

Accordingly, the application concludes that the applicants believe that granting the requested order and temporary order, pursuant to section 9(c) of the Act, exempting Applicants from the provisions of section 9(a) of the Act, is not inconsistent with the public interest and the protection of investors.

The Commission has considered the matter and finds that the prohibitions of section 9(a) may be unduly or disproportionately severe as applied to applicants and that it is not against the public interest and the protection of investors that a temporary order be issued forthwith.

Accordingly, it is ordered that, pursuant to Section 9(c) of the Act, Applicants as of the date of this Order, be and hereby are granted a temporary exemption from the prohibitions of Section 9(a) of the Act based on the facts and circumstances set forth in the application until the close of business on November 25, 1985.

Notice is further given that any interested person may, not later than October 21, 1985, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the following addresses:

Edward D. Jones & Co., 201 Progress Parkway, Maryland Heights, Missouri 63043

Passport Research, Ltd., 421 7th Avenue, Pittsburgh, Pennsylvania 15219

Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notice and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By The Commission.

John Wheeler,

Secretary.

[FR Doc. 85-24117 Filed 10-8-85; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-7856]

Issuer Delisting; Application To Withdraw From Listing and Registration; Knogo Corp.

October 1, 1985.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw Common Shares, $.01 Par Value of Knogo Corporation, from listing and registration on the American Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

Knogo Corporation considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common shares on the New York Stock Exchange and the American Stock Exchange. The Registrant does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common shares.

Any interested person may, on or before October 18, 1985, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-24107 Filed 10-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 1C-14743; 812-5853]

MESBIC Financial Corp. of Dallas; Application for an Order Exempting Applicant

October 2, 1985.

Notice is hereby given that MESBIC Financial Corporation of Dallas ("Applicant"), Empire Central Building, Suite 836, 7701 North Stemmons Freeway, Dallas, Texas 75247, filed an application on May 16, 1984, and amendments thereto on June 19, and September 16, 1985, for an order of the Commission, pursuant to sections 6(c) and 6(e) of the Investment Company Act of 1940 ("Act"), exempting it from all provisions of the Act and its rules, other than: (1) Sections 9, 17(a)–(e), 31, 36(a) and 37 of the Act and the rules thereunder; (2) all sections of the Act and the rules thereunder necessary to implement the above sections of the Act; and (3) all administrative, procedural and jurisdictional sections of the Act, subject to certain conditions set forth in the application and discussed below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the complete text of the applicable provisions.

The application indicates that Applicant was incorporated under the laws of the state of Texas in January, 1970, initially under the name of UCC Venture Corporation and was licensed by the Small Business Administration ("SBA") as a minority enterprise small business investment company (MESBIC"), pursuant to Section 301(d) of the Small Business Investment Act of 1958. Applicant states that it was organized and operates solely to promote the social goals of providing financial and managerial assistance to minority-owned businesses. Applicant also states that its typical shareholder is a large corporation with its headquarters or a substantial business base in the Dallas-Forth Worth area; the remaining shareholders, with one exception, are large corporations, a significant number of which are listed in the Fortune 500 or are subsidiaries of those companies. Applicant represents that the minimum subscription for its shares is $25,020 (167 shares at $150 per share); all shareholders have purchased the common stock at that same price since Applicant's inception.

The application indicates that, in addition to the common stock, Applicant has issued 2,150 shares of $1,000 par value preferred stock to the SBA; the preferred stock has a 3% cumulative dividend feature and, as of December 31, 1984, the dividends in arrears on such stock were approximately $445,250. Applicant states that, under the Texas Business Corporation Act ("Texas Act"), it would need to have positive retained earning to be able to pay dividends to its shareholders. Applicant further states that as of December 31, 1984, there was a deficit in retained earnings of $529,490 and a net unrealized depreciation of investments of $336,960. Therefore, under the Texas Act, Applicant states it will have to realize income from its investment portfolio sufficient to obtain a positive retained earnings in excess of the dividends on preferred stock in arrears, or a total of $1,311,700, before any dividends can be paid to its shareholders holding common stock.

Applicant represents that it presently has about 95 shareholders, and is, therefore, exempt from the provisions of the Act, pursuant to section 3(c)(1) of the Act. Applicant, however, states that several persons have expressed an interest in promoting Applicant's social goals by purchasing stock and, since those additional persons would increase the total number of shareholders to an amount in excess of one hundred, Applicant would be required to register as an investment company. Applicant therefore seeks exemption, pursuant to sections 6(c) and 6(e) of the Act, to permit its continued operation, subject to certain conditions, without the necessity of its registering as an investment company.

Applicant proposes the following conditions to the granting of the order. First, Applicant will cause all of its existing shareholders, and all new shareholders upon subscription for Applicant's stock to enter into a shareholders' agreement ("Agreement") whereby the shareholders would have the right of first refusal to acquire shares held by shareholders who desired to sell, transfer or convey their shares of Applicant. The price, under the right of first refusal, would be equal to the price paid for these shares by the selling shareholder. Applicant states that all shares of Applicant's common stock have previously been issued for $150 per share and Applicant anticipates selling all shares of common stock in the future at the same price. Applicant also states that a shareholder could sell his stock at $150 a share and, subsequently, the remaining shareholders may decide to revoke the Agreement and therefore benefit financially to the detriment of the previous selling shareholders. Applicant represents that, in such event, the Agreement will provide a remedy for any shareholder who has sold his/her stock within two years from the date of the Agreement's revocation; such shareholder will be paid the difference between the fair market value of the stock previously sold (as of the date stock was sold) and $150. Second, Applicant agrees to register as an investment company under the Act in the event Applicant obtained positive retained earnings which would enable it to be legally capable under the Texas Act making dividends to its shareholders holding common stock. Third, Applicant agrees to be subject to all administrative, procedural and jurisdictional provisions of the Act and Sections 9, 17(a)–(e), 31, 36(a) and 37 and the rules promulgated thereunder, as well as all sections of the Act and the rules thereunder necessary to implement and enforce the above sections of the Act.

As further conditions to the requested order, Applicant has agreed: (1) To continue to offer its shares of common stock only to large corporations or other "accredited persons" (as such term is defined in Rule 501 of Regulation D promulgated under the Securities Act of 1933, as amended) with a substantial business base in the Dallas-Fort Worth area and not to the general public; (2) to

hold regular meetings of its shareholders on a regular basis for the purpose of electing directors and transacting such other business as may properly come before such meeting; (3) to submit for shareholder ratification or approval at each annual meeting of shareholders the appointment of the independent certified public accountants engaged by Applicant; (4) to furnish annually to the shareholders audited financial statements and a written report of Applicant's operations by its president substantially in the form that Applicant has submitted to its shareholders in the past; (5) not to knowingly make available to any broker or dealer registered under the Securities Exchange Act of 1934 any financial information concerning Applicant for the purpose of knowingly enabling such broker or dealer to initiate any regular trading market in Applicant's capital stock; (6) to issue no capital stock other than its common stock, par value $1.00 per share, and the cumulative preferred stock, $1,000 par value per share, which preferred stock will be issued only to the SBA or similar governmental body; and (7) to register as an investment company under the provisions of the Act in the event Applicant reincorporates in any jurisdiction other than the State of Texas.

In support of their request for exemption, Applicant submits that being exempt from certain provisions of the Act will not adversely effect Applicant's shareholders because the shareholders have no investment intent, as evidenced by the subscription documents which all shareholders must complete, other than the promotion of Applicant's social goals. Applicant also states that, through its system of accountability, the shareholders actively participate in the management of and, investment of funds by Applicant and are therefore in no need of the investor protection afforded by the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 28, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-24118 Filed 10-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22491; File No. SR-CBOE-85-41]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Inc., Relating to Trading Rotations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 19, 1985 the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

Additions are italicized; deletions are bracketed.

Rule 6.2. No change.

. . . Interpretations and Policies:

.01 Trading rotations shall be employed at the opening of the Exchange each business day. For each class of option contracts that has been approved for trading, the opening rotation shall be conducted by the Board Broker or Order Book Official acting in such class of options.

The opening rotation in each class of options shall be held promptly following the opening transaction in the underlying security on the principal exchange where it is traded. As a rule, a Board Broker or Order Book Official acting in more than one class of options should open them in the same order in which opening transactions are reported in the underlying securities. In conducting each such opening rotation, the Board Broker or Order Book Official should ordinarily first open the one or more series of options of a given class having the *nearest* [most distant] expiration, then proceed to the series of options having the next *most* [least] distant expiration, and so forth, until all series have been opened. If both puts and calls covering the same underlying security are traded, the Board Broker or Order Book Official shall determine which type of option would open first, and shall alternate the opening of put series and call series. A Board Broker or Order Book Official may conduct the opening rotation in another manner only with the approval of two Floor Officials or at the direction of the Floor Procedure Committee.

In the event an opening transaction in the underlying security has not been reported within a reasonable time after 9:00 a.m. (Chicago time), the Board Broker or Order Book Official acting in option contracts on such security shall report the delay to a Floor Official and an inquiry shall be made to determine the cause of delay. The opening rotation for option contracts in such security shall be delayed until an opening transaction is reported in the underlying security unless two Floor Officials determine that the interests of a fair and orderly market are best served by opening trading in the option contracts.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Until May 1985, Interpretation .01 to Exchange Rule 6.2 read as it would on adoption of this proposed rule change. By File No. SR-CBOE-85-09, the Exchange reversed the sequence of opening rotations in equity options. This rule change was approved by the Commission in Exchange Act Release No. 22042. The Exchange has employed the reverse sequence rotation since June 1985 and experience supports the view that the prior procedure should be reinstated.

The principal benefit hoped to be accrued by reverse sequence opening rotations was that there would be less discontinuity between the establishment of an opening price in the near-term options and open trading. This benefit had been obtained in options on the Standard & Poor's 100 Index ("OEX") by employment of a reverse sequence rotation. The experience in OEX, however, has not been transferable to equity options, for several reasons. First,

because there is less activity in equity options than OEX, the rotations in equity options are concluded much quicker and there is less potential price discontinuity between the price of an option in open trading.

Second, the pricing of an equity option is more typically driven by its relationship to the price of the underlying stock than the price of an index option is driven by its relationship to the value of the underlying index. This was recognized by the Commission in approving the opening of index options at 9:00 a.m. Chicago time, rather than waiting for a certain percentage of the component stocks of an index to be opened. Because of the pricing relationship between equity options and the underlying stock, most market-makers price all options based on how they price the near-term options. Thus, the reverse sequence procedure has run in conflict with this pricing method. Also, many customers who seek to have options, particularly near-term options, filled in opening rotation compare the price they received to the opening price in the underlying stock, which, of course, can change substantially by the time near-term options are reached in a reverse sequence rotation. The Rule continues to allow modifications to opening rotations, including employment of a reverse sequence rotation, if circumstances warrant its use.

The Exchange believes this proposed rule change is consistent with Exchange Act, and in particular section 6(b)(5) of the Act in that, among other things, the rule change will enhance a free, open and efficient market.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (1) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approved such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying the Commisson's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 30, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 1, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-24109 Filed 10-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22486; File No. SR-DTC-85-3]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change of Depository Trust Co.

September 30, 1985.

On September 12, 1985, the Depository Trust Company filed a proposed rule change with the Commission under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). The Commission is publishing this Notice to solicit comment on the rule change.

The proposal reduces to ten percent, from fifteen percent, DTC's surcharge on each DTC participant's monthly bill for DTC services. In July 1984 DTC adopted a fifteen percent surcharge on monthly billings to counteract an anticipated revenue short-fall resulting from transaction volumes at that time.[1] DTC states in its filing that transaction volumes during 1985 have been higher than anticipated and enable DTC to now reduce the surcharge to ten percent.

DCT states in its filing that the proposal is consistent with Section 17A(b)(3)(F) of the Act because it will not affect DTC's present safeguards for securities and funds in its custody or control or for which it is responsible. DTC also states that the ten percent surcharge is equitably allocated among DTC's participants and pledgee banks.

The rule change has become effective, pursuant to Section 19(b)(3)(A) of the Act. The Commission may summarily abrogate the rule change at any time within 60 days of its filing if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for protection of investors, or otherwise in furtherance of the purposes of the Act.

You can submit written comment within 21 days after this Notice is published in the **Federal Register**. Please refer to File No., SR-DTC-85-3, and file six copies of your comments with the Secretary of the Commission, 450 5th Street, NW., Washington, DC 20549. Material on the rule change, other than material that may be withheld from the public under 5 U.S.C. 552, is available for inspection at the Commission's Public Reference Room and at the principal offices of DTC.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-24106 Filed 10-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22490; File No. SR-NYSE-85-35]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change

The New York Stock Exchange, Inc. ("NYSE") submitted on September 17, 1985, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to amend the exchange's Rule 116 regarding the handling of market-at-the-close orders in a stock on the last business day prior to the expiration of options and/or settlement of future contracts based on

[1] *See* Securities Exchange Act Release No. 21187 (August 31, 1984), 49 FR 31357 (August 6, 1984).

an index which includes such stock (commonly referred to as "expiration Friday").

I. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item II below and is set forth in Sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose.* The purpose of the proposed rule change is to provide an effective procedure for executing large numbers of buy and sell "market-at-the-close orders" in a stock on expiration Friday, prior to the expiration of options and/or settlement of futures based on an index, which includes such stock and to minimize possible market price volatility in the securities marketplace.

The proposed rule change provides a procedure for handling market-at-the-close orders that is an alternative to auction market procedures that would otherwise be applicable. Thus, to the extent this new procedure is used, it would supersede auction market procedures pertaining to priority, parity and precedence based on size (codified in Exchange Rule 72) and the crossing of orders when a member is holding an order to buy and an order to sell the same security (codified in Exchange Rule 76).

Many firms today are involved in so-called program trading which is a hedging strategy involving a position in options or futures contracts based on a stock index and offsetting positions in a group of stocks included in the index that are representative of the index. A crucial consideration in program trading is the need to be able to liquidate, on expiration Friday, each stock position that was part of the hedge, at the closing price of the stock on that day in order that the price relationships between the offsetting stock and index options/futures positions are maintained in accordance with the particular hedging strategy or formula being used by the program trader. To accomplish this, most firms enter with the specialist in each stock "market-at-the-close" orders. Such orders, by their terms, are to be executed at or as near to the close as possible, but they are not guaranteed the closing price.

Because of the significant amount of program trading in today's market, it often occurs that on expiration Fridays specialists have a substantial number of shares, both to buy and sell, represented by market-at-the-close orders. To facilitate such orders receiving the closing price and to minimize the market volatility that might otherwise result from the execution of such orders at different prices at or near the close, specialists usually attempt to "pair-off" the buy and sell orders against each other so that they may receive a single price equal to the closing price.

The Exchange notes Rule 116.20 provides, in pertinent part that:

". . . in cases where the spread in the quotation is only the minimum variation of trading [⅛ of a point] in the particular stock . . . a member who holds simultaneously an order to buy at the market and an order to sell the same stock at the market may stop such purchase and selling orders against each other and pair them off at prices and in amounts corresponding to those of the subsequent sales in the stock as they occur in the market."

A stop is a guarantee that an order will be executed at a specified price.

The Exchange believes that a variation of Rule 116.20 should be adopted for pairing-off market-at-the-close orders regardless of the spread in the quotation. Basically, when there is an imbalance of shares to buy over shares to sell, in market-at-the-close orders, or vice versa, the imbalance would be executed against the prevailing bid or offer (depending on which side of the market the imbalance is on) just prior to the close of trading. The remaining buy and sell orders then would be paired-off against each other and executed at the price of the preceding transaction just described.

[Note.—If the size of the imbalance is larger than the prevailing bid (or offer, as the case may be), the bid could be withdrawn and the market-at-the-close orders could be crossed at a price where there is sufficient buying interest represented by other orders to offset the imbalance in the market-at-the-close orders].

Where there is no imbalance, the buy and sell orders would be paired-off against each other and executed at the price of the last sale on the Exchange in the stock just prior to the close of trading.

The procedure described above would apply only on expiration Friday, and executions resulting from the pairing-off process would be printed on the tape as "stopped stock".

The proposed rule change is aimed at meeting the needs for those market participants who enter market-at-the-close orders on expiration Fridays with the intent of achieving an execution of such orders at the closing prices of the stocks named in orders. As mentioned, the proposed rule change also provides an orderly pricing mechanism to minimize market price volatility that might otherwise occur as a result of executions of large numbers of buy and sell orders at different prices at or near the close on expiration Fridays. The Exchange believes that the maintenance of price stability on expiration Fridays is in the utmost interest of the general investing public and will enhance the public perception of the fairness and orderliness of the Exchange market.

In certain cases, the pairing off procedure might not enable other orders in the market at the time to participate in the transaction. However, given the benefits described above and the fact that the pairing-off procedure will only be available on expiration Fridays, the Exchange believes that, on balance, the proposed rule change provides a reasonable way to deal with the expiration Friday phenomenon.

(2) *Statutory Basis for the Proposed Rule Change.* The proposed rule change can be expected to facilitate the executions of large numbers of "market-at-the-close orders" in a stock at a single price and minimize market volatility that might otherwise result in the execution of such orders at different prices. Thus, the proposed rule change can be said to promote the maintenance of fair and orderly markets as called for in section 11A(a)(1)(c) of the Securities Act.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

II. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing change has become

effective, pursuant to section 19(b)(3)(A) of the Act. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change meets the needs of member firms and their customers by facilitating the execution of orders entered as market-at-the-close orders; and will minimize price volatility and contribute to the maintenance of a fair and orderly market. In view of this, the Exchange requests that immediate approval be given to the proposed rule change in order to codify and provide an effective regulatory procedure for the handling of market-at-the-close orders.

Publication of the submission is expected to be made in the **Federal Register** during the week of September 30, 1985. Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File No. SR–NYSE–85–35.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the principal office of the NYSE.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: October 1, 1985.

John Wheeler,

Secretary.

[FR Doc. 85–24119 Filed 10–8–85; 8:45]

BILLING CODE 8010–01–M

[Release No. 34–22501; File No. SR–NASD–85–30]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Approval of Change in Exempt Status Under Commission Rule 15c3–3

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(b)(1), notice is hereby given that on September 30, 1985, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule changes add new sections to the NASD Rules of Fair Practice and Code of Procedure which will require approval for a member firm's change in exempt status under Commission Rule 15c3–3.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change provides the NASD with an additional regulatory tool in monitoring the financial and operational condition of members that are not designated to another self-regulatory organization for financial responsibility pursuant to SEC Rule 17d–1. The proposed rule is intended to provide the NASD with the authority to evaluate, in advance and on a case-by-case basis, a firm's capacity to alter the nature of its business by virtue of a change in its exempt status under SEC Rule 15c3–3 (the "Customer Protection Rule" or "Rule") in such a manner that increases customer financial exposure. The proposed rule is designed to ensure that a member has the necessary capabilities, including adequate net capital and qualified personnel, to conduct the type of business it plans.

The proposed rule would require an existing member to obtain the Association's prior written approval before altering its method of operation by changing its exempt status under Rule 15c3–3. Currently a member could alter its status under Rule 15c3–3 at any time without prior approval, provided it has the minimum amount of net capital prescribed by SEC Rule 15c3–1 (the "Net Capital Rule") and complies with other minimum qualifications standards. The NASD believes that such major changes to the method in which a member conducts its business are substantial events which should be the subject of notification to and prior approval by the Association through its local District Offices, given the potential risks involved to the public and other members. The NASD further believes that it needs this authority if it is to continue to carry out its regulatory responsibility in an effective and efficient manner.

Under the proposed rule any member planning to change its exemptive status under subparagraph (k) of Rule 15c3–3 to enable it to begin carrying customer accounts and/or maintain customers free credit balances or hold customer securities, or to operate in some other manner so as to no longer qualify the member for continued exemptive status under the Rule must obtain the prior written approval of the District in which the main office of the member is located before effectuating such change.

The proposed rule also sets forth several factors to be considered by a District in making a determination as to the approval or disapproval of any proposed change in a member's operations. Finally, if permission is denied by the District staff, or approved with modifications, procedures are provided for a member to appeal that decision to the District Business Conduct Committee and thereafter to the NASD Board of Governors and to the Securities and Exchange Commission.

The NASD has adopted the proposed rule changes pursuant to section 15A (b)(6) and (b)(8) of the Act, which require that the Association's rules be designed to protect investors and the public interest and to provide fair procedures for any limitation or prohibition on services by a member.

The NASD believes that the proposed rules protect investors and are consistent with the purposes of the Act in providing investors with protections against firm's holding their funds and/or securities without having established proper safeguards and that the rules provide members with fair procedures in the event that the Association seeks to impose a limitation on a member.

B. Self-Regulatory Organization's Statement on Burden on Competition

The association believes that the proposed rule changes do not impose any burden on competition not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

In NASD Notice to Members 83–48 dated August 22, 1983, the NASD solicited comments from members and NASDAQ issuers regarding the proposals. Nineteen comment letters were received. Copies of the Notice to Members and the comment letters have been submitted to the Commission as Exhibit 2 to this filing. Five letters were in favor of adopting the proposed reply, eight expressed opposition and six asked for further explanation or clarification of the rule's provisions or applicability. The NASD Board of Governors considered all of these comments and made several changes to the proposals based upon such review. The NASD responded to these and other comments in the filing with the Commission.

III. Dates of Effectiveness of the Proposed Rule Change in Timing of Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (1) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 30, 1983.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

October 3, 1985.

[FR Doc. 85–24214 Filed 10–8–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–22481; File No. SR–NSCC–85–7]

Self-Regulatory Organizations; National Securities Clearing Corp.; Order Approving Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), the National Securities Clearing Corporation ("NSCC"), on July 9, 1985, filed with the Securities and Exchange Commission a proposed rule change that would establish the Automated Customer Account Transfer Service. The Commission requested public comment on the proposal in Securities Exchange Act Release No. 22276 (July 29, 1985), 50 FR 31450 (August 2, 1985). No comments were received. The Commission is approving the proposed rule change.

A. Description of the Proposal

The proposed rule change adds new Rule 50 to NSCC's Rules and Procedures and modifies a Statement of Policy to establish the Automated Customer Account Transfer Service ("ACATS"). ACATS will enable NSCC members to effect automated transfers of customer accounts among themselves. ACATS is designed to complement a proposed rule change filed by the New York Stock Exchange, Inc. ("NYSE") that would require NYSE members to use automated clearing agency customer account transfer services and to effect customer account transfers within specified time frames.[1]

Under NSCC's proposed rule change, an NSCC member to whom a customer's securities account is to be transferred (the "Receiving Member") may initiate the account transfer process by filing with NSCC a Transfer Initiation Request ("TIR"). NSCC reviews the TIR and, if it appears to be complete, NSCC retains a copy, makes a stamped copy immediately available to the Receiving Member and makes the original TIR available to the NSCC member currently carrying the customer account (the "Delivering Member"). Delivering Members must send messengers to NSCC to pick up TIRs. If a TIR appears incomplete, NSCC rejects it and makes it available for pick-up by the Receiving Member.[2]

Under the proposal, NSCC will send reports to Receiving and Delivering Members indicating the customer account transfer requests received each day. Receiving and Delivering Members will be required to verify these reports and to notify NSCC of any discrepancies or errors. NSCC will adjust reported information appropriately.

Within time frames established by the appropriate Designated Examining Authroity ("DEA"),[3] and pursuant to any reasons permitted by the Delivering Member's DEA, the Delivering Member either must accept or reject a customer account transfer request by sending the appropriate form to NSCC. Rejecting Delivering Members must indicate their reasons for rejection. Transfer requests that are not accepted or rejected within required time frames will be deleted from ACATS and will be reported to the Receiving and Delivering Members.[4]

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[1] *See* File No. SR–NYSE–85–17. The Commission also expects the National Association of Securities Dealers ("NASD") to file a complementary proposal shortly.

[2] Under the proposal, NSCC disclaims any responsibility for the accuracy and completeness of TIR information. Moreover, NSCC will not verify that the TIR has been signed by the Receiving Member's customer. NSCC states that it is responsible only for making the TIR available to the appropriate Delivering Member or to return it to the Receiving Member under the circumstances stated above.

[3] According to the NYSE proposed rule change, the Delivering Member either must reject or accept the customer account transfer within 5 business days of receipt of the TIR.

[4] Upon notification that its requested customer account transfer was rejected, the Receiving Member may resubmit the TIR, and NSCC wil process the TIR as though it had not previously been submitted for processing.

NSCC also plans to report such failures to respond to the Delivering Member's DEA.

If the Delivering Member accepts the account transfer request and forwards the required customer account information to NSCC, NSCC will use its best efforts to check the information for edit errors and then will forward the information to the Receiving Member.[5] Within two business days of receipt of this information, the Receiving Member must either accept, request an adjustment to, to reject the account transfer in accordance with the Receiving Member's DEA's rules. If the Receiving Member fails to act within this time period, NSCC will deem this inaction as acceptance of the account transfer. During this two business day period, the Delivering Member can add to, delete from or make other changes to any item by delivering information in appropriate form to NSCC. NSCC then will forward these changes to the Receiving Member, who will have two business days to review the changes account information.

When a Receiving Member accepts a customer account transfer, NSCC will cause all continuous net settlement ("CNS") eligible items in that account to enter NSCC's CNS accounting operations as of the third business date after trade date ("T+3"), unless NSCC is notified by the Receiving Member that certain otherwise CNS eligible items will be withheld from CNS processing. All NSCC rules and procedures regarding CNS will apply to CNS ACATS items flowing into the CNS processing stream. For those withheld items and all non-CNS eligible items, NSCC will produce Automated Customer Account Transfer Receive and Deliver Orders.[6] Those Orders will contain specific information concerning the items in the customer account and will direct appropriate NSCC members to settle the transaction. On regular-way settlement day (T+5), NSCC will credit and debit appropriate members' settlement accounts for the value of the items indicated on the Deliver and Receive Orders. Receiving and Delivering Members, however, will be responsible for actual securities and money settlement relating to the NSCC debits and credits.[7] Fails to deliver and receive will be reconciled according to the Members' DEA's rules and not under NSCC's rules and procedures. All money settlement between NSCC members arising out of account transfers will be made in accordance with NSCC Rule 12.

B. NSCC's Rationale

NSCC states in its filing that the proposed rule change is consistent with the Act in general and Section 17A in particular because it will enable NSCC participants to transfer securities accounts of their customers on an automated basis in a timely and efficient manner.

C. Discussion

For the reasons stated below, the Commission believes that the proposed rule change is consistent with Section 17A of the Act and therefore is approving the proposal. The Commission believes that the proposal should further the development of the National Clearance and Settlement System ("National System") because it promotes the prompt and accurate clearance and settlement of securities.

The Commission believes that ACATS should promote a number of objectives under the federal securities laws. The proposed rule change is part of an industry-wide initiative that for the first time would establish uniform procedures to effect customer account transfers among broker-dealers in an automated environment. Although NYSE Rule 412 currently establishes procedures for transferring customers' securities positions between NYSE member organizations, those procedures are not mandatory and do not require the establishment of fail positions. Moreover, those procedures do not rely on automated clearing agency services, resulting, more often than not, in inefficient "hands-on" physical handling of customer securities by securities depositories, broker-dealers and transfer agents. As a result, customer account transfers have been delayed frequently, sometimes for significant time periods. In addition, receiving and delivering entities often have disagreed about customer securities positions and money balances.

ACATS should eliminate the causes of these delays. First, the proposed rule change injects specific duties and performance time frames into the customer account transfer process and fosters disciplined broker-to-broker communication related to cumbersome account transfers. For example, the proposed rule change requires Delivering Members either to accept or reject a TIR submitted to NSCC by a Receiving Member within the time frame established by the Delivering Member's DEA.[8] In addition, upon receipt of detailed customer account information from the Delivering Member, the Receiving Member must act within two business days to accept, reject or request adjustments to the submitted information. In short, the proposal's specific requirements should provide the necessary discipline for members to process customer account transfers expeditiously.

Second, the proposal includes uniform conflict avoidance mechanisms, thus addressing broker-dealer disagreements that often have delayed customer account transfers. For example, a Receiving Member's failure to respond to a customer account transfer request results in that Member's acceptance of the transfer as submitted to NSCC. Thus, in furtherance of section 17A(b)(3)(F) of the Act, ACATS should promote the prompt and accurate settlement of securities transactions and foster closer cooperation and coordination among persons engaged in the clearance and settlement of securities transactions.

To ensure the prompt and accurate transfer of customer accounts, the proposed rule change provides, to the extent possible, for the processing of customer account transfers through NSCC's established automated securities processing systems. Under the proposed rule change, customer securities that are held by NSCC members and are CNS eligible, will be transferred through NSCC's CNS accounting system. Use of CNS for these purposes should reduce significantly the number of customer account transfer delivery obligations through the netting process. NSCC's CNS guarantee also will reduce potential broker-dealer financial exposure from fails to deliver and receive securities and will mutualize that risk among NSCC's membership. In addition, because the ultimate result of CNS is a single, daily book-entry movement of netted

[5] If edit errors are found, NSCC will notify the Delivery Member and will require that Member to correct the errors promptly. If the Member fails to do so, NSCC may report that failure to the Member's DEA and will delete the transfer request from ACATS. NSCC disclaims responsibility for the validation process.

[6] Settlement of Receive and Deliver Orders are subject to the rules of the respective members' DEAs, including their close-out provisions, rather than NSCC's rules. For CNS processed items, however, NSCC's rules and procedures apply fully.

[7] Although NSCC guarantees CNS processed customer account transfers, NSCC will not guarantee account transfers processed through Receive and Deliver Orders.

[8] In its proposal, NSCC refers to a member's Designated Examining Authority to ensure that the Rule is sufficiently broad to encompass whatever requirements the NYSE or NASD may impose respecting transfers of customers' securities between its member organizations. Under the NYSE proposal, the delivering member would be required to accept, reject or request an adjustment to the TIR within 5 business days.

securities delivery and receive obligations, the labor intensive, inefficient physical handling of securities certificates often experienced by broker-dealers in transferring customer accounts will be avoided.

Non-CNS eligible customer securities held by NSCC members and CNS eligible securities which have been specified for delivery ex-CNS, will be processed through NSCC's Deliver Order System (that system is now used to account for transactions in non-depository eligible municipal securities) and physical deliveries can be made through NSCC's envelope settlement system. Although NSCC will not guarantee these transfers, NSCC will credit and debit the appropriate member's settlement account for the value of the items as indicated on the Deliver and Receive Orders issued consistent with established procedures, providing netted payment obligations.

Finally, ACATS, when fully implemented, should further the development of the National System by removing a disincentive for increased immobilization of customer securities certificates in securities depositories. Because investors with securities registered in street name no longer should face extensive transfer delays, they should be more willing to keep their securities immobilized within National System facilities. In addition, ACATS' timely and efficient processing of customer account transfers should provide an incentive for investors to immobilize depository-eligible securities certificates that currently are registered in the investor's name and outside the National System.[9]

D. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of Section 17A of the Act in that the proposal is designed to promote the prompt and accurate clearance and settlement of securities transactions.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that NSCC's proposed rule change be, and hereby is, approved.

[9] For a detailed discussion of issues regarding the further immobilization of securities certificates, see Securities and Exchange Commission's Division of Market Regulation Staff Draft Report, *Progress and Prospects: Depository Immobilization of Securities and Use of Book-Entry Systems*, June 14, 1985.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

John Wheeler,

Secretary.

September 30, 1985.

[FR Doc. 85-24210 Filed 10-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22479; File No. SR-Phlx-85-22]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4[2] thereunder, the Philadelphia Stock Exchange, Inc. ("Phlx") filed with the Commission a proposed rule change to increase position and exercise limits for foreign currency options to 50,000 contracts. Currently, position and exercise limits for foreign currency options are set at 25,000 contracts.[3]

Notice of the proposed rule change, together with its terms of substance, was given by the issuance of a Commission release (Securities Exchange Act Release No. 22294, August 6, 1985) and by publication in the **Federal Register** (50 FR 32819). No comments were received with respect to the proposed rule change, although Phlx did submit a letter providing background information on the need for increased limits to supplement their filing.[4]

In its filing, Phlx states that since the time of the last position and exercise limit increase granted by the Commission (from 10,000 contracts to 25,000 contracts) average daily trading volume has grown from 10,000 contracts to over 15,000 contracts. In light of these market changes, the Phlx argues that increased position and exercise limits are necessary to add depth and liquidity to the market. Phlx also notes that the need for the increased limits are illustrated by the number of exemption requests it recently has received and believes these requests are a result of the increased trading volume and the need for additional liquidity. Because of the large size of the underlying market in foreign currencies, the Phlx does not believe manipulative concerns would be enhanced if the Commission approves the increased limits of 50,000 contracts. Moreover, Phlx indicates that the increases are particularly appropriate because the foreign currency options markets attracts a large number of institutional and corporate investors who have substantial hedging needs and do block silze transactions in foreign currency options.

The Commission has recognized that position and exercise limits for foreign currency option must be sufficient to protect the options and related markets from disruptions caused either by congestion or manipulation.[5] At the same time, the limits must not be established at levels that are so low as to discourage participation in the options market by institutions and other investors having substantial hedging needs or to prevent specialists and market makers from adequately meeting their obligations to maintain a fair and orderly market.

After carefully balancing the regulatory concerns with the need for greater market depth and liquidity for foreign currency options, the Commission has concluded that the proposed increase in limits are warranted. The Commission finds that the increase in the limits is especially appropriate in light of the magnitude of the underlying foreign currency markets and the experience that has been gained since the inception of foreign currency options trading in Phlx.[6]

For the reason stated above, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6, and the rules and regulation thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1985).

[3] *See* Securities Exchange Act Release No. 21676, January 18, 1985, 50 FR 3859, January 28, 1985, increasing the limits from 10,000 to 25,000 contracts.

[4] Letter from Robert B. Gilmore, Senior Vice President, Phlx, to Eneida Ross, Branch Chief, Division of Market Regulation, SEC, dated July 17, 1985.

[5] *See* Securities Exchange Act Release No. 19133, October 14, 1982, 47 FR 46946, October 21, 1982, approving Phlx's proposed rules for the trading of foreign currency options with the exception of rules pertaining to margin. Margin rules on foreign currency options were approved in Securities Exchange Act Release No. 19313, December 8, 1982, 47 FR 56591, December 7, 1982. Phlx began trading foreign currency options on December 10, 1982.

[6] We note that the Commission recently approved position and exercise limits of 25,000 contracts for foreign currency options traded on the Chicago Board Options Exchange, Incorporated ("CBOE"). Because the foreign currency options contracts traded on CBOE are double the size of those traded on Phlx the limits on both exchanges will be equivalent. *See* Securities Exchange Act Release No. 22471, September 26, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 27, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-24208 Filed 10-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22478; File No. SR-Phlx-85-26]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Accelerated Approval to Proposed Rule Change

September 27, 1985.

On August 29, 1985, the Philadelphia Stock Exchange, Inc. (Phlx") filed with the Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 under the Act [2] copies of a proposed rule change to introduce a new series of expiration cycles in foreign currency options.[3] Under the proposal, Phlx would have series of foreign currency options trading in six expiration months: The four quarterly expiration months that Phlx currently is authorized to list [4] and the nearest two expiration months that are not on the quarterly cycle months.[5] The Phlx states that the purpose of its proposal is to compete with the new foreign currency option program of the Chicago Board Options Exchange, Inc. ("CBOE"), which also provides for monthly expirations.[6] The Phlx states that the statutory basis of the proposed rule change is section 6(b)(5) of the Act.[7]

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days from the date of publication of the submission in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Reference should be made to File No. SR-Phlx-85-26.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing of any subsequent amendments also will be available at the Phlx.

As described above, the Phlx proposal is by design substantially similar to that of CBOE.[8] While Phlx would allow six expiration months instead of five, the Commission does not believe that this difference is important from a regulatory perspective. For the reasons stated in the Commission's order approving the CBOE proposal,[9] therefore, the Commission finds that the Phlx proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the Commission previously has published for comment for over 21 days the CBOE proposal to trade foreign currency options with consecutive expiration months, and has received no comment on that portion of the CBOE proposal. Furthermore, approval of the Phlx proposal at this time is necessary to allow the Phlx to implement its proposal at the same time that CBOE begins trading its foreign currency options on a substantially similar expiration scheme.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-24213 Filed 10-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14737; File No. 811-3245]

Eberstadt International Fund, L.P.; Notice of Application for an Order Declaring That Applicant Has Ceased To Be an Investment Company

September 27, 1985.

Notice is hereby given that Eberstadt International Fund, L.P. ("Applicant"), 61 Broadway, New York, New York 10005, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on July 17, 1985, for an order of the Commission, pursuant to section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the applicable provisions thereof.

Applicant states that it filed a registration statment pursuant to section 8(b) of the Act on August 17, 1981, and its registration statement became effective on March 12, 1982. Applicant also states that it is a New York limited partnership, has never made a public offering of its securities, has not more than 100 security holders for purposes of section 3(c)(1) of the Act and the rules thereunder, and does not propose to make a public offering or engage in business of any kind. The application states that all partners redeemed their partnership units at net asset value and

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1985).

[3] The proposed rule change was noticed in Securities Exchange Act Release No. 22390 (September 9, 1985), 50 FR 37458.

[4] Under the Phlx proposal the quarterly expiration months would continue to be on a March expiration cycle.

[5] Although Phlx intends to commence trading on September 27, 1985, for the first three weeks of the effectiveness of the proposal (*i.e.*, until expiration date in October) Phlx would not list October series. Instead, Phlx initially will list series in November and December, in addition to four further out quarterly expiration months, *i.e.*, March, June, September and January 1987.

[6] The Commission approved CBOE's foreign currency options proposal in Securities Exchange Act No. 22471 (September 26, 1985). Under CBOE's proposal, which provides for European style options instead of the American style options in the Phlx proposal, the CBOE would list series of foreign currency options in the nearest two expiration months, and in the next three further out quarterly expiration months. CBOE, like Phlx, initially would not list October options, however, the CBOE initially will list November and December options, in addition to the next three furthest out quarterly expiration months, March, June and September.

[7] 15 U.S.C. 78f(b)(5) (1982). In its filing, the Phlx retained discretion to either stay with its current quarterly expiration scheme or to implement the expiration cycle described in the filing, depending on whether the CBOE received approval of its proposal and whether the Phlx decided actually to initiate the additional expiration cycles allowed in the proposal. The Phlx now has decided to introduce the additional expiration months allowed in the proposal at the same time that CBOE commences trading its foreign currency options, *i.e.*, on September 27, 1985. Telephone conversation between Philip Becker, Vice President, Phlx, and Eneida Rosa, Branch Chief, Division of Market Regulation, September 24, 1985.

[8] *Supra*, note 6.

[9] *Supra*, note 6.

[10] 15 U.S.C. 78s(b)(2) (1982).

Applicant has no assets and no liabilities.

Notice is further givern that any interested person wishing to request a hearing on the Application may, not later than October 22, 1985, at 5:30 p.m. do so be submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon the Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the Application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Mangement, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-24217 Filed 10-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22500; File No. 4-208]

Joint Industry Plan; Filing and Immediate Effectiveness of Amendment to the Intermarket Trading System Plan Relating to Changes in Operating Hours of the ITS

The Operating Committee of the Intermarket Trading System ("ITS") on September 30, 1985 submitted copies of an amendment pursuant to section 11A of the Securities Exchange Act of 1934 ("Act") and Rule 11Aa3-2 ("Rule") thereunder, to the Plan for the purpose of creating and operating an Intermarket Communication Linkage ("ITS Plan").[1]

I. Description of the Amendment

The purpose of the amendment is to amend section 10(c) of the restated ITS Plan to change the normal operating hours of ITS to comport with the decision of each ITS participant to open its market for trading at 9:30 a.m. eastern time commencing September 30, 1985. Currently, the normal trading hours of ITS are 9:30 a.m. to 4:00 p.m., eastern time. Each ITS participant market opens for trading at 10:00 a.m. eastern time. During the period 9:30 a.m. to 10:00 a.m., ITS is ultilized for transmission of administrative messages, particularly with regard to messages for the Pre-Opening Application (section 7 of the restated ITS Plan). In order that ITS participants have the same one-half hour opportunity to transmit administrative messages through ITS prior to the opening of participant markets for trading at 9:30 a.m. eastern time, the amendment provides that the normal operating hours of ITS commence at 9:00 a.m. eastern time.

The amendment also provides that the ITS Operating Committee may specify, by affirmative vote of all its members, the normal operating hours of ITS. This second change is intended to provide the Operating Committee the flexibility to accommodate future changes in ITS participants' trading hours without need to amend the restated ITS Plan. The equivalent result already occurs under the Consolidated Tape Association ("CTA") Plan, since its hours are automatically set in relation to participant trading hours (CTA Plan section x(b)). In addition, the additional hours provision of section 10(c) of the ITS Plan permits participants to cause ITS to operate outside its normal operating hours without need to amend the ITS Plan.

The Commission believes that the amendment represents a positive enhancement to ITS that creates opportunities for more efficient and effective market operations.[2] In light of this conclusion, and because the ITS Operating Committee has stated in its filing that the amendment involves solely technical and ministerial matters related to conforming the operating hours of ITS to the participants trading hours, the amendment has become effective pursuant to paragraph (C)(3)(iii) of the Rule. At any time within 60 days of the filing of the amendment, the Commission may summarily abrogate the amendment and require that it be refiled in accordance with paragraph (b)(1) and reviewed in accordance with paragraph (c)(2) of the Rule, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanism of, a national market system or otherwise in furtherance of the Act.

II. Request for Comment

Interested persons are invited to submit written comments on the amendment. Persons submitting comments should file six copies with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission and related items, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. All communications should refer to File No. 4-208 and should be submitted by November 8, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30-3(a)(29).

Dated: October 3, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-24219 Filed 10-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23844; 70-7158]

Middle South Energy, Inc., et al.; Proposed Financing of Pollution Control Facilities; Exception From Competitive Bidding

September 26, 1985.

Middle South Energy, Inc. ("MSE"), P.O. Box 61000, New Orleans, Louisiana 70161, a wholly owned subsidiary of Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, Middle South, and the system operating companies, Arkansas Power & Light Company, P.O. Box 551, Little Rock, Arkansas 72203, Mississippi Power & Light Company, P.O. Box 1640, Jackson, Mississippi 39205, Louisiana Power & Light Company, 142 Delaronde Street, New Orleans, Louisiana 70174, and New Orleans Public Service Inc., 317 Baronne Street, P.O. Box 60340, New Orleans, Louisiana 70160, have filed an application-declaration with this Commission pursuant to sections 6(a), 7, 9(a), 10, and 12(b) of the Public Utility Holding Company Act of 1935 and Rules 45 and 50(a)(5) thereunder.

In order to finance the acquisition, construction, installation, and equipping of an undivided interest in certain pollution control and sewage and waste

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[1] The ITS Plan and subsequent amendments are contained in File No. 4-208. The Commission initially approved the ITS Plan on an interim basis on April 14, 1978. Subsequently, the Commission authorized the ITS participants to act jointly in operating the ITS for a period of indefinite duration. *See* Securities Exchange Act Release No. 19456 (January 23, 1983), 48 FR 4938. The ITS Operating Committee has indicated that although it refers to the instant amendment as the "Fifth Amendment," the amendment is actually the Fourth amendment to the restated ITS Plan filed with the Commission. Another amendment concerning pre-opening reports, which has been circulated to, but not executed by, all the participants is labeled the "Third Amendment."

[2] *See* section 11A(a)(1)(B) of the Act.

disposal facilities ("Pollution Control Facilities") at MSE's Grand Gulf Nuclear Electric Generating Station ("Station") in Claiborne County, Mississippi ("County"), and to repay indebtedness incurred to finance such expenditures, MSE proposes to enter into one or more installment sale agreements (collectively, the "Agreement") with the County which will contemplate the issuance by the County, in one or more series, of its pollution control revenue bonds ("Bonds") in an aggregate principal amount not to exceed $90,000,000 pursuant to one or more trust indentures (collectively, the "Indenture") between the County and one or more trustees (collectively, the "Trustee"). The net proceeds of the Bonds will be deposited by the County with the Trustee under the Indenture and will be applied to pay, or reimburse MSE for, the costs of acquisition, construction, installation, and equipping the Pollution Control Facilities. Under the Agreement, MSE will sell the Pollution Control Facilities to the County and will simultaneously repurchase the Pollution Control Facilities from the County for a purchase price, payable on an installment payment basis over a period of years, sufficient (together with any other moneys held by the Trustee under the Indenture and available therefor) to pay the principal or purchase price of, the premium, if any, and the interest on the Bonds as they become due and payable.

The Indenture will provide that the Bonds will be redeemable by the County at the direction of MSE upon the occurrence of certain events relating to the construction or operation of the plant or the facilities. Any series of the Bonds may be made subject to a mandatory cash sinking fund and to a mandatory redemption in other cases. In such circumstances, the payments by MSE shall be sufficient (together with other moneys held by the Trustee under the Indenture and available therefor) to pay the principal on the Bonds together with interest accrued or to accrue to the redemption date. The Bonds will be subject to optional redemption, at the direction of MSE, in whole or in part, at the redemption prices and times set forth in the Indenture, plus accrued interest to the redemption date. The Indenture may provide for the application of such of the proceeds of the Bonds which, after completion of the Pollution Control Facilities, may remain unused for the redemption or purchase of the Bonds at the direction of MSE.

The Bonds or the several series thereof will mature not less than 5 years nor later than 30 years from their respective date of issuance. The Agreement and the Indenture may provide for a fixed interest rate or for an adjustable interest rate for one or more series of the Bonds which might be converted to a fixed interest rate. As to any series having an adjustable interest rate, the interest rate for such series of the Bonds during the first Rate Period will be based on the current tax-exempt market rate for comparable bonds having a maturity comparable to the length of the initial Rate Period for such Bonds. Thereafter, for each Rate Period, the interest rate on such Bonds (a) will, if no Bonds are tendered for repurchase, be determined by the Indexing Agent based upon the index derived from the then current market level for comparable securities of a maturity comparable to such Rate Period or (b) will, if any of such Bonds are tendered for repurchase, be that rate which will be sufficient to remarket all such tendered Bonds of such series at their principal amount. At the time of each adjustment, the interest rate so determined will be no greater than 120% nor less than 80% of such index, subject to a maximum rate of interest of 15%.

The Agreement and the Indenture may also provide that holders of Bonds will have the right to have their Bonds purchased at a price equal to the principal amount thereof on the dates specified in, or established in accordance with, the Indenture. A Tender Agent may be appointed to facilitate the transfer of any Bonds delivered by holders exercising this right. All obligations of MSE with respect to the purchase of a series of Bonds would be terminated following the Fixed Rate Date with respect to such series of Bonds. Under the Agreement, MSE would be obligated to pay amounts equal to the amounts to be paid by the Remarketing Agent or the Tender Agent pursuant to the Indenture for the purchase of outstanding Bonds; provided, however, that the obligation of the company to make any such payment under the Agreement would be reduced by the amount of other moneys available therefor, including the proceeds of the sale of such Bonds by the Remarketing Agent. Upon the delivery by holders to the Remarketing Agent (or the Tender Agent, as the case may be) of Bonds for purchase, the Remarketing Agent will use its best efforts to sell such Bonds. The Remarketing Agent will attempt to sell the Bonds at a price equal to their stated principal amount, at an annual interest rate approximating the then current market rate for comparable securities as established by the Indexing Agent, subject to certain minimum and maximum limitations set forth in the Indenture. Under certain circumstances, Bonds may be remarketed at a discount or a premium.

In order to obtain security for holders of the Bonds equivalent to the security accorded to holders of first mortgage bonds outstanding under MSE's Mortgage and Deed of Trust as supplemented ("Mortgage"), it is anticipated that MSE will seek to obtain the authentication of one or more new series of its first mortgage bonds ("Company Bonds") under the Mortgage, and MSE proposes to deliver to the Trustee to be held as collateral the Company Bonds in principal amount equal to the principal amount of the Bodns and, in addition, possibly 7 months ($^{7}/_{12}$) of the annual interest due on the Bonds computed at their stated rate.

As an alternative method of securing the Bonds, MSE may seek to arrange for the Bonds to be secured by a letter or letters of credit issued by one or more commercial banks.

As additional security for its obligations to make payment under the Agreement and/or as security for its obligation to make payment on the Company Bonds, MSE may assign, for the benefit of the Trustee under the Indenture and/or the Company Mortgage Trustees respectively, its rights under the Availability Agreement, dated as of June 21, 1974, as amended ("Availability Agreement"). Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company, and New Orleans Public Service Inc., parties to the Availability Agreement, would consent to and join in the Assignment. Also, as additional security for its obligations to make payments under the Agreement and/or as security for its obligation to make payments on the Company Bonds, MSE may assign, for the benefit of the Trustee under the Indenture and/or the Company Mortgage Trustees respectively, its rights under the Capital Funds Agreement, dated as of June 31, 1974 ("Capital Funds Agreement"). Middle South, a party to the Capital Funds Agreement, would consent to and join in the Supplementary Agreement. In the event the Bonds are secured by a letter or letters of credit, such Assignment and Supplementary Agreement may be provided to the banks furnishing such letter or letters of credit.

MSE contemplates that the Bonds will be sold by the County pursuant to arrangements with an underwriter or by

private placement in a negotiated sale or sales. The company will not be party to the underwriting or private placement arrangements; however the Agreement will provide that the terms of the Bonds, and their sale by the County, shall be satisfactory to MSE. The company understands that interest payable on the Bonds will be exempt from federal income taxes.

Under section 7(d) of the Act, the Commission may not permit a declaration to become effective if, among other things, it finds that the security is not reasonably adapted to the earning power of the declarant and to the security structure of the declarant and other companies in the same holding-company system. Also, the terms and conditions of the issue or sale of the security may not be detrimental to the public interest or the interest of investors or consumers. Based on the record presently before it, the Commission has serious reservations about authorizing the proposed transactions.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 21, 1985, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-24218 Filed 10-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14738; File No. 811-1257]

Pilgrim Fund, Inc.; Application for an Order Declaring That Applicant Has Ceased To Be an Investment Company

September 27, 1985.

Notice is hereby given that Pilgrim Fund, Inc. ("Applicant"), 222 Bridge Plaza South, Fort Lee, New Jersey 07024, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on August 5, 1985, for an order of the Commission, pursuant to section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the applicable provisions thereof.

Applicant states that it filed a registration statement pursuant to section 8(b) of the Act on April 29, 1964, and its registration statement became effective on August 3, 1964, at which time Applicant began offering its shares to the public. Applicant further states that its charter as a corporation under the laws of the State of Maryland is in good standing. The application states that on February 28, 1985, MagnaCap Fund, Inc. ("MagnaCap") and Applicant entered into an Agreement and Plan of Reorganization whereby MagnaCap would purchase substantially all of the assets of Applicant, in exchage solely for the capital shares of MagnaCap, thereafter to be distributed to the shareholders of Applicant in complete liquidation of Applicant. Such reorganization took place on June 21, 1985, after being approved by Applicant's shareholders at the Annual Meeting of Shareholders held on June 5, 1985. Applicant states that as of June 20, 1985, there were 2,570,467.759 shares of capital stock outstanding representing aggregate net assets of $39,979,236 which were exchanged for shares of MagnaCap having an equal net asset value as of that date. Applicant also states that it has retained $2,500 in cash for the purpose of paying expenses in connection with this application and the winding-up of its affairs; it does not have any shareholders; it is not a party to any litigation or administrative proceedings; and that it intends to file Articles of Dissolution with the State of Maryland.

Notice is further given that any interested person wishing to request a hearing on the Application may, not later than October 22, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon the Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the Application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-24216 Filed 10-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22474; File Nos. SR-Amex-85-31; SR-Phlx-85-25; SR-PSE-85-23; SR-BSE-85-6; SR-MSE-85-9; SR-CSE-85-5; SR-CBOE-85-36; and SR-NASD-85-27]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Changes by the American, Philadelphia, Pacific, Boston, Midwest and Cincinnati Stock Exchanges, Inc., Chicago Board Options Exchange, Inc. and National Association of Securities Dealers, Inc., Relating to the Extension of Trading Hours by One-Half Hour

The American ("Amex"), Philadelphia ("Phlx"), Pacific ("PSE") Boston ("BSE"), Midwest ("MSE") and Cincinnati ("CSE") Stock Exchanges, Inc., Chicago Board Options Exchange, Inc. ("CBOE") and National Association of Securities Dealers, Inc. ("NASD") submitted during August and September of 1985, copies of proposed rule changes pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to amend their rules to extend their trading days by opening trading one-half hour earlier.[1] Pursuant to the proposed rule changes, the Amex,[2] Phlx,[3] BSE, CSE and NASD

[1] The following rules would be amended by the proposals, described herein, to extend trading hours: Amex Rule 1; Phlx Rule 101; PSE Board of Governors Rule I, section 1(a); BSE Chapter I-B, section 1; MSE Article IX, Rule 10; CSE Rule 11.1(a); CBOE Rule 24.13 and Interpretation .01 of CBOE Rule 6.61; and Schedule D of the NASD's By-Laws, Part I, subparagraph (d), Part IV, section 3, subparagraph (g), and Part IV, section 7, subparagraph (d).

[2] In Amendment No. 1 to File No. SR-Amex-85-31, Amex proposes conforming technical rule amendments necessitated by the amendment of Annex Rule 1. The following Amex rules which generally set forth cut-off times for filing Exchange reports and submitting requests for information and responses to such requests are to be amended by this order: Rule 114.06, 140.01, 178(a) and (b), 191, 723(d), 918.05, 955(a) and 955.03. *See* Amended Exhibit 4 to Amendment No. 1 to File No. SR-Amex-85-31, correcting technical mistakes in Exhibit 4, received by the Commission on September 23, 1985.

[3] According to Phlx, the earlier opening would apply to equity issues and to equity and index options traded on the Phlx. However, Phlx's existing hours for trading foreign currency options under Phlx Rule 101 would remain unchanged.

would open training at 9:30 a.m. (Eastern Time), the MSE and CBOE at 8:30 a.m., (Central Time) and the PSE at 6:30 a.m., (Pacific Time).

Interested persons are invited to submit written data, views and arguments concerning the proposed rule changes within 21 days from the date of publication of the submission in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File Nos. SR-Amex-85-31, SR-Phlx-85-25, SR-PSE-85-23, SR-BSE-85-6, SR-MSE-85-9, SR-CSE-85-5, SR-CBOE-85-3, and SR-NASD-85-27.

Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule changes which are filed with the Commission and all written communications relating to the proposed rule changes between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the filings and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organizations ("SROs").

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to self-regulatory organizations and in particular, the requirements of sections 6, 11A and 15A and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of notice of filing thereof in that rule changes of each of the SROs described herein thereby may be implemented as of the same date and consistent with the September 30, 1985 target date proposed by the New York Stock Exchange, Inc. ("NYSE") for commencement of its 9:30 a.m. opening.[4] The uniform start-up date, as well as the conforming technical amendments proposed by the Amex, will help to promote fair and orderly markets in multiply traded stocks, and in equity and stock index options. The Commission therefore finds that accelerated treatment for the SROs' rule proposals described herein is appropriate.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule changes referenced above be, and hereby are, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 27, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-24211 Filed 10-8-85; 8:45 am]

BILLING CODE 8010-01-M

[4] Although the Commission did receive comment letters in opposition to the NYSE's proposed extension of trading hours, noticed in Securities Exchange Act Release No. 22338 (August 20, 1985), 50 FR 34570, the concerns raised by the letters were addressed in the order approving that proposed rule change. See Securities Exchange Act Release No. 22473 (September 27, 1985) (SR-NYSE-85-27).

[Release No. 34-22494; File No. SR-NASD-85-28]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc., Adding a New Rule of Fair Practice Regulating Private Securities Transactions

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(b)(1), notice is hereby given that on September 30, 1985, the National Association of Securities Dealers Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed new Rule of Fair Practice clarifies the supervisory and oversight responsibilities of member firms in the area of private securities transactions by associated persons and entirely replaces the Private Securities Interpretation under Article III, section 27 of the Rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The NASD has long been concerned about private securities transactions of persons associated with broker/dealers. These transactions can generally be grouped into two categories:

1. Transactions in which an associated person is selling securities to public investors on behalf of another party, e.g., as part of a private offering of limited partnership interests, without the participation of the person's employer firm.

2. Transactions in securities owned by the associated person.

The first category of transactions presents serious regulatory concerns because securities may be sold to public investors without the benefit of supervision or oversight by a member firm and perhaps without adequate attention to such regulatory protections as due diligence investigations and suitability determinations. In some cases, investors may be misled into believing that the associated person's firm has analyzed the security being offered and "stands behind" the product and transaction when in fact the firm may be totally unaware of the person's participation in the transaction. Under some circumstances, a firm may be liable for the actions of their associated person even though the firm was not aware of such person's participation in the transaction.

In view of these concerns, the NASD promulgated the Private Securities Transactions Interpretation several years ago. The Interpretation requires associated persons to notify their employer firms prior to participating in private securities transactions. The Interpretation has enabled firms to exercise better supervision over their associated persons; a significant number of associated persons have been disciplined by the NASD for violation of the Interpretation over recent years.

The Interpretation has been a source of substantial confusion, however, because it addresses only the responsibility of associated persons to notify members firms and does not specifically address the supervisory and

oversight responsibilities of those firms. After careful study and analysis, the NASD has adopted a new Rule of Fair Practice to replace the Interpretation. The proposed rule is designed to clarify firm's responsibilities in this area by indentifying specific responsibilities of associated persons and member firms regarding the handling of such persons' private securities transactions.

"Private securities transaction" is defined broadly, and generally parallels the concept in the present Interpretation. Transactions subject to Article III, Section 28 of the Rules of Fair Practice and personal transactions in investment company and variable annuity securities are excluded, as are transactions among immediate family members (as defined in the Interpretation of the Board of Governors on Free-Riding and Withholding, NASD Manual, CCH, p. 2045) for which the associated person receives no selling compensation. Because regulatory problems most frequently occur in connection with private placement of new offerings, those transactions are specifically included within the definition of "private securities transactions."

The most serious regulatory concerns relate to situations in which associated persons receive selling compensation and, therefore, have an incentive to execute sales, perhaps without adequate supervision and without adequate attention to suitability and due diligence responsibilities. Thus, the proposed rule distinguishes between transactions in which associated persons receive selling compensation and those handled as an accommodation or under another noncompensatory arrangement. The rule specifies the responsibilities of member firms in both cases.

The NASD has consistently taken the position that firms must be able to supervise and regulate effectively each associated person's securities activities. It is intended that a firm have full discretion to utilize this authority to restrict its associated persons' private securities activities, including activities performed on a noncompensatory basis.

For transactions in which an associated person has or may receive selling compensation, the rule requires that a member receiving written notice from one of its associated persons respond to the person in writing indicating whether the firm approves or disapproves of the person's participation in the proposed transaction. If the firm approves of the person's participation, the firm must record the transaction on the firm's books and records, and must supervise the person's participation in the transaction to the same extent as if the transaction were executed on behalf of the firm.

If the firm disapproves of a person's participation, the associated person is prohibited from participating in the transaction in any manner.

Transactions in which associated persons participate without compensation, however, need not be subjected to the same level of scrutiny as other transactions. For example, a salesperson may own stock in a closely held family corporation and wish to transfer that stock to another family member. While his or her firm should be made aware of such a transaction, it appears unnecessary to treat that type of transaction as a transaction of the employer firm.

The proposed rule requires a member receiving notice that a person proposes to participate in a transaction or a series of related transactions without compensation to provide that person with written acknowledgment of said notice, and gives the employer firm the right to impose conditions on each associated person's participation in noncompensatory transactions. The associated person must adhere to such conditions.

The definition of "selling compensation" includes "any compensation paid directly or indirectly from whatever source in connection with or as a result of the purchase or sale of a security." Because the treatment of transactions varies significantly depending upon whether selling compensation is to be received, the definition of "selling compensation" is deliberately broad in its scope. Certain examples are provided, including such common forms of compensation as commissions, finder's fees, securities, and rights of participation in profits, tax benefits or dissolution proceeds as a general partner or otherwise. The definition, however, is intended to include any item of value received or to be received directly or indirectly, and is not restricted to the examples provided.

In addition, the definition of "selling compensation" includes compensation received or to be received by one acting in the capacity of either a salesperson or in some other capacity, specifically including the capacity of a general partner. The definition is intended specifically to address a practice in which associated persons function as general partners in forming limited partnerships and then sell limited partnership interests in private securities transactions.

(b) The NASD proposes to adopt the new Rule of Fair Practice on Private Securities Transactions pursuant to section 15A(b)(6) of the Securities Exchange Act of 1934, which requires that the Association's rules be designed to promote just and equitable principles of trade, prevent fraudulent and manipulative practices, and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The NASD recognizes that, as a result of the new rule, firms may refuse permission to participate in private securities transactions. The NASD believes nonetheless that, because of the substantial regulatory problems associated with such transactions, this potential impact is far outweighed by the benefits to the public of the careful oversight required by the rule.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

In Notice to Members 85-21 (March 29, 1985), the NASD solicited comments on the proposed rule. Twenty-five comments were received. Seven writers encouraged adoption of the proposed rule as drafted. Five urged that the rule be strengthened by expanding its coverage. Eleven concurred generally with the proposed rule but suggested some change. Two opposed the rule as unreasonably restrictive. The more significant points raised by the letters are discussed below.

Two writers opposed the rule as an abridgment of the rights of registered representatives to engage in legitimate private transactions. These writers misconstrue the rule and its purpose. As noted in section IIA above, in replacing the present Private Securities Transactions Interpretation, the proposed rule clarifies the supervisory and oversight responsibilities that members now have in this area. The rule does not create additional regulatory responsibility or new restrictions, but makes supervisory responsibility more clear by codifying certain supervisory procedures.

Because the proposed rule has the narrow purpose of clarifying supervisory responsibility in the area of private *securities* transactions, and because the definition of private securities transaction is sufficiently broad, the NASD believes it is neither necessary nor appropriate to expand the rule's

purview beyond its design to all private transactions, as was suggested by one writer. The NASD also believes it appropriate that the rule provide members the flexibility to design their own specific recordkeeping and surveillance procedures. Thus, it is not appropriate at this time to require firms, for example, to confirm private securities transactions in a manner similar to the firm's own transactions, as was suggested by one writer, nor is it appropriate to mandate any particular method of private securities transaction recordkeeping.

Several writers expressed concern over the broad definition of "selling compensation." The NASD believes that for the rule to be effective this term must be defined broadly to cover the multifarious types of securities transactions and compensation arrangements.

III. Dates of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 30, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 2, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-24212 Filed 10-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22473; File Nos. SR-NYSE-85-27 and SR-NYSE-85-31]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to the 9:30 a.m. Opening; and Giving Notice of Filing and Accelerated Approval of Proposed Rule Changes Relating to Modifications of Prescribed Time Periods for the Performance of Certain Acts as Necessitated by Proposed Extension of Trading Hours

The New York Stock Exchange, Inc. ("NYSE") submitted on August 9, 1985, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to open trading at 9:30 a.m. rather than at 10:00 a.m., thereby extending its trading hours by one-half hour. Because an extension of the trading hours would affect the application of NYSE rules that prescribe time periods for the performance of various Exchange and member firm activities, the NYSE also has filed with the Commission proposed rule changes modifying such rules to conform to the proposed provisions of Rule 51.[1] In addition, to ensure uniformity among market openings, several of the other self-regulatory organizations ("SROs") have filed proposed rule changes with the Commission to amend their rules to open one-half hour earlier.[2]

A basis for the NYSE's proposed extension of trading hours is the Exchange's conviction that it must act competitively in a rapidly changing and increasingly complex business environment. The NYSE notes that the growth in international securities trading is the result of increased activity on overseas exchanges and the greater use of U.S. markets by foreigners. This growth already has created round-the-clock investor interest in securities listed on the NYSE. A half-hour extension of trading in the morning would increase the period of overlap between trading hours in New York and London. The NYSE believes that this extension would help attract both domestic and foreign business to the Exchange and its member firms and further accommodate the needs of public investors.

The NYSE anticipates that this would be a cost-efficient method for increasing business for member firms and the Exchange and would enable the Exchange to evaluate whether further extensions of trading hours would be beneficial and result in increased business volume and public convenience. The NYSE also notes that, according to the results of an Exchange-initiated survey,[3] 70% of the Exchange's top 20 member firms, which represent 61% of the Exchange's volume, favored the extension of trading hours.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 22338, August 20, 1985) and by publication in the **Federal Register** (50 FR 34570, August 26, 1985) All written statements filed with the Commission and all written communications between the Commission and any person relating to the proposed rule change were considered and (with the

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[1] The NYSE rules affected by the extension of trading hours are Rules 35.20, 79.50 85(e)(2), 97.40, 112.30, 112.40, Supplementary material under paragraphs 2112A.10, 2123A.31, 2123A.32, 2123A.47, 2128B.10, 2128B.12, 2128B.13, Rules 134(c), 717.60, 750(h).95, 755, 755.30, 764.10 and 770. *See* File No. SR-NYSE-85-31. The NYSE filed these proposed rule changes with the Commission on August 23, 1985.

[2] The following SROs propose to amend their rules to open one-half hour earlier: The American Stock Exchange (SR-Amex-85-31, Amendment No. 1 to SR-Amex-85-31, Amended Exhibit 4 to Amendment No. 1); National Association of Securities Dealers (SR-NASD-85-27); Philadelphia Stock Exchange (SR-Phlx-85-25); Pacific Stock Exchange (SR-PSE-85-23); Boston Stock Exchange (SR-BSE-85-6); Midwest Stock Exchange (SR-MSE-85-9); Cincinnati Stock Exchange (SR-CSE-85-5); and Chicago Board Options Exchange (SR-CBOE-85-38). The Commission has issued today a separate order also approving those SRO proposals.

[3] The NYSE initiated a broad preliminary survey in December 1984 and January 1985 on such topics as 24 hour trading, opening on Good Friday, and extending trading hours in the morning or afternoon, for varying lengths of time. The NYSE sent the survey to nearly 3,400 Exchange constituents, of whom 28% responded. The responses indicate that upstairs firms, particularly the major firms, generally favor the extension of trading hours, while floor brokers, specialists and institutions, in general, oppose such an extension. The majority of those favoring an extension of trading hours preferred adding a half-hour at the beginning of the day. A summary of survey results as to whether respondents would favor any extension of trading hours on the NYSE is as follows: (1) All upstairs firms: 51% favor, 46% oppose; (2) top 10 upstairs firms: 70% favor, 30% oppose; (3) top 20 upstairs firms: 70% favor, 30% oppose; (4) Chief Executive Officers or Managing Partners of Specialist Organizations: 29% favor, 7% oppose; (5), all other specialists: 28% favor, 68% oppose; (6) floor brokers, $2 brokers, Registered Competitive Market Makers and Competitive Options Traders: 33% favor, 63% oppose; (7) all listed companies: 52% favor, 28% oppose; and (8) tops institutions: 27% favor, 62% oppose. (Because a number of "no opinion" responses were received, responses may not necessarily total 100%.)

exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission has received comment letters in opposition to the proposal from the Alliance of Floor Brokers ("Alliance");[4] Lawrence, O'Donnell & Co.; Henry Krieger & Co., Howard, Darby & Levin; Sarroff, Sager & Co.; William J. Higgins; Marcus & Co.; McKenna, Cloud & Co.; George C. Dinsmore, Donald C. Dinsmore; Stokes, Hoyt & Co., Bartlett & Co., and Exchequer Securities.[5]

The Alliance Letter emphasizes the following seven points: (1) No one has demonstrated that longer hours would produce added volume; (2) Contrary to the Securities Acts Amendments of 1975 which call for the Commission to facilitate the development of a national market system, a less perfect market would result because longer trading hours with existing order flow would allow additional dealer intervention; (3) Additional dealer intervention would move the NYSE toward a dealer market and thereby further weaken its agency/auction concept; (4) Both the buy-side and sell-side of the market would be faced with increased costs, primarily in the form of added staff and/or additional costs for present personnel to work longer hours;[6] (5) Increased costs would be passed along to the investing public by both the brokerage firms and institutions; (6) Because added staff and costs would be a proportionately greater disadvantage to smaller firms and independent broker-dealers, this could lead to additional concentration in the industry; and (7) NYSE survey results do not reflect a need or a desire for longer hours on the part of the Exchange's major customers. Institutional volume accounted for over 60% of NYSE volume in 1984, and 73% of the major institutions that responded to the survey opposed or had no opinion on longer hours.

The Lawrence O'Donnell Letter emphasized the negative effects that extended trading hours would have on smaller firms due to costs, and on public shareholders due to dilution of order flow. It also noted that further trading hour extensions, leading to round-the-clock trading would create severe surveillance and regulatory problems. The Henry Krieger Letter pointed out that its customers, who were exclusively foreign banking institutions in Europe, did not desire additional trading hours.

The Howard, Darby & Levin Letter represented the views of the Organization of Two Dollar Brokers ("Organization")[7] and requested that the Commission delay the effective day of the proposed 9:30 a.m. opening in order to permit further comment and a hearing. The Organization raised the following issues: (1) The largest customer base (institutional buyers), the specialists and the floor brokers all overwhelmingly opposed any extension of trading hours and a majority of no specific group of members appeared to favor it; (2) The proposed 9:30 a.m. opening would probably result in a decline in the orderliness of the Exchange opening that would adversely affect the public interest since it was unlikely that the public at large or most securities advisers or brokers would adjust the beginning of their work day to accommodate the new opening; and (3) The record before the Commission provides no basis upon which the Commission could conclude that volume is likely to be materially increased and it is imprudent to alter the time of opening without a considered basis for doing so.

In responding to the above concerns, the NYSE reiterates that the proposed expansion of hours is based upon the Exchange's recognition that investor interest in Exchange listed securities transactions transcends national boundaries and time zones, and that volume has increased dramatically in recent years.[8] The NYSE further asserts that no empirical data is available to test or verify the Alliance assumption that the extended hours would not result in increased volume. The Alliance has based the various conclusions described in its letter on such a premise. To provide the needed empirical data, the Exchange intends to monitor the effects of extended hours on a continuing basis, and after approximately nine months will survey the members, member firms, listed companies and user institutions, to assess the impact of the 9:30 a.m. opening on the business of these groups, the competitive posture of the Exchange and the desirability of continuing the earlier opening. Although the NYSE realizes that some of its constituents are opposed to the extension of trading hours, in adopting the extended hours at this time, the Exchange believes it is being responsive to the needs and desires of its other constituencies.

Although this proposal has generated controversy, especially among NYSE floor members, it appears to reflect the NYSE's Board of Director's ("Board") business judgment that, in light of the increasing internationalization of the securities markets, a one-half hour extension of trading in the morning could be a factor in attracting both domestic and foreign business to the Exchange, and in accommodating the

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[4] *See* letter from David V. Shields, President, Alliance of Floor Brokers, to Secretary, Securities and Exchange Commission, dated September 12, 1985 ("Alliance Letter"). *See also* telegram from R.S. Harman and Co., to Secretary, Securities and Exchange Commission, dated September 16, 1985, supporting the Alliance's position on the extension of trading hours.

[5] *See* letter from Bernard E. Smith, Jr., Lawrence, O'Donnell & Co., to Secretary, Securities and Exchange Commission, dated September 10, 1985. *See also* letter from Marvin N. Cantor, Henry Krieger & Co. to Secretary, Securities and Exchange Commission, dated September 17, 1985; letter from Howard, Darby & Levin to Secretary, Securities and Exchange Commission, dated September 25, 1985; letters from Lee H. Sager and Alan L. Sarroff, Sarroff, Sager & Co., to Secretary, Securities and Exchange Commission, dated September 23, 1985 and September 24, 1985, respectively, stating that the operational costs of their firm would increase while they did not believe their firm would experience an increase in business; letter with enclosures from William J. Higgins, NYSE member, to Secretary, Securities and Exchange Commission, dated September 24, 1985, discussing a subsequently withdrawn petition advocating that the entire membership be given the right to vote on the hours the Exchange would be open for trading; letters from Joseph Mindell, Marcus & Co., and John M. DiPiro, McKenna, Cloud & Co., to Secretary, Securities and Exchange Commission, dated September 16, 1985 and September 20, 1985, respectively, stating that added hours would raise overhead but not volume; letter from Thomas K. McKenna, McKenna, Cloud & Co., urging the Commission to give the decision a long and hard look; letters from George C. Dinsmore and Donald C. Dinsmore, to Secretary, Securities and Exchange Commission, both dated September 19, 1985, noting that there is no demand for an increase in trading time and that this would not increase volume, would increase costs and would not improve the auction market but would put the national market system at a disadvantage; letters from Robert Raymond and Hugh Merrill, Stokes, Hoyt & Co., to Secretary, Securities and Exchange Commission, dated September 17, 1985, and September 20, 1985, respectively, stating that the extension of trading hours is against the interest of the public and of the personnel employed in the industry, would dilute volume, would be a hardship on personnel due to transportation problems and a hardship on small firms due to increased costs, and is unneeded because European buyers can wait until 10:00 a.m. to invest; letter from Gerald Oaks, Bartlett & Co., to Secretary, Securities and Exchange Commission, dated September 23, 1985, stating that the increase of computerization in the industry should allow the industry to handle the added volume now and for future years; and mailgram from Douglas E. McQuade, Exchequer Securities, to Secretary, Securities and Exchange Commission, dated September 25, 1985, saying, among other things, that any trading advantages resulting from extended hours would benefit the professional, not the individual investor.

[6] The NYSE has estimated at least a $2.5 million additional expense in its own staffing-up.

[7] According to the letter, this Organization formed this month by over 200 independent floor brokers, each a member of the NYSE.

[8] *See* letter from James E. Buck, Secretary, NYSE, to Michael Cavalier, Branch Chief, Division of Market Regulation, dated September 20, 1985, addressing the comments made by the Alliance in its letter to the Commission dated September 12, 1985.

needs of public investors. The NYSE anticipates that a modest extension of trading hours would be a cost-efficient method for increasing business for member firms and the Exchange and would enable the Exchange to evaluate potential benefits of further extensions of trading hours. In this regard, the Commission believes that, absent regulatory concerns, it is appropriate for the NYSE Board to assess whether benefits to the public, the NYSE and its members outweigh the possible costs of extended trading hours. While the costs of the proposal, as noted by the Alliance, likely will fall disproportionately on floor members, since upstairs traders generally already are open for business during the extended hours, the Commission believes that the balancing of the relative concerns of these competing member groups is better left to the NYSE's own internal deliberative processes. Moreover, in light of the present daily volume and trade levels of the NYSE as well as the Exchange's reasonable business judgment that this change will attract additional volume, the Commission does not believe that the rule change will have an adverse effect on the maintenance of fair and orderly markets or decrease the likelihood of agency orders in trading on the floor of the NYSE. In view of the NYSE's commitment to monitor the effects of the extended trading hours, on a continuing basis and, after approximately nine months, to survey the members, member firms, listed companies and user institutions, and assess the impact of the 9:30 a.m. opening on the business of these groups, the competitive posture of the Exchange and the desirability of continuing the earlier opening, the Commission believes it is appropriate for the NYSE to have concluded that such a test is a necessary competitive response to emerging market developments. In the event the NYSE determines that, on balance, the extension of trading hours was harmful to the NYSE market, the Commission expects that it would take prompt action to rectify the situation.

Accordingly, the Commission finds that the proposed rule changes to move to a 9:30 a.m. opening and modify NYSE rules to reflect that change are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Sections 6 and 11A and the rules and the regulations thereunder.

The Commission finds good cause for approving the proposed rule change contained in File No. SR-NYSE-85-31 (*see* note 1, *infra*) even though prior publication of notice of filing of that proposed rule changes has not been provided. The change contained in the proposal are purely technical in nature, necessary to implement the change to a 9:30 a.m. opening contained in File No. SR-NYSE-85-27, for which adequate notice and an opportunity for comment has been provided.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule changes be, and hereby are, approved.

Dated: September 27, 1985.

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 85-24209 Filed 10-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14714A; File No. 812-6102]

Application and Opportunity for Hearing; Variable Insurance Products Fund (Formerly Fidelity Cash Reserves II) and Certain Life Insurance Companies and Variable Life Insurance Separate Accounts Investing Therein; Errata

October 1, 1985.

This is to correct an error made in Investment Company Act Release No. 14714 issued September 11, 1985 (50 FR 37933). In the matter of Variable Insurance Products Fund, 82 Devonshire Street, Boston, Massachusetts 02109 (formerly Fidelity Cash Reserves II). In the above-referenced notice, the application file number read "812-6088." This number should have read "812-6102."

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-24220 Filed 10-8-85; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-8067]

Issuer Delisting; Application To Withdraw From Listing and Registration; Pearce, Urstadt, Mayer & Greer, Inc.

September 30, 1985.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw Class A Common Stock, par value $1.00 per share and 7¼ Convertible Subordinated Debentures Due 1992, of Pearce, Urstadt, Mayer & Greer, Inc. from listing and registration on the American Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

Pearce, Urstadt, Mayer & Greer, Inc. considered the fact that its security holders were not experiencing the benefits that would be derived from a truly public market for its securities due to the inactive trading of the Common Stock and Debentures. The Board of Directors further reviewed the results of the Company Stock Purchase Program through August 31, 1985 and determined that it was no longer in the Company's interest to have the Common Stock and the Debentures listed on the American Stock Exchange and registered under the Exchange Act.

Any interested person may, on or before October 10, 1985 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-24215 Filed 10-0-85; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region VIII Advisory Council Meeting; Fargo, ND

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Fargo, North Dakota, will hold a public meeting at 9:30 a.m., Wednesday, November 13, 1985, at the Federal Building, Room 451, 657 2nd Avenue North, Fargo, North Dakota, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration and others attending.

For further information write or call Richard D. Jenkins, Acting District Director, U.S. Small Business

Administration, 657 2nd Avenue North, Fargo, North Dakota 58102—(701) 237-5771, extension 5131.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 1, 1985.

[FR Doc. 85-24111 Filed 10-8-85; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2207]

Wisconsin; Declaration of Disaster Loan Area

Wood County in the State of Wisconsin constitutes a disaster loan area because of damage from tornadoes, high winds and intense rain which occurred on August 12, 1985. Applications for loans for physical damage may be filed until the close of business on December 2, 1985, and for economic injury until July 2, 1986, at the address listed below:

Disaster Area 2 Office, Small Business Administration, Richard B. Russell Federal Bldg., 75 Spring St., SW., Suite 822, Atlanta, GA 30303

or other locally announced locations.

Interest rates are:

Homeowners with credit available elsewhere—8.000%
Homeowners without credit available elsewhere—4.000%
Businesses with credit available elsewhere—8.000%
Businesses without credit available elsewhere—4.000%
Businesses (EIDL) without credit available elsewhere—4.000%
Other (non-profit organizations including charitable and religious organizations)—11.125%

The number assigned to this disaster is 220712 for physical damage and for economic injury the number is 633600.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: October 2, 1985.

Martin D. Teckler,

Acting Administrator.

[FR Doc. 85-24110 Filed 10-8-85; 8:45 am]

BILLING CODE 8025-01-M

Reporting and Recordkeeping Requirement Under OMB Review

ACTION: Notice of reporting and recordkeeping requirement submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirement to OMB for review and approval, and to public notice in the **Federal Register** That the agency has made such a submission.

DATE: Comments must be received on or before October 17, 1985. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, advise the OMB reviewer and the Agency Clearance Officer of your intent as early as possible before the comment deadline.

Copies: Copies of forms, request for clearance (S.F. 83s), supporting statements, instructions, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency clearance officer: Richard Vizachero, Small Business Administration, 1441 L St., NW., Room 200, Washington, DC 20416, Telephone: (202 653-8538

OMB reviewer: David Reed, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395-7231

Information Collections Submitted for Review

Title: Contractors' Subcontracting Program/Plan Compliance Review Report
Form No.: SBA 745, 745A
Frequency: On occasion
Description of Respondents: The forms are used to collect data for evaluating and determining large business concerns' compliance with subcontracting requirements contained in Federal contracts, pursuant to Section 8(d) of the Small Business Act as amended by Pub. L. 95-507.
Annual Responses: 7,200
Annual Burden Hours: 32,400
Type of Requests: Reinstatement

Title: Management Training Report
Form No.: SBA 888
Frequency: At the time of the training
Description of Respondents: This form is completed by the course instructor to collect information on the types of clients attending SBA Cosponsored training programs and information on the nature, content and the durations of program.
Annual Responses: 12,000
Annual Burden Hours: 1,000
Type of Request: Extension

Title: International Trade Inquiry
Form No.: SBA 1482
Frequency: On occasion
Description of Respondents: Information is collected from small businesses which have obtained financial assistance. It will be used by SBA management assistance counselors for the purpose of referring other small businesses requiring such financial assistance to SBIC able to provide it.
Annual Responses: 600
Annual Burden Hours: 300
Type of Request: New

Dated: October 2, 1985.

Cheryl Ann Robinson,

Acting Chief, Information Resources Development Section.

[FR Doc. 85-23836 Filed 10-8-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[CM-8/893]

Committee on Oceans and International Environmental and Scientific Affairs; Open Meeting

The Department of State's Advisory Committee on Oceans and Interntional Environmental and Scientific Affairs will meet at 9:00 AM on Thursday, October 24, 1985, in the Loy Henderson Conference Room, Room 1315 of the Department of State, 22nd and C Streets, NW., Washington, D.C. This meeting, with a break for lunch, is expected to end at approximately 3:30 PM.

At the meeting, responsible officials of the Department of State, and members of the Advisory Committee, will discuss the following subjects:

—The OECD Report on Safety and Regulation of Biotechnology,
—The Non-proliferation Treaty Review Conference,
—The London Dumping Convention Meeting,
—The Early Warning Systems for Famine,
—The U.S. Role in Multinational Intergovernmental Science Institutions,
—The OES Role in Bilateral S&T Agreements and,
—Oceans and Fisheries Matters: High Seas Salmon Interceptions, Straight Baseline Delimitations Practice, Law of the Sea, GIFA Allocations, Oceans Boundary in Canada, the Status of Fisheries in the Gulf of Maine, Sanctions against Japan on Whaling.

While this meeting is to be open to the public, access to the Department of State building is controlled. All attendees must use the "C" Street entrance. Entry will be facilitated if

arrangements are made in advance of the meeting. Members of the public will be admitted to the limits of the meeting room's seating capacity and will be given the opportunity to participate in the discussions according to the instructions of the Chairman. It is therefore suggested that prior to the meeting persons who wish further information or who plan to attend should telephone Mr. Carl Clement or Ms. Dolores Fitch, of the Office of Science and Technology Support of the Department of State's Bureau of Oceans and International Environmental and Scientific Affairs. They may be reached by telephone on (202) 632–2764.

Dated: October 1, 1985.

John Negroponte,

Assistant Secretary, Bureau of Oceans and International Environmental and Scientific Affairs.

[FR Doc. 85–24179 Filed 10–8–84; 8:45 am]

BILLING CODE 4710–09–M

[CM–8/894]

Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group C of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on October 25, 1985 at 9:30 a.m. in Conference Room 921, AT&T Building, 1120 20th Street, NW., Washington, DC.

This meeting is in preparation for a Working Party on Study Group 15, fiber optics.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Requests for further information should be directed to Mr. Earl Barbely, Department of State, Washington, DC; telephone (202) 632–5832.

Dated: September 23, 1985.

Earl S. Barbely,

Acting Director, Office of Technical Standards and Development.

[FR Doc. 85–24180 Filed 10–8–85; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Minority Business Resource Center Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held November 8, 1985, at 10:00 a.m., at the Peachtree 25th Building, 1718 Peachtree Road, NW., Conference Room 162, Atlanta, Georgia 30309. The agenda for the meeting is as follows:

—Review of U.S. DOT Maritime Initiative
—Women Business Enterpises in Transportation
—State Transportation Initiatives and MBE Activities
—The Role of Minority/Women Trade Associations as Transportation Opportunity Advocates

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Betty D. Chandler, Minority Business Resource Center, 400 7th Street, SW, Washington, DC 20590, telephone (202) 426–2852. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on October 4, 1985.

Amparo B. Bouchey,

Director, Office of Small and Disadvantaged Business Utilization.

[FR Doc. 85–24227 Filed 10–8–85; 8:45 am]

BILLING CODE 4910–62–M

[Notice 85–13A]

Senior Executive Service Performance Review Boards (PRB); Addition of Members

AGENCY: Department of Transportation (DOT).

ACTION: Addition of Members to Performance Review Board (PRB).

SUMMARY: Notice is hereby given of the names of additional members to the Federal Aviation Administration (FAA) PRB.[1]

FOR FURTHER INFORMATION CONTACT: Diana L. Zeidel, Director, Office of Personnel and Training, and Executive Secretary, DOT Executive Resources Board. (202) 426–4088.

[1] Federal Register/Vol. 50, No. 189 (39797), September 30, 1985

SUPPLEMENTARY INFORMATION: The following persons are added to the FAA–PRB:

Anthony J. Broderick, Associate Administrator for Aviation Standards
Walter S. Luffsey, Associate Administrator for Air Traffic

Issued in Washington, DC, on October 3, 1985.

Diana L. Zeidel,

Director of Personnel.

[FR Doc. 85–24226 Filed 10–8–85; 8:45 am]

BILLING CODE 4910–62–M

Research and Special Programs Administration

DOT Cylinders Used for Equipment and Vehicle Fuel Systems; Cylinders—85—5

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

ACTION: Notice.

SUMMARY: Cylinders manufactured in accordance with DOT regulations and exemptions are being used for compressed natural gas (CNG) fuel system installations. When installed in vehicles and equipment these cylinders may be subjected to conditions for which they were not designed and to more adverse operating conditions than encountered in normal transportation in commerce. The purpose of this notice is to inform CNG system manufacturers, fillers, installers, and DOT cylinder manufacturers of conditions that may affect the safe use of DOT cylinders in CNG fuel systems.

FOR FURTHER INFORMATION CONTACT: Arthur Mallen, Office of Hazardous Materials Transportation, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590, (202) 755–4906.

Additional Information: Vehicles powered by compressed natural gas (CNG) have become more popular over the last few years. With this increased popularity has come an awareness of factors that may cause safety problems with DOT cylinders when used as components of CNG fuel systems in motor vehicles. While this notice deals specifically with DOT cylinders used as fuel containers for motor vehicles, it is equally applicable to other non-transportation uses of DOT cylinders in CNG service. When used in CNG service other than transportation in commerce, DOT cylinders are likely to be exposed to environmental and operating conditions that may cause abnormal cylinder deterioration, and

enhance the potential for cylinder rupture under fire conditions.

The DOT cylinders known to be used as part of CNG fuel systems are specification DOT-3AA cylinders, as well as fiberglass reinforced plastic (FRP) cylinders authorized under exemptions. Service pressures (maximum filling pressure at 70°F.) range from 3000 psig to 4500 psig. The exemption cylinders are hoop (circumferentially) wrapped FRP cylinders with seamless steel or seamless aluminum cylinder liners.

Cylinders that are marked and certified to DOT specifications are represented as being authorized for transportation of hazardous materials in commerce and fall under the jurisdiction of Hazardous Materials Transportation Act (HMTA) (see 49 USC 1804(c)). In addition, such cylinders must be periodically retested and reinspected as prescribed in the Department's Hazardous Materials Regulations (See 49 CFR 173.34). Cylinders permanently installed in vehicles to store motor fuel may not longer fall within the jurisdiction of the HMTA and the hazardous materials regulations promulgated thereunder. However, to assure safety it is important that such cylinders in non-transportation service be retested and reinspected at a frequency suited to the severity of the service conditions, in order to assure continued cylinder integrity.

A major safety concern with the use of high pressure cylinders in CNG service is stress corrosion cracking and/or hydrogen embrittlement also called "hydrogen-assisted cracking" and "sulfide stress cracking". This phenomenon, caused primarily by contaminants in the CNG, including hydrogen sulfide (H_2S) and water vapor (H_2O), can cause cylinder failure. Since the composition of CNG varies, and there is no industry standard restriction contaminants in CNG used as fuel, there is an increased possibility that harmful amounts on H_2S and H_2O will be present in these high pressure cylinders. Also, the high filing pressures used (up to 4500 psig) significantly increase the potential for stress corrosion caused by contaminants.

In at least four respects, cylinders used in fuel systems are likely to be subject to more severe conditions that those used in commercial shipments:

(1) The CNG is likely to have more contaminants, and is contained at higher pressures.

(2) The cylinders are often mounted horizontally and any condensation or other contaminants settle on the sidewall which is the most highly stressed part of the cylinder.

(3) The cylinders are subjected to far more pressure cycles due to frequent filing and may not receive a visual inspection as a part of the filling procedure.

(4) Damage potential from abraision and corrosion at the mounting brackets may be present in fuel system cylinders but is not normally a factor with commercial cylinders. In addition, certain mounting locations expose cylinders to severe external corrosion from such elements as moisture and road salt.

In view of the above, and the fact that these cylinders cannot be inspected at each filling as required in 49 CFR 173.34(a), the MTB is of the opinion that appropriate retest and reinspection intervals should be established by cylinder manufacturers and equipment installers after careful monitoring of in-service cylinders, but in no case should this retest and reinspection interval exceed 3 years. Such retests and reinspections should be performed on a cylinder after it has been removed from the fuel system, in conformance with all retest and reinspection requirements prescribed in 49 CFR 172.34(e) for DOT-3AA cylinders. In addition, any cylinder made from material that may be subject to stress corrosion cracking should be examined for this type of defect and removed from service if any evidence of cracking is present.

An additional concern is the adequacy of the pressure relieving system. The pressure relief device requirements for DOT specification and exemption cylinders are contained in 49 CFR 173.34(d). These requirements provide a relief device system capable of preventing rupture of the normally charged cylinder under fire conditions. However, a relief device system based on these requirements may not be adequate to prevent rupture of a partially charged cylinder under fire conditions, because of the longer period of time required for pressure to increase to the level needed to activate the relief device. This longer exposure to fire could weaken the cylinder and cause failure prior to functioning of the relief device. For this reason, MTB believes that any DOT cylinder normally used in a partially filled condition should be equipped with pressure relief devices proven by test to function properly to prevent rupture of the cylinder under fire conditions at all pressure levels that may be encountered in service.

In view of the risk associated with the contaminents in CNG Fuel, partially filled cylinders in a fire, and the additional adverse conditions to which these cylinders may be subjected, MTB cannot assure the adequacy of DOT specification or exemption cylinders for CNG fuel system use. MTB believes that additional precautions addressing fuel quality, equipment design, and operational procedures are necessary to assure the safety of DOT authorized cylinders when used in CNG motor fuel systems.

Accordingly, with respect to cylinders manufactured and marked according to DOT specifications and exemptions, but not otherwise subject to the Department's Hazardous Materials Regulations, MTB recommends the following:

(1) Manufacturers of CNG fuel systems determine and mark equipment with limits on gas quality suitable for safe use, and CNG fuel suppliers should test and specify the quality of gas supplied in conformance therewith.

(2) Manufacturers of CNG fuel systems should determine that cylinders they supply will not rupture when exposed to fire, regardless of fill condition.

(3) Manufacturers of CNG fuel systems should provide operators of CNG equipment systematic and suitable inspection and retest criteria and operators of CNG fuel systems should follow manufacturers recommendations for fuel quality, inspections and retesting.

Issued in Washington, DC, on October 3, 1985.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 85-24142 Filed 10-8-85; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

[Dept. Circ. 570, 1985 Rev., Supp. No. 3]

Surety Companies Acceptable on Federal Bonds; International Business & Mercantile Reassurance Company

A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 9304 to 9308 Title 31 of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1985 Revision, on page 27120 to reflect this addition:

International Business & Mercantile Reassurance Company. Business Address: 307 North Michigan Ave., Chicago, IL 60601. Underwriting Limitation [b]: *$1,408,000.* Surety licenses [c]: All except CT, DC, FL, GU, HI, KY, ME, MD, MA, NH, PR, RI, VI. Incorporated in: Illinois Federal Process Agents .

Certificates of Authority expire on June 30 each year, unless revoked. The certificates are subject to subsequent annual renewal as long as the companies remain qualifed (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to Underwriting Limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, DC 20226.

Dated: October 2, 1985.

W.E. Douglas,

Commissioner, Financial Management Service.

[FR Doc. 85-24181 Filed 10-8-85; 8:45 am]

BILLING CODE 4810-35-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 196
Wednesday, October 9, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

COMSUMER PRODUCT SAFETY COMMISSION

REVISED AGENDA*

TIME AND DATE: 9:00 a.m., Thursday, October 10, 1985.

LOCATION: Third Floor Hearing Room, 1111—18th Street, NW., Washington, DC.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: FY 87 Budget.

The Commission will continue to consider the Fiscal Year 1987 Budget.

*Agenda revised 10/4/85 by deleting previous items 1 and 2 concerning methylene chloride and upholstered furniture, and adding new item 1 on the FY 87 budget, which was previously scheduled for October 7.

The Commission decided that Agency business required scheduling this meeting without normal notice.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301-492-6800.

Dated: October 4, 1985. 1106Sheldon D. Butts, 1104Deputy Secretary.

[FR Doc. 85-24229 Filed 10-4-85; 4:58 pm]
1168BILLING CODE 6355-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:37 p.m. on Thursday, October 3, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Tower Bank, National Association, Hialeah Gardens (P.O. Hialeah), Florida, which was closed by the Deputy Comptroller of the Currency on Thursday, Octoer 3, 1985; (2) accept the bid for the transaction submitted by Bayshore Bank of Florida, Miami, Florida, an insured State member bank; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: October 4, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-24263 Filed 10-7-85; 1:00 pm]

BILLING CODE 6714-01-M

3

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: Friday, October 11, 1985, 3:00 p.m.

PLACE: 1776 G Street, NW., P.O. Box 37248, Washington, DC, Conference Room 8C.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Alan B. Hausman, 1776 G Street, NW., Washington, DC 20013, (202) 789-4763.

MATTERS TO BE CONSIDERED:

Closed: Minutes of August 15, 1985, Board of Directors' Meeting
Closed: President's Report
Closed: Financial Report

Date sent to Federal Register: October 7, 1985.

[FR Doc. 85-24248 Filed 10-7-85; 11:20 am]

BILLING CODE 6720-02-M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Tuesday, October 15, 1985.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 4, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-24207 Filed 10-4-85; 4:11 pm]

BILLING CODE 6210-01-M

5

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 7, 14, 21, and 28, 1985.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of October 7

Wednesday, October 9

2:00 p.m.

Meeting with Carolina Power and Light Company on Environmental Qualification Exemption Request for Brunswick Nuclear Station (Public Meeting)

Thursday, October 10

10:30 a.m.
Periodic Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) a. Limerick Motions

Week of October 14—Tentative

Thursday, October 17

11:30 a.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of October 21—Tentative

Monday, October 21

10:00 a.m.
Status of Pending Investigations (Closed—Ex. 5 & 7)
1:30 p.m.
Discussion of Exemption Requests—Environmental Qualification (Public Meeting)

Tuesday, October 22

10:00 a.m.
Discussion of Fitness for Duty (Public Meeting)
2:00 p.m.
Briefing on Status of Safety Goal Evaluation (Public Meeting)
3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Wednesday, October 23

2:00 p.m.
Discussion/Possible Vote on Full Power Operating License for River Bend (Public Meeting)

Thursday, October 24

10:00 a.m.
Meeting with Nuclear Utility Fire Protection Group (Public Meeting)

Friday, October 25

10:00 a.m.
Year End Program Review (Public Meeting)

Week of October 28—Tentative

Thursday, October 31

10:00 a.m.
Discussion of Exemption Requests—Environmental Qualification (Public Meeting)
11:30 a.m.
Affirmation Meeting (Public Meeting) (if needed)

ADDITIONAL INFORMATION: Continuation of 9/4 Discussion of Threat Level and Physical Security scheduled for October 3, *postponed.*

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado (202) 634–1410.

Dated: October 4, 1985.

Robert McOsker,

Office of the Secretary.

[FR Doc. 85–24292 Filed 10–7–85; 3:58 pm]

BILLING CODE 7590-01-M

6

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, October 17, 1985.

PLACE: Suite 410, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Mary Ann Miller (202) 634–4015.

Dated: October 7, 1985.

Earl R. Ohman, Jr.,

General Counsel.

[FR Doc. 85–24281 Filed 10–7–85; 2:5(pm]

BILLING CODE 7600-01-M

federal register

Wednesday
October 9, 1985

Part II

Environmental Protection Agency

40 CFR Part 434

Coal Mining Point Source Category; Effluent Limitations Guidelines and New Source Performance Standards; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 434

[WH-FRL-2873-2]

Coal Mining Point Source Category; Effluent Limitations Guidelines and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On October 13, 1982, EPA promulgated final effluent guidelines and standards under the Clean Water Act (CWA) to limit the discharge of pollutants into waters of the United States from the Coal Mining Industry (47 FR 45382). That rule amended the previously promulgated effluent limitations guidelines based on "best practicable control technology currently available" (BPT) and "new source performance standards" (NSPS) and established new guidelines based on "best available technology economically achievable" (BAT).

Following the October 13, 1982 promulgation, the National Coal Association (NCA), the Commonwealth of Pennsylvania, and the West Virginia Mountain Streams Monitors, Inc. (MSM) filed petitions for judicial review of the regulation in the United States Court of Appeals for the Fourth Circuit. On August 1, 1983, EPA entered into a Settlement Agreement with the above-mentioned petitioners. Under the terms of that settlement, EPA agreed to propose changes to the October 13, 1982 regulations to reflect the resolution of various issues by the settlement agreement. EPA also agreed to the suspension of several sections of the regulations pending completion of a final rulemaking.

Accordingly, EPA proposed these amendments on May 4, 1984. At the request of all parties, the court suspended portions of the October rule, pending completion of this rulemaking (*NCA, et. al.* v. *EPA* Nos. 82-1939 *et. al.*, 4th Cir., August 23, 1983).

EPA received comments from twenty-four organizations in response to the May 4, 1984 proposed amendments. The comments period closed July 6, 1984. After consideration of these comments, EPA has developed a final rule which is being promulgated today.

DATES: The effective date of these regulations is November 22, 1985. In accordance with 40 CFR Part 23, the regulations shall be considered issued for purposes of judicial review at 1:00 p.m., Eastern Time on October 23, 1985.

ADDRESS: The record of this rulemaking is available for public inspection at EPA's Public Information Reference Unit. Questions regarding this rule should be addressed to Ms. Susan de Nagy, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M. St. SW. Washington, D.C. 20460, Attention: EGD Docket Clerk, Coal Mining.

FOR FURTHER INFORMATION CONTACT: Mr. William A. Telliard or Ms. Susan de Nagy, (202) 382-7131.

SUPPLEMENTARY INFORMATION:

Organization of This Notice

I. Legal Authority

These regulations are promulgated under the authority of Sections 301, 304, 306, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 *et seq.* as amended by the Clean Water Act of 1977, Pub. L. 95-217, also called the "Act".) These regulations are also promulgated in response to the Settlement Agreement in *National Coal Association et al.* v. *EPA*, Nos. 82-1939 *et al.* (4th Cir., August 23, 1983).

II. Background

On October 13, 1982, EPA published a final rule establishing effluent limitations guidelines and standards for the coal mining industry (47 FR 45382). Following this promulgation, petitions for reviews of the rule were filed in the United States Court of Appeals for the Fourth Circuit by NCA, the Commonwealth of Pennsylvania, and MSM (*NCA et. al.* v. *Environmental Protection Agency*, Nos. 82-1939 *et al.* (4th Cir.). The petitioners raised issues concerning acid mine drainage, new source performance standards for preparation plants, the definition of new source coal mines, and post-bond release regulations. After extensive discussions, the petitioners and EPA reached a settlement under which the Agency agreed to propose specified revisions to the regulations.

On May 4, 1984, EPA proposed amendments to the October 13, 1982 regulations which incorporated agreements reached in the settlement discussions (49 FR 19240). EPA also proposed two changes which were not a part of the settlement agreement, involving: (1) Modification of NPDES permits to reflect NSPS, and (2) limitations for settleable solids during reclamation and precipitation.

The Agency received many comments in response to the proposal. For the sake of clarification, EPA has responded to all comments submitted even though several addressed portions of the October 13, 1982 final rule that were not amended in the proposal. A complete listing of the comments and EPA's responses is included in the public record in the EPA library. All of the comments relating to our proposal amendments are addressed in today's preamble.

III. Modifications to Coal Mining Point Source Category Regulation

A. Definitions

(1) Section 434(11)(j)—New Source Definition

Section 434(11)(j) of the regulations contains the definition of a new source coal mine. The first part of this definition (§ 434(11)(j)(1)(i)) defines a new source as any source the construction of which commenced after May 4, 1984, the date this regulation was proposed. The second part of this definition (§ 434(11)(j)(1)(ii)) provides that major alterations occurring at an existing mine may result in that facility being classified as a new source. The October 13, 1982 rule listed seven events to be considered in determining whether such a major alteration exists. During the settlement discussions, NCA pointed out that two of these events (the acquisition of additional land or mineral rights and significant capital investment in additional equipment or facilities) are

not indicative of major alterations at mining operations.

The Agency agrees and, pursuant to the Settlement Agreement, has revised the new source definition to delete these two events.

The definition also makes it clear that remining of an abandoned mine (defined at § 434(11)(j)(1)) triggers requirements applicable to new sources.

(2) Section 434.11(q)—Controlled Surface Mine Drainage.

EPA is today defining a new term: "controlled surface mine drainage."

After considering comments received during the public comment period and prior settlement discussions, the Agency has concluded that acid or ferruginous discharges that are pumped or siphoned from surface mining areas to treatment ponds can be controlled by the mine operator even during periods of heavy precipitation, and thus should not be eligible for the alternate rainfall limitations unless a precipitation event greater than the 10-year, 24-hour event occurs. Controlled surface mine drainage is any surface mine drainage that is pumped or siphoned from the active mining area.

(3) Section 434(11) (p)—Coal Refuse Disposal Piles

EPA is today defining another new term: "coal refuse disposal pile."

As a result of comments received during the settlement discussions and the public comment period, the Agency has determined that acid drainage from coal refuse piles should not be eligible for alternate rainfall limitations unless a sizeable rainfall event (the 1 yr. 24-hour storm event) occurs.

A coal refuse disposal pile is defined as "any coal refuse deposited on the earth and intended as permanent disposal or long-term storage (greater than 180 days) of such material, but does not include coal refuse deposited within the active mining area or coal refuse never removed from the active mining area."

B. Coal Preparation Plant New Source Performance Standards

As part of the Settlement Agreement, EPA agreed to propose revisions to NSPS for coal preparation plants. NCA contended that coal slurry ponds, which are part of the preparation plant water circuit, are not always able to achieve the zero discharge standard promulgated on October 13, 1982. In addition, coal waste impoundments, including some slurry ponds, must meet OSM requirements to drain water from the pond during design precipitation events. The revised standards would allow a discharge of pollutants with limitations on iron, manganese, suspended solids and pH. EPA is also correcting the NSPS limitations for preparation plant associated areas so that, as in the rest of the regulation, limitations on manganese would apply only to acid or ferruginous mine drainage. The alternate rainfall limitations on settleable solids and pH continue to apply to discharges from coal preparation plants and associated areas (except for acid discharges from refuse piles).

C. Alternate Precipitation Limitations

The October 13, 1982 regulation provided alternate rainfall limitations for most discharges or increases in discharges caused by precipitation.

Comments raised during settlement discussions and the public comment period indicated that those alternate rainfall limitations could, with respect to acid or ferruginous mine drainage, allow the discharge of large amounts of iron and manganese, and are not necessary in certain cases because the mine operator could control the rate of discharge even during heavy precipitation events. In response to this concern, EPA has reevaluated the alternate rainfall limitations and has now amended them as discussed below. A summary of these amendments is contained in Appendix A to the regulation.

(1) Undergound Mines—Not Commingled

As in the October 1982 regulation, discharges from underground mines that are not commingled with surface drainage are not eligible for alternate rainfall limitations.

(2) Underground Mines—Commingled

The October 13, 1982 regulation specified that where underground mine drainage is commingled with surface drainage, the alternate rainfall limitations would apply. During settlement discussions, the concern was raised that by commingling large amounts of acid underground mine drainage with small amounts of surface drainage, a facility would not have to meet limitations on TSS, iron and manganese during rainfall. The Agency believes that area runoff can be diverted from underground drainage by berms, diversion ditches, dikes and similar means, so that sudden influxes of precipitation do not immediately affect treatment facilities for underground mine drainage. In this context, state regulatory agencies and the Office of Surface Mining (OSM) under the Surface Mining Control and Reclamation Act (SMCRA) have already imposed requirements for such diversion practices in applicable regulations. Implementation of such practices in compliance with SMCRA requirements should assure that commingling is kept to a minimum.

However, if an extremely large rainfall event occurs, it may be impossible to segregate the waste streams. Accordingly, the Agency has revised the regulations to provide that acid underground mine drainage be eligible for alternate limitations if commingled with surface area drainage, but only if a precipitation event greater than the 10-year, 24-hour event occurs.

(3) Controlled Surface Mine Drainage

Much mine drainage is pumped or siphoned from surface areas to treatment facilities. During most precipitation events, the mine operator can temporarily discontinue or otherwise limit pumped discharges from the pit and divert surface runoff and shallow ground water away from the pit and treatment pond by use of diversion dikes, ditches and similar means. Thus (except for steep slope and mountaintop removal situations described below), there is no need to have alternate precipitation limitations for acid or ferruginous discharges that are pumped or siphoned from the active area of a surface mine, except when a precipitation event greater than the 10-year, 24-hour precipitation event occurs. The Agency has revised its regulations to make this change.

(4) Non-Controlled Surface Mine Drainage

SMCRA permit-issuing authorities require, to the maximum extent feasible, the minimization of non-pumped discharges within an active mining area. However, the Agency recognizes that non-controlled discharges do occur even where steep slope or mountaintop removal operations are not involved. As a result of settlement discussions, EPA has revised its regulations to provide that non-controlled acid surface mine drainage, which includes surface runoff and gravity flow drainage other than steep slope drainage described below in section (6), must meet alternate precipitation limitations on total iron, settleable solids and pH for precipitation events less than or equal to the 2-year, 24-hour event. Limitations only on settleable solids and pH would apply for events greater than a 2-yr, 24-hour event but less than or equal to a 10-yr, 24-hour event. If a precipitation event greater than the 10-year, 24-hour event occurs, only pH limitations would apply.

Of course, for discharges not directly affected by precipitation, limitations on iron, manganese, pH, and TSS must be met.

(5) Coal Refuse Disposal Piles

Pennsylvania was concerned that acid or ferruginous drainage from coal refuse disposal piles is a serious problem and should not be controlled by the same rainfall limitations that generally apply to coal preparation plant associated areas. Pennsylvania argued that by using diversion and other techniques, the amount of runoff from coal refuse piles during most precipitation events can be controlled. EPA agrees and has revised its regulations to limit the alternate rainfall exemption for drainage from such piles to situations where precipitation greater than the 1-year, 24-hour event occurs. Hence, TSS, pH, iron and manganese limitations apply during all precipitation up to and including a 1-year, 24-hour event; pH and settleable solids limitations apply for precipitation events greater than a 1-year, 24-hour event up to a 10-year, 24-hour event; and pH limitations only apply during all precipitation greater than a 10-year, 24-hour event. "Coal refuse disposal pile" is defined in § 434.11(p).

(6) Steep Slope/Mountaintop Removal Mining Operations

The Agency is not changing the alternate rainfall limitations applicable to surface coal mines in steep slope areas (as defined in section 515(d)(4) of SMCRA) or for discharges from operations involving mountaintop removal (pursuant to section 515(c) of SMCRA). In such operations, the operator may be unable during precipitation events to contain or control the drainage from the active mining area so as to meet the effluent limitations on TSS, iron and manganese.

(7) Discharges From Preparation Plants and Their Asssociated Areas (Excluding Coal Refuse Piles)

The Agency is not changing the alternate rainfall limitations applicable to preparation plants and their associated areas, except that the alternate rainfall limitations for BAT and BPT will now apply to NSPS.

(8) Discharges From Reclamation Areas

The Agency is not changing the alternate rainfall limitations applicable to reclamation areas.

If mining operations combine drainage from one or more of these eight categories, the most stringent of the applicable alternate storm limitations should apply.

D. Settleable Solids Limitations

Settleable solids is a parameter limited in coal mining discharges both during precipitation events and during reclamation. EPA's original intent was to promulgate this limit as an "instantaneous maximum" not to be exceeded.

EPA's permit regulations (40 CFR 122.2) define the term "maximum daily discharge" as the highest allowable "daily discharge". This regulation further provides that, with respect to pollutants whose limitations are expressed in terms of concentration (as is the case for settleable solids), the "daily discharge" is to be calculated as "the average measurement of the pollutant over the day".

However, EPA developed the 0.5 ml/l limitation based on data for single grab samples with the intent of developing an instantaneous maximum standard. Accordingly, we believe this limit is more appropriately presented as a value never to be exceeded rather than as an average. This is particularly true because an instantaneous maximum is a much more practical standard to apply and enforce. Thus, EPA has amended the settleable solids limitation to be a maximum not to be exceeded at any time. This amendment is not a part of the settlement agreement discussed above.

E. Section 434.65—Modification of Permits for New Sources

The preamble to the October 13, 1982 regulation stated that coal mines with permits incorporating previous new source performance standards could apply to have those permits modified according to 40 CFR 122.62(a). However, that section did not authorize the modification of permits to reflect subsequently promulgated new source performance standards. EPA generally believes that new sources should adhere to permit conditions based on the NSPS in existence when those permits were issued. However, in the case of coal mining operations that construct new treatment ponds, it seems equitable to allow those ponds to be constructed in accordance with the new performance-based new source performance standards, even if the permit contains design standards based on the previously promulgated new source performance standards. Coal mining is a transient operation, and NPDES permits often regulate discharges from treatment ponds which are constructed after permit issuance as mining progresses along a coal seam. Since the Agency has already found that the previous design standards are not always appropriate, we have added § 434.65 to allow, at the discretion of the permit writer, the modification of coal mining NPDES permits to reflect the new NSPS. Where ponds have been constructed to meet the design criteria according to permit conditions incorporating previous NSPS, the discharge should continue to meet those requirements. However, a coal mine operator who intends to construct a new pond under the requirements of the same permit may apply for a permit modification to incorporate the new performance based rainfall limitations, rather than the design criteria. The reasons for the deletion of the design criteria are discussed fully in the preamble to the October 13, 1982 regulation.

Similarly, in light of NCA's concern that coal slurry ponds cannot always achieve zero discharge, § 434.65 would also allow permit modification for coal preparation plants subject to zero discharge requirements based on the NSPS promulgated in October 1982.

F. Post-Mining Discharges

EPA's coal mining effluent limitations apply until release of the reclamation bond required by SMCRA. Today's regulation will not change that requirement. However, in response to a concern expressed by one of the petitioners, the Agency wishes to reemphasize that post-bond release discharges are subject to regulation under the Clean Water Act. If a point source discharge occurs after bond release, then it must be regulated through an NPDES permit under sections 301(a) and 402 of the Clean Water Act. If the responsible party does not obtain a permit, then it is subject to enforcement action by EPA under section 309 of the Act and by citizens under section 505(a)(1) of the Act. Appropriate case-by-case effluent limitations would be established in the NPDES permit for such a discharge.

IV. Response to Comments

A. Remining

Several commenters were concerned with effluent limitations applicable to discharges where new mining activities occur in previously mined areas. These commenters stated that the present technology-based requirements often serve as a deterrent to the remining of abandoned mine lands, since the operator must be responsible for treating an effluent which may be highly degraded due to earlier operations. Some commenters suggested that EPA should promulgate separate guidelines for the remining category.

The question of the appropriate effluent limitations for remining operations was not a subject of the May 4, 1984 proposed rulemaking, and the Agency will therefore not discuss the subject in detail in today's final rule. Generally, EPA effluent limitations guidelines and standards are applicable to point source discharges even if those discharges pre-dated the remining operation.

EPA is presently working with the Pennsylvania Department of Environmental Resources (PADER) and the Office of Surface Mining (OSM) to address the remining issue. In addition, some legislative proposals under consideration would modify the requirements of the CWA applicable to remining operations.

Another commenter suggested that remining operations should not be classified as new sources under the definition at § 434(11)(j). However, the commenter offered no reason of this assertion, and the Agency believes that the re-opening of an abandoned mine logically falls within the scope of the new source definition. Furthermore, the only difference between NSPS and BAT for coal mines is the iron limits, which are slightly more stringent for NSPS. It is true that classification as a new source subjects a facility to the requirements of the National Environmental Protection Act (NEPA) in areas where EPA is the permit-issuing authority. However, since most coal mines are located in states with approved NPDES programs, the NEPA requirements will not apply to the great majority of facilities.

B. Instantaneous Maximum Limitations for TSS, Iron, and Manganese

One commenter suggested that limits for TSS, Fe, and Mn should be instantaneous maximums instead of a 24-hour average.

The data base for the TSS, Fe, and Mn limitations are published in the 1976 Coal Mining Development Document (EPA 440/1-76/057a). Although the commenter is correct that the data base consists of a collection of both composite samples (14 sites) and grab samples (6 sites), it must be noted that the effluent guideline limitations for TSS, Fe, and Mn are based upon the composite samples.

In addition, an instantaneous maximum standard is more suited to parameters, such as settleable solids, that can be analyzed on-site. Enforcement of TSS, Fe, and Mn would not be made much easier by grab sampling because these parameters must in any case be sent off-site to laboratories for analyses.

C. Instantaneous Maximum Limitations for Settleable Solids

The settleable solids limitation, while not a subject of the above-mentioned settlement agreement, is being changed from a 24-hour average to an instantaneous maximum, for reasons discussed in Section III. D. of this preamble.

Some commenters supported the settleable solids limitation based on an instantaneous maximum because:

(1) The data base consisted of grab samples which support an instantaneous limit instead of an average.

(2) An average limit for precipitation events is unenforceable. Samplying over a 24-hour period during rain is impractical for both operator and inspector. Additionally, the opportunity for operators to take advantage of an average *measurement* limit is too great. Discharges greatly in excess of the 0.5 ml/l limit could be released at certain times and averaged with little or no discharge toward the end of a rainfall. The time and additional monitoring involved in preparing an enforceable case against an operator violating the 24-hour average would make enforcement of this standard an impossibility.

(3) Experience with sedimentation ponds shows the limits can be met.

Other commenters were opposed to the instantaneous maximum limit because:

(1) The data base consisted of grab samples randomly obtained, which did not necessarily include peak flows. Instantaneous maximum limits should be based on data obtained from peak sediment flows.

(2) An average limit is more reflective of changes in effluent quality.

(3) The limit cannot be measured either instantaneously or continuously.

(4) 0.5 ml/l is not high enough over the detection limit of 0.4 ml/l because of sampling and analytical error.

The Agency appreciates the comments submitted in favor of the 0.5 ml/l instantaneous maximum limit. EPA responds to opposing comments as follows:

(1) The Agency does not believe it necessary to obtain a data base consisting purely of samples taken during peak flow periods. As the commenter stated, peak sediment outflow occurs only 2.3% of the time during rainfall. It would be impractical for EPA to base a data collection program purely around an occurrence so infrequent and unpredictable, when basing it around rainfall events across the country is already sufficiently difficult. Furthermore, a sample program must also take compliance monitoring into account. Because the timing of peak outflows cannot be determined in advance, sample collection for purposes of such monitoring cannot be planned around this 2.3% timeframe. Rather, samples will be taken randomly, just as was the case for the purposes of developing the limit.

However, because data was taken randomly during rainfall, one can assume that peak flow concentrations were included in the data base. In fact, EPA's Office of Analysis and Evaluation performed a statistical analysis (included in the Public Docket) showing that the probability of excluding peak period samples is extremely low.

(2) EPA believes that the instantaneous maximum limit is indicative of changes in effluent quality because of the very nature of the sampling collection program used to develop this limit. Samples were taken randomly at various times throughout rainfall events and then statistically analyzed to determine a representative standard.

(3) The commenter seems to misunderstand the concept behind measuring samples taken from wastewater effluents. Under the proposed regulation, settleable solids samples should be taken via grab sample and analyzed to determine its concentration. That settleable solids level is in compliance if it is less than or equal to the 0.5 ml/l standard, which was also developed on the basis of grab samples.

(4) The procedure used to develop the method detection limit (MDL) is a highly sophisticated statistical analysis that takes into account sampling and analytical differences. Furthermore, it has been EPA's experience that 0.5 ml/l is a highly visible level to read on an Imhoff cone. Pictures of Imhoff cone settleable solids levels (included in the public record) show this to be so. Also, permit authorities currently enforcing this standard have not reported a problem in reading to this level.

D. Alternate Storm Limitations

One commenter stated that EPA's choice of the 1-yr, 24-hr storm event for coal refuse piles appeared arbitrary and unsupported by the record, and furthermore is an insignificant amount of rainfall compared with average storm events in Appalachia.

The Agency does not agree that the 1-yr, 24-hr storm is an insignificant storm event. For example, the amount of rainfall equal to a 1-yr, 24-hr event in the Applachian states (Pennsylvania, West Virginia, Virginia, Kentucky, and

Tennessee) averages 2.55 inches.[1] The average rainfall amount for the wettest month of the year (June) in this region is 4.06 inches.[2] When these two values are compared, one can see that a 1-yr, 24-hr rainfall event averages over half of the wettest month of the year, which shows that a 1-yr, 24-hr storm is indeed significant. Furthermore, requiring coal refuse piles to meet TSS and iron limits up until a 1-yr, 24-hr storm provides more environmental benefit than the previous regulation, which regulated only pH and settleable solids during any size storm.

Some commenters stated that the revised alternate storm limitations would complicate compliance and enforcement procedures.

By classifying the proposed alternate storm limits into eight specified categories, the amendment gives both the operators and the permit authority a clear understanding of which limits apply in particular situations. For example, for mining in predominantly mountainous regions, such as many eastern states, the alternate storm limits for steep slope and mountaintop removal areas would apply for all active surface mining activities. For surface mining in the midwestern states, where gently rolling slopes or flat terrain exists, alternate storm limits for controlled surface mine drainage apply to pit pumpage, while limits for noncontrolled surface mine drainage apply to general area runoff. Rarely will more than two sets of alternate storm limits apply to one mining operation.

Nevertheless, even if the new alternate storm limits do add some additional burden to either the operator or the permit authority, EPA believes that the added burden is outweighed by the increased environmental protection afforded by the revised limitations.

In addition, we note that the alternate storm limits are designed to afford relief only when necessary. Operators should endeavor to meet dry weather standards whenever possible.

One commenter suggested that although operators should be required to treat their acidic drainage, maintaining TSS limits until the 1-yr, 24-hr storm event does not provide sufficient relief for the operator.

The limitations on TSS during rainfall apply only to controlled surface mine drainage and coal refuse piles. In such cases, NCA confirmed that diversion practices should make it possible for these areas to maintain TSS limits up until the applicable size storm events.

Some commenters said that the alternate storm limitations for preparation plants and their associated areas are too lax. Suggestions for changes were:

(A) Preparation plants and their associated areas should be divided into the following two groups:

(1) Catch ponds and settling basins should be treated like the "controlled surface mine drainage", and

(2) ponds receiving surface runoff should be treated like the non-controlled drainage.

(B) Preparation plants and their associated areas should be allowed no alternate limits until a sizable rainfall event has occurred (e.g., 1.5 inches of rainfall within any 24-hr period).

(C) Preparation plants should be grouped with underground mines because the water circuit can be separated from runoff using berms, dikes and diversion ditches, and associated areas should be treated like non-controlled drainage because the drainage is the same.

EPA does not agree with these suggested changes because some preparation plants and their associated areas do not separate their settling basins. Thus two different alternate storm limits for each system would not always be appropriate. Additionally, as discussed below, slurry ponds in preparation plants cannot always meet zero discharge, especially during rainfall. This is because slurry ponds, especially in certain mountainous areas, can be so large that total runoff diversion cannot always be achieved—even for storms smaller than a 10-yr, 24-hr event. Thus, to put preparation plants under either the underground mine or controlled surface mine drainage category would be inappropriate.

Another commenter stated that underground mines are susceptible to rainwater infiltration from precipitation and therefore should be allowed the alternate storm limitations, especially where pumping from underground mines exists.

While all mine drainages ultimately result from some sort of precipitation, EPA's data base has shown that on a national basis, discharges from underground mines do not drastically increase due to precipitation. Percolation is long term and does not cause immediate overflow in sedimentation ponds. Sedimentation ponds should be sized to handle increased pumping rates. However, if an underground mine is close enough to the surface so that a discharge is immediately affected by percolation due to precipitation, the facility may apply for EPA's "fundamentally different factors" variance.

Two commenters said that the Agency had not considered operating conditions at Midwest surface mines, where pits are very large and collect large amounts of rainwater. These commenters stated that continuous pumping is often necessary to control flooding in a pit, and that alternate storm limitations should be afforded in these situations.

The National Coal Association, which represents coal companies from all over the United States, including the Midwest, agreed with EPA that pumping from pits, wherever located, could be controlled to the extent that alternate storm limitations would not be necessary. Runoff from around the pits can be diverted such that the only water coming into the pits is that which falls directly into it. (This should be standard practice where acidic water is formed in pits and alkaline runoff exists elsewhere.) This amount should not be unmanageable for an operation which has designed an effective treatment facility.

Another commenter suggested that controlled drainage which is diverted through (i.e., commingled with) existing surface drainage control structures should be allowed alternate storm limitations in order to meet costs and eliminate the necessity for building additional ponds.

As stated in the preamble to the May 4, 1984 proposal, the Agency believes that limitations for commingled discharges from different alternate storm limit categories should be those that are the most stringent. Any other approach would allow streams of greater environmental concern to be regulated less stringently as a result of commingling. In addition, the costs to meet the more stringent alternate storm limits are still less than the costs incurred by the previous requirement to construct and maintain a 10-year, 24-hour pond.

One commenter stated that iron and manganese should be limited for non-controlled surface drainage, coal refuse piles, and steep slope and mountaintop removal areas up until a 2-yr., 24-hour storm, since these effluents are similar and so is the required treatment.

Although treatment for discharges from the alternate storm limit categories is generally the same, the effluents may vary in pollutant loadings. In addition, significant variations exist in collection of the drainages for treatment and their susceptibility to run-off from precipitation. For example, mining operations in steep slope and

[1] Climatic Atlas of the U.S., U.S. Dept. of Commerce, 1979.

[2] Rainfall Frequency Atlas of the U.S., Technical Paper No. 40, U.S. Dept. of Commerce, 1961.

mountaintop removal areas have difficulty controlling run-off because of topography. Allowing alternate storm limits only upon the occurrence of a 2-yr., 24-hr. (or greater) storm would not provide sufficient relief to such operators. On the other hand, drainage from coal refuse piles can be diverted more easily and often contains higher pollutant loadings than drainage from other areas. Therefore, more stringent alternate storm limits are appropriate for refuse piles. Other surface runoff and gravity feed situations classified as "noncontrolled surface mine drainage" generally occur in gently rolling or flat terrain where runoff can be better controlled to a certain extent. Hence the enforcement of iron limits up until a 2-yr, 24-hr event.

Two commenters stated that EPA failed to clarify in the regulation that the 0.5 ml/l settleable solids limit is an instantaneous maximum not to be exceeded rather than an average. They also suggested that the regulation should include a discussion of the relationship between an instantaneous measurement and the language in 40 CFR 122.3.

EPA believes that the regulation is clear in specifying that the 0.5 ml/l settleable solids measurement is an instantaneous maximum value not to be exceeded: the 0.5 ml/l standard is included in the regulation under the new title of "maximum not to be exceeded" instead of the term "maximum for any one day" previously published in the October 1982 rule (see § 434.63). EPA believes that this change, together with the explanatory language in the May 4, 1984 **Federal Register** preamble, adequately clarifies the meaning of the standard.

Regarding the new standard's relationship to EPA's permit regulations at 40 CFR 122.3, this is also discussed in that same preamble and EPA does not believe it necessary to include it in the regulation.

However, as was pointed out by the commenters, the 0.5 ml/l standard appeared under two slightly different titles: (1) "Maximum at all times", and (2) "maximum not to be exceeded". For the sake of clarity, EPA is changing the title "maximum at all times" to "maximum not to be exceeded" wherever it appears in this rule.

One commenter said that limits for controlled surface mine drainage should apply to steep slope pits, since this drainage can also be controlled during precipitation events.

The Agency does not agree with this assertion. Runoff in steep slope areas is much more difficult to control than in areas where terrain is relatively flat. The flow of water to a pond is much faster because of the steep slopes. Because of the increased and sudden influx of water to a pond, greater turbulence and mixing of pollutants occurs, making effluent limits more difficult to meet. In flat terrain, runoff from nondisturbed areas can be diverted from pits so that the rainwater collected in the pits is largely that which falls directly on top of it. Thus, the amounts of rainwater being pumped out of the pit can be more easily controlled.

In steep slope areas, pumping from the pits is still possible (although there is often gravity drainage instead), but controlling the runoff going into the pits from precipitation is much more difficult. This is because run-off has a higher velocity due to the steepness of the terrain, as well as a higher volume due to less permeation to the soil. Thus, alternate storm limits have been afforded this category.

Another commenter suggested that drainage from mountaintop, steep slope, non-steep slopes, preparation plant associated areas and refuse piles should all fall under the non-controlled surface mine drainage category because differences among discharges from these operations are not sufficient to warrant different limits.

EPA does not agree with this suggestion. Non-controlled surface mine drainage differs from steep slope and mountaintop removal areas because of the terrain involved. In steep slope areas, runoff is more difficult to control and thus is afforded alternate storm limits if needed when a discharge is caused by any size storm. Non-controlled runoff, i.e. surface runoff or gravity flows in flatter terrain, can be influenced to a greater extent. For this reason, iron discharges in such runoff are controlled up until and including a 2-yr, 24-hr event. Refuse piles not associated with the active mining area can be a greater pollutant problem than area runoff because rainwater comes in direct contact with spoil material. Thus the more stringent alternate limits for this category. These are the differences among the drainage categories which EPA believes warrant different alternate storm limitations.

Another commenter said that TSS should not be limited for coal refuse piles for any size precipitation event (even for one less than a 1-yr, 24-hr storm) because concentrations from a 1-yr, 24-hr storm pond designed to meet the 0.5 m1/1 settleable solids standard would not meet the TSS limits according to the Sedimont II Model (a computer model used to simulate pond performance).

It was not the Agency's intent to suggest that operators design their ponds according to the applicable size storm. The operator should, through whatever means available (whether it be a model such as Sedimont II or other design methods), design a pond to ensure that these limits will be met. Thus, if TSS cannot be met for a 1-yr, 24-hr storm with a 1-yr, 24-hr storm pond, (which is a very small pond), then a bigger pond must be built. In any event, the BAT effluent limitations are based on a 10-yr, 24-hr pond.

One commenter said that the new alternate storm limitations will have no greater effect on water quality improvement than those promulgated in the October rule. However, the commenter provided no data to support this statement.

The Agency believes that the generally more stringent alternate storm limitations for acid mine drainage will help ensure that metals and TSS are controlled to a greater extent and will decrease pollutant loadings in the receiving stream. We also note that the Clean Water Act requires use of the best available technology, regardless of the water quality of the receiving stream.

Another commenter requested that EPA issue guidance concerning time frames and monitoring for the alternate storm limitations.

EPA agrees with this suggestion and plans to hold workshops for permit writers on setting limits for the alternate storm categories and on enforcing these limits. Following these workshops, we will develop a final guidance package for issuance to the EPA regions and States.

One commenter said that the difference between a 1-yr, 24-hr storm and a 2-yr, 24-hr storm can be so minimal that one or the other should be used but not both.

The difference between a 1-yr, and 2-yr 24-hr storm is not necessarily insignificant. On the average across the U.S., there is 0.5" difference between these two size storms.[3] This, in large drainage areas, may result in enough runoff to raise the level of water in a pond one foot or more.[4]

One commenter suggested that rainfall amount should not be the only variable characterizing a precipitation event. Precipitation and runoff duration and intensities should be included also.

EPA believes that regulations with different criteria for different storm durations and intensities would make

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[3] *Rainfall Frequency Atlas of the U.S.*, Technical Paper No. 40, Department of Commerce, 1961.

[4] January, 1985 conversation with an Emergency Warning Meteorologist at the National Weather Service.

enforcement and compliance monitoring an impossiblity. Furthermore, runoff intensities are not only a function of the weather, but of the drainage area as well. Thus, runoff intensities should be considered when designing a treatment facility but not when developing effluent limitations.

Therefore, if the amount of rainfall for a 10-yr storm occurs over a shorter period than 24 hours (thus being more intense), the same alternate storm limits still apply.

E. Coal Refuse Disposal Piles

Two commenters stated that the alternate storm limits for coal refuse piles should apply to all refuse piles regardless of where they are located.

The specific alternate storm limits for coal refuse piles were developed because coal refuse piles not located on an active mining site (i.e. associated with a preparation plant) can cause more severe pollution problems. This is because refuse from a mining site (usually called spoil) consists mainly of unuseable materials such as rocks, clay, and overburden. Refuse associated with coal processing consists of unusable coal fines and other impurities that were separated from the coal during processing. The latter kind of refuse presents special problems of combustibility and toxicity when disposed of in a fill or pile. Overburden materials when removed do not generally present such problems.[5] Thus the pollution potential of the waste, rather than its location, dictated EPA's definition.

Two other commenters said that where coal refuse disposal is associated with a coal preparation plant that is independent of any permitted underground mine site, the disposal area would be considered a "preparation plant associated area" and be exempt from requirements.

Coal refuse disposal piles are defined in this rule as those created from refuse associated with a coal preparation plant. While the refuse pile may be located on a preparation plant asssociated area, regulations for the refuse pile are separate from those for the associated areas. The regulations for the refuse pile are listed in Appendix A under "Discharge from Coal Refuse Disposal Piles". Whether a preparation plant associated area is independent of an underground mine site is irrelevant.

One commenter stated that discharges of TSS from refuse piles cannot always be controlled during flash floods, and that settleable solids instead of TSS should therefore be controlled for anything less than or equal a 1-yr, 24-hr storm.

As stated in the preamble to the May 4, 1984 rule, diversion and other runoff control techniques can be used to control runoff from coal refuse piles during most precipitation events. In fact, OSM's 1983 *Engineering and Design Manual for Refuse Disposal* suggests that runoff around a pile should be diverted to:

- Reduce size and cost of a sediment basin used to treat wastewater downstream of the pile,
- Prevent saturation.
- Maintain stability, and
- Reduce erosion of the pile.

EPA believes that with proper hydraulic control, treatment, and system design, the control of TSS for any storm less than a 1-yr, 24-hr event should be achievable.

Another commenter said that TSS limits as well as iron and manganese should be regulated up to a 10-yr, 24-hr event for coal refuse piles, because OSM requires that all drainage from refuse piles be controlled to properly and safely divert drainage from a 100-yr, 6-hr event.

The Agency agrees that drainage from around a refuse pile should be diverted. However, many refuse piles can collect large amounts of rainfall that fall directly on the pile. That rainfall, as it percolates through the pile, eventually enters a treatment facility via a drainage system built into the pile.

This water can pick up enough TSS and iron while in contact with the refuse to make alternate storm limits necessary for storms greater than a 1-yr, 24-hr event.

Also, one commenter suggested that the proposed definition of coal refuse pile would allow coal refuse to be deposited on an active strip bench where less stringent limits for steep slopes would apply.

This situation could in fact occur. However, EPA does not believe that it will occur very often for the following reasons:

- Preparation plants are not always located near enough to a mine site to make disposal of preparation plant waste on a mine site feasible.
- Preparation plants are not always located in steep slope areas.
- Regardless of the location of a refuse pile, SMCRA regulations require diversion on and around all refuse piles. Diversion is practiced both to reduce the amount of contaminated water to treat, and to maintain stability of the refuse pile.

F. Iron Limitations

Several commenters pointed out that with the more complex and stringent effluent limitations for acid or ferruginous mine drainage, the method of measuring pollutant levels becomes more important. For total iron analysis, the sample preservation requirement is to dissolve all forms of iron. The measurement therefore counts both inert (iron adjoined to the fine clay silt particles which do not react) and reactive iron (dissolved or ferrous). Thus, the commenters assert that the chances are that a sediment-bearing influent (even with a pH >6) would have a total iron concentration greater than or equal to 10 mg/l. The commenters suggested that the Agency distinguish between benign and evironmentally harmful iron particles by modifying its definition of acid or ferruginous mine drainage to refer to dissolved rather than total iron. Alternatively, they suggested that the definition of "acid or ferruginous mine drainage" should be clarified to exclude raw alkaline drainage that has iron concentrations of greater than 10 mg/l.

EPA has found the existence of alkaline yet ferruginous coal mine wastewaters to be minimal in the United States.[6] Nevertheless, this type of discharge can occur, and the Agency is concerned that iron in alkaline discharges, even if contained in an undissolved form, can cause a yellowboy problem downstream if not controlled.[7]

Two commenters asked EPA to justify the more stringent total iron concentration limitations for new source coal mines.

As stated in the regulation published in the **Federal Register** on October 13, 1982, the more stringent NSPS iron limits reflect those promulgated January 12, 1979 (44 FR 2586). The limit of 3.0 mg/l 30-day average and 6.0 mg/l daily maximum reflect the new source data base for the regulation. The limits of 3.5 mg/l 30-day average and 7.0 mg/l daily maximum reflect the existing source data base developed for the BPT regulations (and later transferred to the BAT regulations) of April 1977 (FR 21380).

One commenter suggested that the same iron limits should be imposed on

[5] Draft Surface Coal Mining and Reclamation Operations, Permanent Regulatory Program; Coal Mine Waste, July 25, 1983.

[6] Telephone Survey of Eleven States and Region VIII Regarding Definition of "Acid or Ferruginous Mine Drainage" (memorandum from Allison Phillips to the File.)

[7] Yellowboy is define in the October, 1982 Coal Mining Development Document as "salt of iron and sulfate formed by treating acid mine drainage (AMD) with lime; $FeSO_4$."

alkaline as well as acid discharges because there is no real difference in treatment methods.

The treatment methods used to treat acid and alkaline wastewaters can be very different. Generally, alkaline wastewaters are treated by neutralization and settling, while acid wastewaters require neutralization, followed by aeration and settling. The difference in treatment methods reflects the difference in wastewater characteristics (alkaline wastewaters by definition are low in iron and high in pH) which created concern over environmental effects during precipitation. During precipitation, wastewater treatment may not be as effective due to heavy and sometimes uncontrollable loads of influent wastewaters. The alternate storm limits for acid wastewaters were in many cases made more stringent because of concern that iron from these discharges needed to be and could be controlled to a greater extent during rain.

Two commenters stated that in view of the new alternate storm limits for acid mine drainage, it was critical to determine the meaning of "treatment" in the definition of acid mine drainage as listed in the regulation. The concern is that if "treatment" includes sedimentation ponds, then all coal mine drainage could be classified as acid.

As defined in the regulations, the terms "treatment facility" and "treatment system" mean all structures which contain, convey, and as necessary, chemically or physically treat coal mine drainage and which remove pollutants limited by this regulation. This includes all pipes, channels, *ponds* and all other wastewater treatment equipment. Sedimentation ponds even for alkaline wastewaters are considered by EPA to be a treatment method because they physically remove suspended solids and metals. EPA has not found that alkaline wastewaters which are high in iron content occur frequently in the U.S. However, if the raw alkaline wastewater (as it exists prior to treatment, including sedimentation) has an iron content above 10 mg/l it should be classified as acidic or ferruginous and be regulated as such.

G. Definitions

One commenter said that the terms "active mining area", "coal preparation plant associated areas", and "coal refuse piles" appeared to overlap in scope, and that EPA should define a refuse pile as disposal above natural surface contours.

The term coal refuse disposal pile as used in this rule generally refers to refuse associated with preparation plants. And while such a refuse pile might be located on a preparation plant associated area, wastewaters from each source can be segregated. Thus, there are different alternate storm limits for each. A coal refuse pile as defined in this regulation does not include refuse (usually spoil consisting of rock and clay disposed of during actual mining) of an active mining area. The definition of active mining area excludes preparation plants and their associated areas.

In addition, refuse piles may often be placed on old inclines from previously mined sites, which might not be considered "disposal above natural surface contours".

Another commenter stated that the definition of a coal refuse pile should be revised because the proposed definition would allow coal refuse to be deposited anywhere for 179 days without being subject to the more stringent alternate storm limits that apply to coal refuse piles.

EPA does not believe it likely that operators will dispose of refuse in temporary sites, because the planning, construction and costs for preparation plant waste disposal are far too expensive for operators to deposit wastes temporarily.

One commenter requested clarification on whether coal refuse piles included slurry impoundments as well as dry refuse.

Coal refuse disposal pile, as defined in EPA's regulation, is intended to cover dry refuse from a preparation plant. Slurry impoundments are considered part of a preparation plant's water circuit and thus are regulated under limitations for coal preparation plants.

With respect to the new source definition, one commenter expressed confusion about the proper date for classification of a new source, since NSPS have been proposed and promulgated several times.

In general, NSPS in the coal mining category apply to facilities constructed after the date the standards were *proposed*. See *Pennsylvania Environmental Coalition* v. *Costle, 14* ERC *1545* (3d Cir. 1980). Therefore any facility constructed after September 19, 1977 (the date of the first NSPS proposal for coal mines) is a new source rather than an existing source and must meet the NSPS reflected in its permit. The appropriate NSPS for facilities constructed at various times are as follows:

(1) Constructed between September 19, 1977 and May 29, 1981: must meet the NSPS proposed on September 19, 1977 and promulgated on August 13, 1979.

(2) Constructed between May 29, 1981, and May 4, 1984: Must meet NSPS proposed on May 29, 1981 and promulgated on October 13, 1982.

(3) Constructed after May 4, 1984: Must meet NSPS promulgated in today's rule.

(4) Facility which should have been classified as a new source, but has never received an NPDES permit: Such a facility is subject to NSPS depending on the date of construction, as discussed above.

The same commenter requested clarification about the distinction between a new source coal mine and a "new discharger".

The NPDES regulations at § 122.2 provide that a "new discharger" is a facility that commenced discharging after August 13, 1979, is not a new source, and has never received a finally effective NPDES permit. Since any coal facility which commenced discharging after August 13, 1979 would be a new source (for the reasons discussed above) there are no "new discharger" coal mines.

Several commenters pointed out the discrepancy between the preamble and the regulation concerning the date for a new source coal mine determination.

We have corrected the regulation to reflect the preamble language. A new source coal mine for purposes of compliance with the NSPS promulgated in today's rule is a coal mine, the construction of which is commenced after the date of proposal which is May 4, 1984. As stated in the preamble, operations which were considered "new sources" under previous regulations do not lose that status. However, they may apply to have their permits modified to reflect the new NSPS.

One commenter asked whether the term "acid mine drainage" as defined in § 434.11 means the same as "acid or ferruginous mine drainage".

The commenter's assumption is correct. For the sake of clarity, wherever "acid mine drainage" was used in the proposal, "acid or ferruginous mine drainage" has been substituted in the final rule.

Another commenter requested that we clarify the term "dry weather flow".

Dry weather flow is the normal "base flow" coming from an area or treatment facility which is not immediately affected by runoff caused by rainfall. This flow is a result of groundwater interference or a build-up of rainwater over a long period of time. Alternate limitations apply when this dry weather flow increases due to a precipitation event and continues until the flow again returns to the dry weather rate, which is

generally no more than 24 hours after the rain stops.

H. Post-Mining Discharges

One commenter suggested that the Agency undertake a study of post-mining discharges to establish technology-based effluent guidelines for this category.

Post-mining regulations which apply prior to the SMCRA bond release are included in EPA's effluent limitations. EPA initiated a study on post-bond release discharges to ascertain the need for post-bond release regulations.[6] This study was not completed because there are not enough reclaimed mines that have obtained bond release under the current SMCRA regulations to conduct a water discharge characterization sampling program. What data EPA has reviewed does not indicate a problem warranting the promulgation of nationally applicable regulations.

These results, coupled with the fact that the release of bond by SMCRA authorities signifies their determination that post-mining pollution problems are abated and can be reasonably expected not to recur, indicate that a need for nationally applicable regulations for discharges after bond release currently does not exist. However, any point source discharge after bond release does require a permit, the limits for which will be established by the permit writer on a case-by-case basis.

Another commenter suggested that post-bond release discharges should not be required to have an NPDES permit if influent to an impoundment meets effluent or background water quality.

All point source dischargers are required by law to have an NPDES permit. Limits set forth in an NPDES permit in the absence of EPA effluent limitations must still be based on the Best Available Technology Economically Achievable (or, for conventional pollutants, best conventional control technology (BCT)), plus any limitations needed to meet state water quality standards. In the absence of nationally applicable effluent limitations guidelines and standards, these limitations are set according to the permit authority's Best Professional Judgment (BPJ). There are no exceptions in the Clean Water Act from these requirements based on the quality of the influent.

One commenter asked EPA to clarify that SMCRA regulatory authorities need not necessarily take EPA effluent limits into account when deciding whether to release a SMCRA bond.

Permits issued under SMCRA are required to include the effluent limitations and standards promulgated by EPA. See 30 CFR 816.42, 817.42. OSM regulations preclude the release of the reclamation bond until all permit requirements are met. See 30 CFR 800.13, 800.40(c).

I. New Source Permit Modification

One commenter asked EPA to clarify that applying to have an NPDES permit modified according to new NSPS is at the option of the operator.

EPA believes that § 434.65 clearly indicates that application for a permit modification is optional because it states that "any coal mine or coal preparation . . . may . . . apply to have its NPDES permit. . .".

J. New Source Preparation Plants and Associated Areas

Several comments were received in favor of removal of the zero discharge requirement for new source preparation plants. The commenters cited the following reasons:

- Slurry ponds (being part of the preparation plant's water circuit) cannot always meet zero discharge, especially during rainfall.
- The zero discharge requirement would conflict with OSM requirements that coal waste impoundments, including some slurry ponds, be drained of water from the ponds during precipitation events.
- Total recycle cannot be achieved because the quality of the recycled water deterioriates and must be regularly discharged to prevent the build-up of solids which would cause scaling of pipes and plugging of nozzles.

EPA appreciates the support for this amendment. We note, however, that State permitting authorities have the authority to require more stringent limitations (including zero discharge) on a case-by-case basis if necessary to meet state water quality standards.

Several other commenters supported removal of the manganese limitation for new source coal preparation plant associated areas.

K. Major Alterations

One commenter requested that EPA clarify whether an alkaline discharge which later becomes acidic would classify the mining operation as a new source.

This occurrence is not specifically listed in factors A–D of the major alteration definition. However, the permitting authority has the discretion to decide if such a change in pollutant loading warrants a new source determination.

Another commenter asked whether, if a major alteration has taken place, the entire mining operation becomes a new source or only the new stream created by the major alteration. Only the new outfall would be subject to NSPS. We note that the only difference between BAT and NSPS is a slightly more stringent NSPS for iron.

L. Commingling

One commenter asked which limitations would apply to commingled acid and alkaline drainage that combined become alkaline.

Where discharges are commingled, the most stringent limitations applicable to the drainages prior to commingling should apply.

Another commenter stated that the removal of alternate limitations for underground discharges commingled with surface mine discharges will cause the operator to suffer an unnecessary economic hardship because additional sediment ponds will be required.

State regulatory agencies and the Office of Surface Mining have imposed design requirements to divert sudden influxes of precipitation to facilities treating underground mine drainages. Because diversion practices are already required by SMCRA, EPA does not believe that the alternate storm limits, which could require additional diversion systems to avoid commingling, will add significant additional costs. Operators still may combine wastewaters, although relief would not be afforded until a 10-yr, 24-hr precipitation event occurs. However, good mining practice would not combine acidic wastewaters with less contaminated runoff.

V. Impacts

A. Alternate Precipitation Limitations

In 1977, BPT for coal mine discharges was promulgated which included an exemption from meeting effluent limitations during precipitation events, provided a 10-year, 24-hour pond was constructed. This pond design requirement was costed and the economic analysis determined it to be achievable. The same precipitation exemption was proposed for BAT and NSPS in January 1981, with the additional requirement that levels of settleable solids and pH be maintained. The October 13, 1982 promulgated version of these regulations, however, deleted the pond design requirement in exchange for the requirement that discharges due to precipitation must meet limits on pH and settleable solids.

[6] See "Investigation of Post-Mining Wastewater Discharges after SMCRA Bond Release" in Appendix C of the Final Development Document for Coal Mining.

These limitations were based on the performance of a 10-year, 24-hour pond, but it was noted that smaller ponds or alternative technologies could achieve the limitations. Because construction of a 10-yr, 24-hour pond had been required by previous regulations, EPA determined that costs to meet the promulgated alternate storm limits promulgated on October 13, 1982 were not significant. While today's amendments to the alternate storm limitations (for some discharge categories) are more stringent than the promulgated October 13, 1982 requirements, they are still less costly to achieve than the 10-year, 24-hour pond design requirement originally promulgated for BPT in 1977 and proposed for BAT in 1981.

Additional costs may be incurred for discharges from coal refuse disposal piles (from the preparation plant associated area only) because they may have to be segregated from other drainage sources. This may require dikes and diversion ditches around the pile. However, EPA does not consider the cost of diking to be significant when compared with the total capital and annual costs of treatment facilities for the preparation plant and associated area subcategory. Thus, EPA has determined that no significant economic impacts will result from this revision.

These new alternate limits will have beneficial impact on the environment because the total amount of pollutants allowed to be discharged will be reduced. The magnitude of this reduction will depend on the type of discharge and size of the precipitation event. The pollutants whose discharges will be reduced are TSS, iron and manganese.

B. New Source Coal Preparation Plants

For new source coal preparation plants, a cost savings will result by the elimination of the zero discharge requirement. Savings on incremental requirements and annual costs above BPT/BAT technology for a typical new source coal preparation facility are projected to be as high as $1.77 million and $419 thousand respectively (1985 dollars).

With regard to toxic pollutants, allowing a discharge from new source preparation plants will have a minimal adverse impact on the environment because the standards will result in removal of significant amounts of these pollutants from the raw wastewater. This discharge allowance will, however, result in an increase in mass loading of certain nonconventional and conventional pollutants discharged to the environment (primarily TSS, iron, manganese, and pH). If this increased pollutant loading would result in localized water quality problems, then these can be handled on a case-by-case basis through the NPDES permitting process.

VI. Executive Order 12291

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses on "major rules". Major rules are those that impose an annual cost to the economy of $100 million or more, or meet other economic impact criteria. This proposed regulation is not a major rule because it would not result in such economic impacts. It therefore does not require a formal regulatory impact analysis. This proposed rulemaking satisfies the requirement of the Executive Order for a non-major rule.

This notice was submitted to the Office of Management and Budget for review as also required by Executive Order 12291.

VII. Regulatory Flexibility Analysis

Pub. L. 96-354 requires EPA to prepare an Initial Regulatory Flexibility analysis for all proposed regulations that have a significant impact on a substantial number of small entities. The analysis may be conducted in conjunction with or as part of other Agency analyses. EPA has determined that this regulation will not, for the reasons stated above, have a significant impact on a substantial number of small entities. Therefore, a formal Regulatory Flexibility analysis is not required.

List of Subjects in 40 CFR Part 434

Mines, Water pollution control, Waste treatment and disposal.

Dated: September 25, 1985.

Lee M. Thomas,

Administrator.

Part 434 of Title 40 is revised to read as follows:

PART 434—COAL MINING POINT SOURCE CATEGORY BPT, BAT, BCT LIMITATIONS AND NEW SOURCE PERFORMANCE STANDARDS

Subpart A—General Provisions

Sec.

Subpart B—Coal Preparation Plants and Coal Preparation Plant Associated Areas

Subpart C—Acid or Ferruginous Mine Drainage

Suppart D—Alkaline Mine Drainge

Supbart E—Post-Mining Areas

Authority: 33 U.S.C. 1311 1314(b), (c), (e), and (g), 1316(b) and (c), 1317(b) and (c), and 1361.

Subpart A—General Provisions

§ 434.10 Applicability

This part applies to discharges from any coal mine at which the extraction of coal is taking place or is planned to be undertaken and to coal preparation plants and associated areas.

§ 434.11 General definitions.

(a) The term "acid or ferruginous mine drainage" means mine drainage which, before any treatment, either has a pH of less than 6.0 or a total iron concentration equal to or greater than 10 mg/l.

(b) The term "active mining area" means the area, on and beneath land, used or disturbed in activity related to the extraction, removal, or recovery of coal from its natural deposits. This term excludes coal preparation plants, coal preparation plant associated areas and post-mining areas.

(c) The term "alkaline, mine drainage" means mine drainage which, before any treatment, has a pH equal to or greater than 6.0 and total iron concentration of less than 10 mg/l.

(d) The term "bond release" means the time at which the appropriate regulatory authority returns a reclamation or performance bond based upon its determination that reclamation work (including, in the case of underground mines, mine sealing and abandonment procedures) has been satisfactorily completed.

(e) The term "coal preparation plant" means a facility where coal is subjected to cleaning, concentrating, or other processing or preparation in order to separate coal from its impurities and then is loaded for transit to a consuming facility.

(f) The term "coal preparation plant associated areas" means the coal preparation plant yards, immediate access roads, coal refuse piles and coal storage piles and facilities.

(g) The term "coal preparation plant water circuit" means all pipes, channels, basins, tanks, and all other structures and equipment that convey, contain, treat, or process any water that is used is coal preparation processes within a coal preparation plant.

(h) The term "mine drainage" means any drainage, and any water pumped or siphoned, from an active mining area or a post-mining area.

(i) The abbreviation "ml/l" means milliliters per liter.

(j)(l) Notwithstanding any other provision of this Chapter, subject to paragraph (j)(2) of this section the term "new source coal mine" means a coal mine (excluding coal preparation plants and coal preparation plant associated areas) including an abandoned mine which is being re-mined.

(i) The construction of which is commenced after May 4, 1984; or

(ii) Which is determined by the EPA Regional Administrator to constitute a "major alteration". In making this determination, the Regional Administrator shall take into account whether one or more of the following events resulting in a new, altered or increased discharge of pollutants has occurred after May 4, 1984 in connection with the mine for which the NPDES permit is being considered:

(A) Extraction of a coal seam not previously extracted by that mine;

(B) Discharge into a drainage area not previously affected by wastewater discharge from the mine;

(C) Extensive new surface disruption at the mining operation;

(D) A construction of a new shaft, slope, or drift; and

(E) Such other factors as the Regional Administrator deems relevant.

(2) No provision in this part shall be deemed to affect the classification as a new source of a facility which was classified as a new source coal mine under previous EPA regulations, but would not be classified as a new source under this section, as modified. Nor shall any provision in this part be deemed to affect the standards applicable to such facilities, except as provided in Section 434.65 of this Chapter.

(k) The term "post-mining area" means: (1) A reclamation area or (2) the underground workings of an underground coal mine after the extraction, removal, or recovery of coal from its natural deposit has ceased and prior to bond release.

(l) The term "reclamation area" means the surface area of a coal mine which has been returned to required contour and on which revegetation (specifically, seeding or planting) work has commenced.

(m) The term "settleable solids" is that matter measured by the volumetric method specified in Section 434.64.

(n) The terms "1-year, 2-year, and 10-year, 24-hour precipitation events" means the maximum 24-hour precipitation event with a probable recurrence interval of once in one, two, and ten years respectively as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Altas of the U.S.," May 1961, or equivalent regional or rainfall probability information developed therefrom.

(o) The terms "treatment facility" and "treatment system" mean all structures which contain, convey, and as necessay, chemically or physically treat coal rine drainage, coal preparation plant process wastewater, or drainage from coal preparation plant associated areas, which remove pollutants regulated by this Part from such waters. This includes all pipes, channels, ponds, basins, tanks and all other equipment serving such structures.

(p) The term "coal refuse disposal pile" means any coal refuse deposited on the earth and intended as permanent dispoal or long-term storage (greater than 180 days) of such material, but does not include coal refuse deposited within the active mining area or coal refuse never removed from the active mining area.

(q) The term "controlled surface mine drainage" means any surface mine drainage that is pumped or siphoned from the active mining area.

(r) The term "abandoned mine" means a mine where mining operations have occurred in the past and

(1) The applicable reclamation bond or financial assurance has been released or forfeited or

(2) If no reclamation bond or other financial assurance has been posted, no mining operations have occurred for five years or more.

(s) The term "1-year, 24-hour precipitation event" means the maximum 24-hour precipitation event with a probable recurrence interval of once in one year as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S.," May 1961, or equivalent regional or rainfall probability information developed therefrom.

(t) The Term "2-year, 24-hour precipitation event" means the

maximum 24-hour precipitation event with a probable recurrence interval of once in two years as defined by the National Weather Service and Technical Paper No. 40, "Rainfall Frequency Atlas of the U.S., "May 1961, or equivalent regional or rainfall probability information developed therefrom.

Subpart B—Coal Preparation Plants and Coal Preparation Plant Associated Areas

§ 434.20 Applicability

The provisions of this subpart are applicable to discharges from coal preparation plants and coal preparation plant association areas, as indicated, including discharges which are pumped, siphoned, or drained from the coal preparation plant water circuit and coal storage, refuse storage, and ancillary areas related to the cleaning or beneficiation of coal of any rank including, but not limited to, bituminous, lignite, and anthracite.

§ 434.21 [Reserved]

§ 434.22 Effluent limitation guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32, 40 CFR 401.17, and §§ 434.61, 434.62 and 434.63 of this part, the following limitations establish the concentration or quality of pollutants which may be discharged by any existing coal preparation plant and coal preparation plant associated areas subject to the provisions of this subpart after application of the best practicable control technology currently available if discharges from such point sources normally exhibit a pH of less than 6.0 prior to treatment:

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Concentration in mg/l	
Iron, total	7.0	3.5
Manganese, total	4.0	2.0
TSS	70	35
pH	[1]	[1]

[1] Within the range of 6.0 to 9.0 at all times.

(b) Except as provided in 40 CFR 125.30–125.32, 40 CFR 401.17 and §§ 434.61 and 434.63 of this part, the following limitations establish the concentration or quality of pollutants which may be discharged by any existing coal preparation plant and coal preparation plant associated areas subject to the provisions of this subpart after application of the best practicable control technology currently available if discharges from such point sources normally exhibit a pH equal to or greater than 6.0 prior to treatment:

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Concentration in mg/l	
Iron, total	7.0	3.5
TSS	70	35
pH	[1]	[1]

[1] Within the range of 6.0 to 9.0 at all times.

§ 434.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–125.32, and §§ 434.61, 434.62 and 434.63 of this part, the following limitations establish the concentration or quality of pollutants which may be discharged by any existing coal preparation plant and coal preparation plant associated areas subject to the provisions of this subpart after application of the best available technology economically achievable if discharges from such point sources normally exhibit a pH of less than 6.0 prior to treatment:

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Concentration in mg/l	
Iron, total	7.0	3.5
Manganese, total	4.0	2.0

(b) Except as provided in 40 CFR 125.30–125.32, and §§ 434.61 and 434.63 of this Part, the following limitations establish the concentration or quality of pollutants which may be discharged by any existing coal preparation plant and coal preparation plant associated areas subject to the provisions of this subpart after application of the best available technology economically achievable if discharges from such point sources normally exhibit a pH equal to or greater than 6.0 prior to treatment:

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Concentration in mg/l	
Iron, total	7.0	3.5

§ 434.24 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 434.25 New Source Performance Standards (NSPS).

The following new source performance standards (NSPS) shall be achieved by any new source coal preparation plant and coal preparation plant associated areas, as indicated:

(a) Except as provided in 40 CFR 401.17 and §§ 434.61, 434.62 and 434.63 of this part, the following new source performance standards shall apply to discharges from new source coal preparation plants and new source coal preparation plant associated areas, if such discharges normally exhibit a pH of less than 6.0 prior to treatment:

NSPS Effluent Limitations (mg/l)

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total	6.0	3.0
Manganese, total	4.0	2.0
TSS	70	35
pH	[1]	[1]

[1] 6.0–9.0 at all times.

(b) Except as provided in 40 CFR 401.17 and §§ 434.61, 434.62 and 434.63 of this Part, the following new source performance standards shall apply to discharges from new source coal preparation plants and new source coal preparation plant associated areas, if such discharges normally exhibit a pH equal to or greater than 6.0 prior to treatment:

NSPS Effluent Limitations (mg/l)

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
Iron, total	6.0	3.0
TSS	70	35
pH	[1]	[1]

[1] 6.0–9.0 at all times.

Subpart C—Acid or Ferruginous Mine Drainage

§ 434.30 Applicability; description of the acid or ferruginous mine drainage subcategory.

The provisions of this subpart are applicable to acid or ferruginous mine drainage from an active mining area resulting from the mining of coal of any rank including, but not limited to, bituminous, lignite, and anthracite.

§ 434.31 [Reserved]

§ 434.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, 40 CFR 401.17, and §§ 434.61, 434.62 and 434.63 of this Part, the following limitations establish the concentration or quality of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Concentration in mg/l	
Iron, total	7.0	3.5
Manganese, total	4.0	2.0
TSS	70.0	35.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

§ 434.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, 40 CFR 401.17, and Sections 434.61, 434.62 and 434.63 of this Part, the following limitations establish the concentration or quality of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Concentration in mg/l	
Iron, total	7.0	3.5
Manganese, total	4.0	2.0

§ 434.34 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 434.35 New Source Performance Standards (NSPS).

Except as provided in 40 CFR 401.17, and Sections 434.61, 434.62 and 434.63 of this Part, the following new source performance standards shall be achieved for any discharge from a new source subject to this subpart:

NSPS Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Concentration in mg/l	
Iron, total	6.0	3.0
Manganese, total	4.0	2.0
TSS	70.0	35.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

Subpart D—Alkaline Mine Drainage

§ 434.40 Applicability; description of the alkaline mine drainage subcategory.

The provisions of this subpart are applicable to alkaline mine drainage from an active mining area resulting from the mining of coal of any rank including, but not limited to, bituminous, lignite, and anthracite.

§ 434.41 [Reserved]

§ 434.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, 40 CFR 401.17, and §§ 434.61 and 434.63 of this part, the following limitations establish the concentration or quality of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Concentration in mg/l	
Iron, total	7.0	3.5
TSS	70.	35.
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

§ 434.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, and §§ 434.61 and 434.63 of this part, the following limitations establish the concentration or quality of pollutants which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Concentration in mg/l	
Iron, total	7.0	3.5

§ 434.44 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 434.45 New Source Performance Standards (NSPS).

Except as provided in 40 CFR 401.17 and §§ 434.61 and 434.63 of this part, the following new source performance standards shall be achieved for any discharge from a new source subject to this subpart:

NSPS Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Concentration in mg/l	
Iron, total	6.0	3.0
TSS	70.0	35.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

Subpart E—Post-Mining Areas

§ 434.50 Applicability. The provisions of this subpart are applicable to discharges from post-mining areas.

§ 434.51 [Reserved]

§ 434.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) *Reclamation Areas.* The limitations in this subsection apply to discharges from reclamation areas until the performance bond issued to the

facility by the appropriate SMCRA authority has been released.

Except as provided in 40 CFR 125.30–125.32, 40 CFR 401.17 and section 434.61 and 434.63(d)(2) of this part, the following limitations establish the concentration or quality of pollutants which may be discharged by a point source subject to the provisions of this subsection after application of the best practicable control technology currently available:

BPT Effluent Limitations

Pollutant or pollutant property	Limitations
Settleable Solids	0.5 ml/l maximum not to be exceeded.
pH	(1)

[1] Within the range 6.0 to 9.0 at all times.

(b) *Underground Mine Drainage.* The limitations in this subsection apply to discharges from the underground workings of underground mines until SMCRA bond release.

(1) Except as provided in 40 CFR 125.30–125.32, 40 CFR 401.17 and §§ 434.61, 434.62 and 434.63 of this part, the following limitations establish the concentration of quality of pollutants in acid or ferruginous mine drainage subject to the provisions of this subsection after application of the best practicable control technology currently available:

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Concentration in mg/l	
Iron, total	7.0	3.5
Manganese, total	4.0	2.0
TSS	70.0	35.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

(2) Except as provided in 40 CFR 125.30–125.32, 40 CFR 401.17, and §§ 434.61 and 434.63 of this part, the following limitations establish the concentration or quality of pollutants in alkaline mine drainage subject to the provisions of this subsection after application of the best practicable control technology currently available:

BPT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Concentration in mg/l	
Iron, total	7.0	3.5
TSS	70.0	35.0

BPT Effluent Limitations—Continued

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

§ 434.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by application of the best available technology economically achievable (BAT).

(a) *Reclamation Areas.* The limitations of this subsection apply to discharges from reclamation areas until SMCRA bond release.

Except as provided in 40 CFR 125.30–125.32, and §§ 434.61 and 434.63(d)(2) of this part, the following limitations establish the concentration or quality of pollutants which may be discharged by a point source subject to the provisions of this subsection after application of the best available technology economically achievable:

BAT Effluent Limitations

Pollutant or pollutant property	Limitations
Settleable solids	0.5 ml/l maximum not to be exceeded.

(b) *Underground Mine Drainage.* The limitations in this subsection apply to discharges from the underground workings of underground mines until SMCRA bond release.

(1) Except as provided in 40 CFR 125.30–125.32, and §§ 434.61, 434.62, and 434.63 of this part, the following limitations establish the concentration or quality of pollutants in acid or ferruginous mine drainage subject to the provisions of this subsection after application of the best available technology economically achievable:

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Concentration in mg/l	
Iron, total	7.0	3.5
Manganese, total	4.0	2.0

(2) Except as provided in 40 CFR 125.30–125.32, and §§ 434.61, and 434.63 of this part, the following limitations establish the concentration or quality of pollutants in alkaline mine drainage subject to the provisions of this subsection after application of the best available technology economically achievable:

BAT Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Concentration in mg/l	
Iron, total	7.0	3.5

§ 434.54 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

§ 434.55 New Source Performance Standards (NSPS).

The following new source performance standards shall apply to the post-mining areas of all new source coal mines:

(a) *Reclamation Areas.* The standards of this subsection apply to discharges from reclamation areas at new source coal mines until SMCRA bond release.

Except as provided in 40 CFR 401.17 and §§ 434.61 and 434.63 (d)(2) of this part, the following new source performance standards shall be achieved for a discharge subject to the provisions of this subsection:

NSPS Effluent Limitations

Pollutant or pollutant property	Limitations
Settleable Solids	0.5 ml/1 maximum not to be exceeded.
pH	(1)

[1] Within the range 6.0 to 9.0 at all times.

(b) *Underground Mine Drainage.* The standards in this subsection apply to discharges from the underground workings of new source underground mines until bond release.

(1) Except as provided in 40 CFR 401.17 and §§ 434.61, 434.62, and 434.63 of this part, the following new source performance standards shall be achieved for the discharge of any acid or ferruginous mine drainage subject to this subsection:

NSPS Effluent Limitations

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Concentrations in mg/1	
Iron, total	6.0	3.0
Manganese, total	4.0	2.0
TSS	70.0	35.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

(2) Except as provided in 40 CFR 401.17 §§ 434.61 and 434.63 of this part, the following new source performance

standards shall be achieved for the discharge of any alkaline mine drainage subject to this subsection:

NSPS EFFLUENT LIMITATIONS

Pollutant or pollutant property	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Concentrations in mg/1	
Iron, total	6.0	3.0
TSS	70.0	35.0
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

Subpart F—Miscellaneous Provisions

§ 434.60 Applicability.

The provisions of this Subpart F apply to this Part 434 as specified in Subparts B, C, D and E.

§ 434.61 Commingling of Waste Streams.

Where waste streams from any facility covered by this part are combined for treatment or discharge with waste streams from another facility covered by this part, the concentration of each pollutant in the combined discharge may not exceed the most stringent limitations for that pollutant applicable to any component waste stream of the discharge.

§ 434.62 Alternate effluent limitation for pH.

Where the application of neutralization and sedimentation treatment technology results in inability to comply with the otherwise applicable manganese limitations, the permit issuer may allow the pH level in the final effluent to exceed 9.0 to a small extent in order that the manganese limitations can be achieved.

§ 434.63 Effluent limitations for precipitation events.

(a)(1) The alternate limitations specified in paragraph (a)(2) of this section apply with respect to:

(1) All discharges of alkaline mine drainage except discharges from underground workings of underground mines that are not commingled with other discharges eligible for these alternate limitations;

(ii) All discharges from steep slope areas, (as defined in section 515(d)(4) of the Surface Mining Control and Reclamation Act of 1977, as amended (SMCRA)), and from mountaintop removal operations (conducted pursuant to section 515(c) of SMCRA);

(iii) Discharges from coal preparation plants and preparation plant associated areas (excluding acid or ferruginous mine drainage from coal refuse disposal piles).

(2) Any discharge or increase in the volume of a discharge caused by precipitation within any 24 hour period less than or equal to the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the following limitations instead of the otherwise applicable limitations:

EFFLUENT LIMITATIONS DURING PRECIPITATION

Pollutant or pollutant property	Effluent limitations
Settleable solids	0.5 ml/1 maximum not to be exceeded.
pH	6.0–9.0 at all times.

(b) The following alternate limitations apply with respect to acid or ferruginous drainage from coal refuse disposal piles:

Any discharge or increase in the volume of a discharge caused by precipitation within any 24 hour period greater than the 1-year, 24-hour precipitation event, but less than or equal to the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the following limitations instead of the otherwise applicable limitations:

EFFLUENT LIMITATIONS DURING PRECIPITATION

Pollutant or pollutant property	Effluent limitations
Settleable solids	0.5 ml/1 maximum not to be exceeded.
pH	6.0–9.0 at all times.

(c) The following alternate limitations apply with respect to acid or ferruginous mine drainage, except for discharges addressed in paragraphs (a) (mountaintop removal and steep slope areas), (d) (controlled surface mine discharges) and (f) (discharges from underground workings of underground mines) of this section:

(1) Any discharge or increase in the volume of a discharge caused by precipitation within any 24 hour period less than or equal to the 2-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the following limitations instead of the otherwise applicable limitations:

EFFLUENT LIMITATIONS DURING PRECIPITATION

Pollutant or pollutant property	Effluent limitations
Iron, total	7.0 mg/1 maximum for any 1 day.
Settleable solids	0.5 ml/1 maximum not to be exceeded.
pH	6.0–9.0 at all times.

(2) Any discharge or increase in the volume of a discharge caused by precipitation within any 24 hour period greater than the 2-year, 24-hour precipitation event, but less than or equal to the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the following limitations instead of the otherwise applicable limitations:

EFFLUENT LIMITATIONS DURING PRECIPITATION

Pollutant or pollutant property	Effluent limitations
Settleable solids	0.5 ml/1 maximum not to be exceeded.
pH	6.0–9.0 at all times.

(d)(1) The alternate limitations specified in paragraph (d)(2) of this section apply with respect to all discharges described in paragraphs (a), (b) and (c) of this section *and* to:

(i) Discharges of acid or ferruginous mine drainage from underground workings of underground mines which are commingled with other discharges eligible for these alternate limitations; and

(ii) Controlled acid or ferruginous surface mine discharges; and

(iii) Discharges from reclamation areas.

(2) Any discharge or increase in the volume of a discharge caused by precipitation within any 24 hour period greater than the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) may comply with the following limitations instead of the otherwise applicable limitations:

EFFLUENT LIMITATIONS DURING PRECIPITATION

Pollutant or pollutant property	Effluent limitations
pH	6.0–9.0 at all times.

(e) The operator shall have the burden of proof that the discharge or increase in discharge was caused by the applicable precipitation event described in paragraphs (a), (b), (c), and (d) of this section.

(f) Discharges of mine drainage from underground workings of underground mines which are not commingled with discharges eligible for alternate limitations set forth in this section shall in no event be eligible for the alternate limitations set forth in this section.

§ 434.64 Procedure and method detection limit for measurement of settleable solids.

For the purposes of this part, the following procedure shall be used to determine settleable solids: Fill an Imhoff cone to the one-liter mark with a thoroughly mixed sample. Allow to settle undisturbed for 45 minutes. Gently stir along the inside surface of the cone with a stirring rod. Allow to settle undisturbed for 15 minutes longer. Record the volume of settled material in the cone as milliliters per liter. Where a separation of settleable and floating

materials occurs, do not include the floating material in the reading. Notwithstanding any provision of 40 CFR Part 136, the method detection limit for measuring settleable solids under this part shall be 0.4 ml/l.

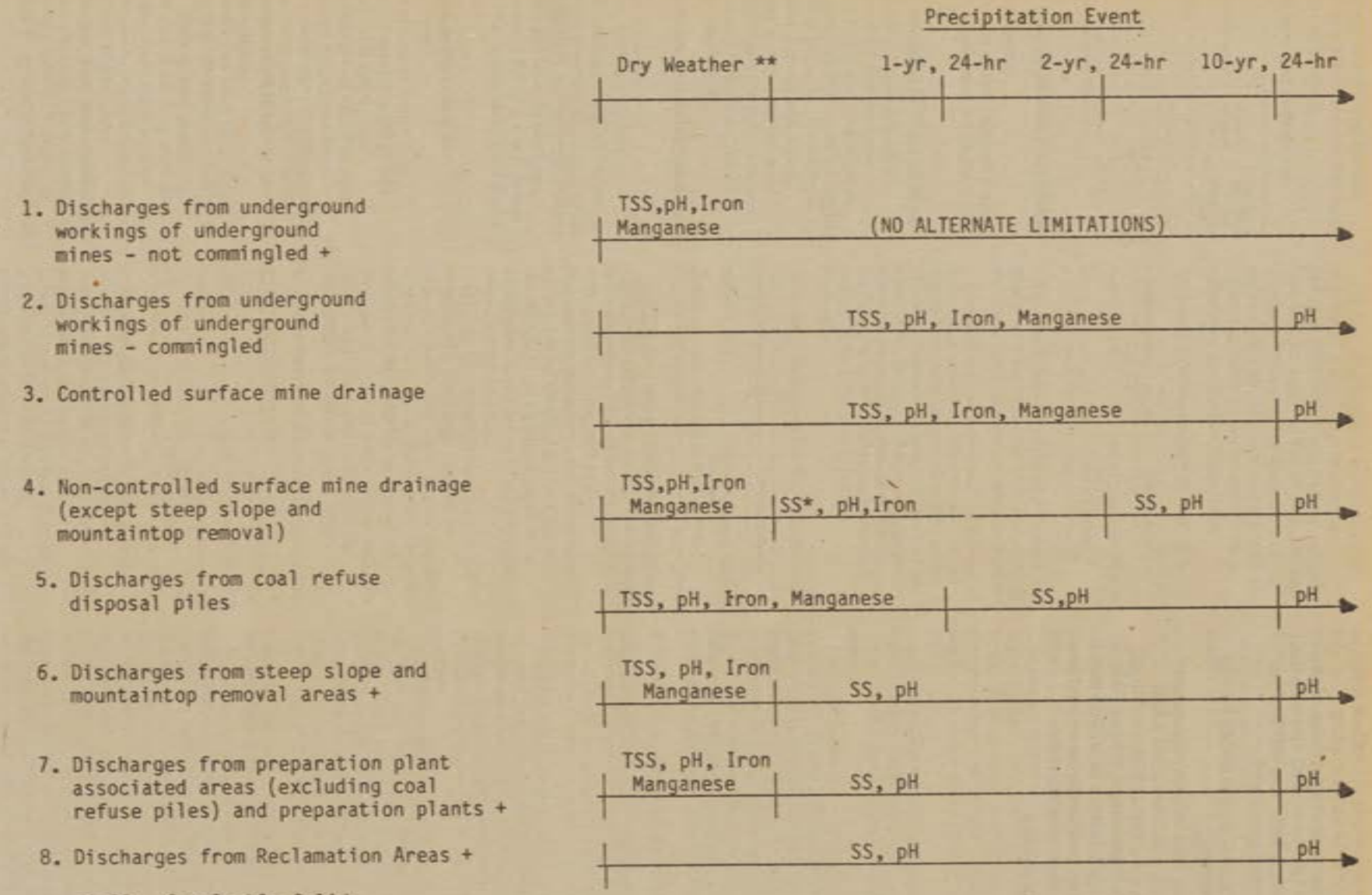
§ 434.65 Modification of NPDES Permits for New Sources.

Any coal mine or coal preparation plant which was considered a new source under previous EPA regulations may, notwithstanding § 122.62 of this chapter, apply to have its NPDES permit modified to incorporate the revised new source performance standards.

BILLING CODE 6560-50-M

[FR Doc. 85-23778 Filed 10-8-85; 8:45 am]
BILLING CODE 6560-50-C

APPENDIX A
ALTERNATE STORM LIMITATIONS
FOR ACID OR FERRUGINOUS MINE DRAINAGE



* SS = Settleable Solids
** Discharge caused by precipitation
\+ These categories do not differ from the Oct. 13, 1982 regulation.

federal register

Wednesday
October 9, 1985

Part III

Department of Justice

Immigration and Naturalization Service

Department of State

Bureau of Consular Affairs

8 CFR Part 212

Documentary Requirements; Nonimmigrants; Waivers; Admission of Certain Inadmissible Aliens; Parole; Direct Transits; Restriction for Citizens of Bangladesh, India, Pakistan and Sri Lanka; Final Rule

22 CFR Part 41

Passports and Visas Not Required for Certain Nonimmigrants; Withdrawal of Nonimmigrant Visa Documentary Waivers; Final Rule

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 212

Documentary Requirements: Nonimmigrants; Waivers; Admission of Certain Inadmissible Aliens; Parole; Direct Transits; Restriction for Citizens of Bangladesh, India, Pakistan and Sri Lanka

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule restricts citizens of Bangladesh, India, Pakistan and Sri Lanka from transiting the United States without visas. This waiver of visas for transits from the above mentioned countries has become a means of circumventing immigration laws once they arrive in the United States. An increasing number of aliens use the transit without visa provision to get into the United States under the guise of transit passengers and have no intention of continuing on to a third country. These individuals either abscond from the custody of the airline that brought them to the United States or continue on to the third country which by design is usually contiguous to the United States or is an adjacent island. From there they often return to the United States effecting an entry without inspection with the help of organized smuggling rings. In an effort to control this continued abuse of transit without visa privileges, the Immigration Service is adding the four countries noted above to the list of countries whose nationals are precluded from transiting through the United States without a visa.

EFFECTIVE DATE: November 8, 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, DC 20536. Telephone: (202) 633-3048.

For Specific Information: Harvey L. Adler, Immigration Inspector, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536. Telephone: (202) 633-2694.

SUPPLEMENTARY INFORMATION: The Immigration Service has found that in comparison to other nationalities, large number of nationals from Bangladesh, India, Pakistan, and Sri Lanka have continually abused the transit without visa provisions of the Immigration and Nationality Act.

On February 9, 1982, the Service restricted citizens from Afghanistan from transiting the United States without visas. Though the Afghan case differs from the four nationalities now at issue, all are examples of how the waiver of visas for transit is used as a means of circumventing immigration laws. The Afghans used the transit provisions as a means of effecting entry into the United States where they promptly applied for asylum thereby circumventing established refugee procedures abroad. This same situation is developing with regard to citizens of Sri Lanka and Bangladesh. In light of this, the Government of Canada, which shares many of the same immigration problems we have, has instituted visa requirements for Sri Lankans and Bangladeshis.

As a consequence of these stricter Canadian legal requirements for entry, the United States has received a number of asylum claims by people originally destined to Canada.

Nationals of India and Pakistan have also taken advantage of the transit without visa provisions in the law to effect illegal entry into the United States. More recently, many Afghanis and Iranians who are precluded by regulation from transiting without a visa have attempted entry using Pakistani and Indian passports which they have been able to obtain with relative ease. The impact from this problem has been felt in Canada as well. As a result, the Canadians included Pakistan on the list of countries requiring visas in 1977 and India was added to the list in 1981.

With regard to the two responses received by the Service during the 30 day comment period for the proposed rule published in the **Federal Register** on February 4, 1985, (50 FR 4865) we have determined that withdrawing the transit without visa privileges for citizens of India does not violate either the U.S.-India Air Transport Agreement or section 402(f) of the Federal Aviation Act.

The U.S.-India Air Transport Agreement contains no reference to immigration or visas and absolutely no express guarantee that nationals of one state are entitled to a particular immigration status while in transit through the other state simply by virtue of the airline they take. One commenter maintains that since it carries substantially more Indian nationals to the United States than any other air carrier and since this traffic is of "far greater economic significance" to it than to its major U.S. competitor, the rule change would be inconsistent with its "fair and equal opportunity to compete" over routes guaranteed in the U.S.-India Air Transport Agreement. We believe that while a visa requirement for Indian transit passengers might reduce the size of the passenger market, the designated carriers of India and the United States would continue to have a "fair and equal opportunity to compete" in this reduced market. As such there is no violation of Article 6 of the Air Transport Agreement which mandates such "fair and equal opportunity" on any route covered by this agreement. Furthermore, neither the U.S.-India Air Transport Agreement nor any other bilateral agreement to which the United States is a party accords designated airlines rights to particular categories of passengers. Additionally, the Chicago Convention which is referred to in the preamble to the U.S.-India Air Transport Agreement and to which both countries are parties, makes it clear that immigration laws remain within the province of national legislation. Article 13 notes that: "[t]he laws and regulations of a contracting State as to the admission to . . . its territory of passengers . . . such as regulations relating to . . . immigration [and] passports . . . shall be complied with by or on behalf of such passengers . . . upon entrance into or departure from, or while within the territory of that State."

One commenter also claims to have been denied a hearing to which it is entitled under section 402(f) of the Federal Aviation Act (49 U.S.C. Sec. 1372(f)). The requirement under section 402(f) for notice and hearing applies only where a permit issued under section 402 to a foreign air carrier to engage in foreign air transportation is proposed to be "altered, amended, suspended, canceled, or revoked by the Board" (now the Department of Transportation). This final rule by INS would leave untouched the section 402 permit that has been issued to the commenter and would at most change one aspect of the U.S. domestic legal environment in which the commenter (but also its competitors) may operate under such permits. Furthermore, there is no reference in the statute to "de facto amendments" or "amendments by agencies other than the Board".

The only other comment received, through citing no legal bar to the proposed regulation change, expressed the opinion that such a change is "unnecessarily sweeping in its outright prohibition of TWOV travel for selected nationalities." The commenter goes on to recommend as an alternative that fines be increased for violation of the Transit Without Visa Agreement and that carriers which have consistently violated the agreement be prohibited from carrying transit passengers who do not have visas.

Through the INS believes there is merit to the argument that one possible method of dealing with abuse of the TWOV program is to increase fines, any change in the fines structure would necessitate new legislation. The Immigration Service is, in fact, addressing this issue in efficiency legislation now under consideration. In the interim, however, we believe that the current situation merits more stringent action. As such, this Service is reviewing the entire transit without visa program. As a preliminary step, in an attempt to prevent the continued circumvention of immigration law, the Immigration Service is withdrawing the transit without visa privilege as it applies to citizens of Bangladesh, India, Pakistan, and Sri Lanka.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule is not a rule within the definition of section 1(a) of E.O. 12291 as it relates to a foreign affairs function of the United States.

List of Subjects in 8 CFR Part 212

Administrative practice and procedure, Aliens, Foreign officials, Passports and visas, Travel restrictions.

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

PART 212—DOCUMENTARY REQUIREMENT: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The authority citation for Part 212 continues to read as follows:

Authority: Secs. 103 and 212 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1182).

2. In section 212.1, paragraph (e) is revised to read as follows:

§ 212.1 Documentary requirements for nonimmigrants.

* * * * *

(e) *Direct transits*—(1) *Transit without visa.* A passport and visa are not required of an alien who is being transported in immediate and continuous transit through the United States in accordance with the terms of an agreement entered into between the transportation line and the Service under the provisions of section 238(d) of the Act on Form I–426 to insure such immediate and continuous transit through, and departure from, the United States en route to a specifically designated foreign country: *Provided,* That such alien is in possession of a travel document or documents establishing his/her identity and nationality and ability to enter some country other than the United States.

(2) *Waiver of passport and visa.* On the basis of reciprocity, the waiver of passport and visa is available to a national of Albania, Bulgaria, Czechoslovakia, Estonia, the German Democratic Republic, Hungary, Latvia, Lithuania, Mongolian People's Republic, People's Republic of China, Poland, Romania, or the Union of Soviet Socialist Republics resident in one of said countries, only if he/she is transiting the United States by aircraft of a transportation line signatory to an agreement with the Service on Form I–426 on a direct through flight which will depart directly to a foreign place from the port of arrival.

(3) *Unavailability to transit.* This waiver of passport and visa requirement is not available to an alien who is a citizen of Afghanistan, Bangladesh, Cuba, India, Iran, Iraq, Pakistan or Sri Lanka. This waiver of passport and visa requirement is not available to an alien who is a citizen or national of North Korea (Democratic People's Republic of Korea) or Democratic Republic of Vietnam and is a resident of the said countries.

(4) *Foreign government officials in transit.* If an alien is of the class described in section 212(d)(8) of the Act, only a valid unexpired visa and a travel document valid for entry into a foreign country for at least 30 days from the date of admission to the United States are required.

* * * * *

Dated: September 10, 1985.

Alan C. Nelson,

Commissioner, Immigration and Naturalization Service.

Joan M. Clark,

Assistant Secretary of State for Consular Affairs.

[FR Doc. 85–24114 Filed 10–8–85; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[Departmental Reg. 108.843]

Passports and Visas Not Required for Certain Nonimmigrants; Withdrawal of Nonimmigrant Visa Documentary Waivers

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This final rule amends 22 CFR 41.6(e) to withdraw the privilege of transiting the United States without visas (TWOV) from citizens of Bangladesh, India, Pakistan and Sri Lanka. The TWOV privilege, which normally is a means of facilitating the passage through the United States of aliens in transit to third countries, has become a means of circumventing immigration laws for large numbers of citizens of Bangladesh, India, Pakistan and Sri Lanka once they arrive in the United States. Citizens from these countries will be required to have visas and passports to transit the United States upon the effective date of this rule.

EFFECTIVE DATE: This rule takes effect November 8, 1985.

ADDRESS: Stephen K. Fischel, Chief, Legislation and Regulations Division, Visa Services, Washington, D.C. 20520 (202) 632–1900.

FOR FURTHER INFORMATION CONTACT: Guida Evans-Magher, Legislation and Regulations Division, Visa Services, (202) 632–2907.

SUPPLEMENTARY INFORMATION: Under present regulations citizens of Bangladesh, India, Pakistan and Sri Lanka who desire to travel through the United States in transit from one country to another without the need of obtaining a visa may do so under the visa waiver provisions of § 41.6(e). On February 4, 1985 (50 FR 4865), however, the Immigration and Naturalization Service published a proposed rule to amend its regulations to restrict citizens of Bangladesh, India, Pakistan and Sri Lanka from transiting the United States without visas in view of the increasing number of aliens from those countries who use the waiver privilege to enter the United States without intention of continuing their onward travel. Because of the continuing abuse of the visa waiver provisions, the Department of State and the Immigration and Naturalization Service are jointly withdrawing the transit without visa

privilege as it applies to citizens of Bangladesh, India, Pakistan and Sri Lanka and adding these countries to the list of countries whose nationals are precluded from transiting through the United States without a visa.

The Department of State does not consider this rule to be a major rule under Executive Order 12291 and does not expect this rule to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Because the amendments to 22 CFR 41.6 are made in order to conform with changes made by the Immigration and Naturalization Service to its regulations at 8 CFR 212.1(e), compliance with 5 U.S.C 553 as to notice of proposed rulemaking and delayed effective date is not necessary in this instance.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Visas, Waivers of visa requirements.

PART 41—[AMENDED]

In light of the foregoing, Part 41 of Title 22, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 41 is revised to read as follows:

Authority: Sec. 104, 66 Stat. 174, 8 U.S.C. 1104 & 109(b)(1), 91 Stat. 847; 212(d)(4), 66 Stat. 187, 8 U.S.C. 1182.

2. The second sentence of paragraph (e)(1) in § 41.6 is revised to read:

§ 41.6 Nonimmigrants not required to present passports, visas, or border-crossing identification cards.

* * * * *

(e) *Aliens in immediate transit-(1) Aliens in bonded transit.* * * * This waiver of visa and passport requirement is not available to an alien who is a citizen of Afghanistan, Bangladesh, Cuba, India, Iran, Iraq, Pakistan or Sri Lanka. * * *

* * * * *

Dated: September 27, 1985.

Joan M. Clark,

Assistant Secretary for Consular Affairs.

[FR Doc. 85-24115 Filed 10-8-85; 8:45 am]

BILLING CODE 4710-06-M

federal register

Wednesday
October 9, 1985

Part IV

Department of Education

Office of Special Education and Rehabilitative Services

Auxiliary Activities; Innovative Programs for Severely Handicapped Children; Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Auxiliary Activities; Innovative Programs for Severely Handicapped Children

AGENCY: Department of Education.

ACTION: Notice of proposed annual funding priorities.

SUMMARY: The Secretary proposes annual funding priorities for the Auxiliary Activities—Innovative Programs for Severely Handicapped Children program. To ensure wide and effective use of program funds, the Secretary proposes seven priorities to direct funds to the areas of greatest need for fiscal year 1986. A separate competition will be established for each priority.

DATE: Comments must be received on or before November 8, 1985.

ADDRESS: Comments should be addressed to: R. Paul Thompson, Special Needs Section, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3511—M/S 2313) Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: R. Paul Thompson. Telephone: (202) 732-1177.

SUPPLEMENTARY INFORMATION: The Auxiliary Activities program, authorized by section 624 of the Education of the Handicapped Act, supports research, development or demonstration, training, and dissemination activities which meet the unique educational needs of handicapped children and youth, and are consistent with the purposes of Part C of the Act (20 U.S.C. 1424). In accordance with this authority, the Secretary proposes to fund projects under the following priorities for fiscal year 1986. These proposed priorities identify target areas for project efforts within the scope of model projects and practices. They address the needs of deaf-blind and severely handicapped children which have been identified by professionals, paraprofessionals, and parents as being those most critical at this time. Projects will be funded for up to 36 months, except where otherwise indicated, subject to annual review of progress, the availability of Federal funds, and other factors (see 34 CFR 75.251-75.253).

Priorities

(1) *Non-directed Demonstration Projects for Severely (Other than Deaf-Blind) Handicapped Children and Youth.* This priority supports projects designed to demonstrate specific, viable procedures for meeting significant educational needs including vocational needs of severely handicapped (other than deaf-blind) children and youth. The content of the demonstration projects is limited only by the overall mission of the program—to demonstrate innovative and effective approaches to the education of severely handicapped children. Applicants proposing to conduct the projects must fully describe and justify the selection of the focus and particular approach to be demonstrated. Approximately $750,000 is expected to be available for issuing seven awards under this competition.

(2) *Supported Employment for Deaf-Blind Youth.* This priority supports projects which design, implement, and disseminate information about innovative practices in the job placement, job site training and follow-up of deaf-blind youth. The practices must extend beyond, expand upon, complement, or supplement existing successful practices. These projects are to focus on on-the-job skills and adaptations, employee-employer relations, job acquisition, retention skills, and, where appropriate, supplemental support for the employment of deaf-blind youth on a long term basis. These projects may also include feasible applications of techniques still in the development stage in research and other experimental programs. These projects are to provide services for severely handicapped deaf-blind youth who typically have not been eligible for vocational rehabilitation services.

The following provisions, which distinguish these projects from traditional vocational education programming for deaf-blind youth, must be incorporated into these projects: (1) Paid employment in regular job settings such as assisted competitive employment, mobile work crews, and work stations in industry; (2) opportunities for integration of these deaf-blind youth with nonhandicapped coworkers in their job setting and with relevant others in typical living environments external to the job; (3) ongoing financial and social services support for these deaf-blind youth throughout the course of the project; and (4) a plan cooperatively developed with related State and local agencies for the continuation of such services for an appropriate period of time following termination of the project. The overall objective of these projects should be to provide an employment focus directed toward the achievement by these deaf-blind youth of the same goals (security, mobility, quality of life, and appropriate income level) sought for nonhandicapped workers. Approximately $1,000,000 is expected to be available for issuing up to eight awards under this competition.

(3) *Nondirected Demonstration Projects for Deaf-Blind Children and Youth.* This priority supports projects designed to demonstrate specific, viable procedures for meeting significant educational needs of deaf-blind children and youth. The content of these projects is limited only by the overall mission of the program—to demonstrate innovative and effective approaches to the education of deaf-blind children and youth in the least restrictive environment. Applicants proposing to conduct a project must describe and justify the selection of the focus and particular approach to be demonstrated. Approximately $1,963,000 is expected to be available for issuing 18 awards under this competition.

(4) *State-wide Systems Change.* This priority supports projects which design, implement, evaluate, and disseminate information about a model for the State-wide delivery of comprehensive special education and related services to severely handicapped children and youth (including deaf-blind children and youth), ages birth through 21, within a particular State. Such a design must utilize and enhance existing service delivery systems for these children. Particular attention should be placed on ensuring that deaf-blind children are properly integrated into these systems since services to this group are often provided through a combination of regional, Federal, State and local service providers. Federal programs with which the projects should be coordinated include Early Childhood State Plan projects (34 CFR 309.50-309.53), Services for Deaf-Blind Children programs (34 CFR Part 307), and vocational education. Each project must develop a system which will: (1) Develop a comprehensive description of services for severely handicapped children within a State; (2) complete an extensive analysis of the current service delivery system; (3) design an improved comprehensive State-wide model for the delivery of educational services to maximize the potential of severely handicapped children and youth; (4) implement the model of State-wide services on a pilot basis under systematic and carefully documented conditions; (5) design and implement an evaluation plan for each of the project components; (6) disseminate information about the model's findings and recommendations; (7) establish and utilize an advisory committee; and (8) maintain a

performance measurement system to monitor all project activities. In the past few years, contracts and cooperative agreements have been awarded to establish similar State-wide service delivery systems. States receiving those contracts or cooperative agreements are not eligible for competing under this priority.

Projects under this priority will be funded through cooperative agreements with the Secretary. Approximately $815,000 is expected to be available for issuing seven cooperative agreements under this competition.

(5) *Transition Skills Development for Severely Handicapped (Including Deaf-Blind) Youth.* This priority supports projects which design, implement, and disseminate information about innovative practices which facilitate the transition of a small number of severely handicapped (which may include deaf-blind) youth from education to employment and other service options, in preparation for their integration into regular community environments as adults. Emphasis in these projects will be placed on the development of job-related skills, peer interactions, orientation and mobility, personal grooming, independent living skills and the development of a positive self-concept. Projects must focus upon specific project activities directed toward development of skills identified as those most needed by project participants in order to facilitate their effective transition. Each project must include procedures for initiating and maintaining on an on-going basis coordination and cooperation with State educational and rehabilitative agencies in the State where the project is located. Projects must have direct access and be providing direct service to the proposed project participants. Approximately $1,965,000 is expected to be available for issuing up to 25 awards at approximately $78,000 per year for up to three years under this competition.

(6) *Education of Severely Handicapped (Including Deaf-Blind) Children and Youth in the Least Restrictive Environment.* This priority supports projects which, on a district-wide basis (local educational agency) or cross-district basis, design, implement, and evaluate innovative approaches for the education of severely handicapped (which may include deaf-blind) children and youth in the least restrictive and least segregated environments. Projects under this priority must:

1. Develop new models for delivery of integrated educational services, including changes in the location of instructional areas for provision of these services, for severely handicapped children who currently are being educated in segregated environments;

2. Demonstrate through the provision of project services the clear movement of participating children and youth to and integration into less segregated environments, with the objective of facilitating the placement of these children is appropriate, regular school settings;

3. Provide inservice training of personnel in local educational agencies including principals, assistant principals and teaching staff which are planning to provide educational services to handicapped children of the project in the least restrictive and least segregated environments; and

4. Provide components which promote acceptance of these children and youth by administrators, teachers, parents, and other children and youth in the least restrictive and least segregated environments.

Approximately $809,000 is expected to be available for issuing up to eight awards for up to three years each under this competition.

(7) *Inservice Training—Services for Severely Handicapped (Including Deaf-Blind) Children and Youth.* This priority supports projects which utilize effective inservice training activities that focus on meeting the needs of qualified personnel to provide services to severely handicapped (including deaf-blind) children and youth. Although the projects may include training for a variety of severe handicapping conditions, they must include some training for meeting the unique needs of deaf-blind children and youth. Personnel receiving inservice training under this priority must be either: (a) Currently providing educational services to severely handicapped children and youth; or (b) formally committed to providing educational services to severely handicapped children and youth for at least a one-year period following the completion of the inservice training provided under this priority.

The inservice training provided must: (a) Be appropriate for the attainment of knowledge and competencies that are necessary for the provision of quality educational services for these severely handicapped children and youth; and (b) be based on innovative practices for the education of these children and youth in the least restrictive school and community environments. Projects could provide for release time of participants, payment for participation, options for academic credit, salary step credit, certification renewal, or updating professional skills.

Approximately $2,554,000 is expected to be available for issuing up to 16 awards at approximately $106,000 per year for up to three years under this competition.

(Approved by the Office of Management and Budget under control number 1820-0028)

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed priorities. All comments submitted in response to these proposed priorities will be available for public inspection, during and after the comment period, in Room 4615, Switzer Building, 330 C Street, SW., Washington, DC between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(Catalog of Federal Domestic Assistance No. 84.086; Innovative Programs for Severely Handicapped Children)

(20 U.S.C. 1424)

Dated: October 4, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85-24091 Filed 10-8-85; 8:45 am]

BILLING CODE 4000-01-M

Auxiliary Activities; Innovative Programs for Severely Handicapped Children

AGENCY: Department of Education.

ACTION: Application notice establishing closing date for transmittal of new applications for fiscal year 1986 awards.

Applications are invited for new demonstration projects under the Auxiliary Activities—Innovative Programs for Severely Handicapped Children program.

Authority for this program is contained in Section 624 of Part C of the Education of the Handicapped Act.

(20 U.S.C. 1424)

Applications may be submitted by public or private, profit or non-profit organizations and institutions.

The Auxiliary Activities program supports research, development or demonstration, training, and dissemination activities consistent with Part C of the act that meet the unique educational needs of handicapped children and youth, including those who are severely handicapped. This application notice, however, addresses only those priorities under Section 624 of the Act proposed by the Secretary for fiscal year 1986 awards under the Auxiliary Activities—Innovative Programs for Severely Handicapped Children and Youth program.

Closing Date for Transmittal of Applications

An application for a new project must be mailed or hand delivered on or before March 21, 1986.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: CFDA Number 84.086, 400 Maryland Avenue, 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 3633, Regional Office Building 3, 7th and D Streets, SW., Washington, DC.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new project that is hand delivered will not be accepted by the application Control Center after 4:00 p.m. on the closing date.

Available Funds

It is estimated that approximately $9,835,000 will be available for support of 48 new projects under these priorities in fiscal year 1986. These estimates of funding level do not bind the Department of Education to a specific number of grants or cooperative agreements or to the amount of any grant or cooperative agreement unless that amount is otherwise specified by statute or regulation. Funding beyond the first year period is subject to an annual review of progress, availability of funds, and other factors (see 34 CFR 75.251—75.253).

Priorities

A notice of proposed annual funding priorities for this program is published in this issue of the **Federal Register.** These priorities address the needs of severely handicapped and deaf-blind children and youth which have been identified as being those most critical at this time.

The priority areas are listed in the table following. For further information on each selected area, applicants may consult the regulations and proposed annual funding priorities.

PRIORITY AREAS—INNOVATIVE PROGRAMS FOR SEVERELY HANDICAPPED CHILDREN, FISCAL YEAR 1986

Priority	Priority area	Anticipated	
		Funding level	Number of awards
84.086C	Non-directed demonstration projects for severely handicapped (other than deaf-blind) children and youth	750,000	7
84.086E	Supported employment for deaf-blind youth	1,000,000	8
84.086H	Non-directed demonstration projects for deaf-blind children and youth	1,963,000	18
84.086J	State-wide systems change	815,000	7
84.086M	Transition skills development for severely handicapped (including deaf-blind) youth	1,965,00	8
84.086N	Education of severely handicapped (including deaf-blind) children and youth in the least restrictive environment	809,000	8
84.086R	Inservice training—services to severely handicapped (including deaf-blind) children and youth	2,544,000	16

Application Forms

Application forms and program information packages are expected to be available on November 15, 1985. These materials may be obtained by writing to the Special Needs Section, Special Education Programs, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 3511—M/S 2313) Washington, DC 20202. Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants submit only the information that is requested.

(Approved by the Office of Management and Budget under control number 1820-0028)

Applicable Regulations

Regulations applicable to this program include the following:

(a) Regulations governing the Auxiliary Activities program (34 CFR Part 315). Final regulations for this program were published on July 9, 1984 (49 FR 28020). A notice of proposed annual funding priorities for this program is published in this issue of the **Federal Register.** Prospective applicants are advised that the proposed annual funding priorities are subject to modification in response to public comments submitted within 30 days of publication. In the event any substantive changes are made in the priorities or other requirements for new projects, applicants will be given the opportunity to amend or resubmit their applications.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

For further information contact: R. Paul Thompson, Special Needs Section, Special Education Programs, Department of Education, 330 C Street, SW. (Switzer Building, Room 4615), Washington, DC 20202. Telephone: (202) 732-1177.

(Catalog of Federal Domestic Assistance No. 84.086; Auxiliary Activities—Innovative Programs for Severely Handicapped Children)

(20 U.S.C. 1424)

Dated: October 4, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85-24092 Filed 10-8-85; 8:45 am]

BILLING CODE 4000-01-M

federal register

Wednesday
October 9, 1985

Part V

Department of Education

Office of Special Education and Rehabilitative Services

Auxiliary Activities: In Service Training—Handicapped Children's Early Education Program; Proposed Annual Funding Priority and Establishment of Closing Dates for Transmittal of New Applications for Fiscal Year 1986; Notices

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Auxiliary Activities; In-Service Training—Handicapped Children's Early Education Program

AGENCY: Department of Education.

ACTION: Notice of Proposed Annual Funding Priority.

SUMMARY: The Secretary proposes to establish an annual funding priority for the Auxiliary Activities: In-Service Training—Handicapped Children's Early Education Program. This proposed priority would support applications which establish in-service training programs which focus on meeting the needs of qualified personnel to provide services to handicapped children from birth through age two.

DATE: Comments must be received on or before November 8, 1985.

ADDRESS: Comments should be addressed to: Dr. Thomas E. Finch, Early Childhood Branch, Division of Innovation and Development, Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3511—M/S 2313), Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas E. Finch. Telephone: (202) 732–1084.

SUPPLEMENTARY INFORMATION: The Auxiliary Activities program, 20 U.S.C. 1424, supports research, development or demonstration activities, training, and dissemination activities, which, consistent with the purposes of Part C of the Education of the Handicapped Act, meet the unique educational needs of handicapped children and youth, including those who are severely handicapped.

The Handicapped Children's Early Education Program (HCEEP), authorized by section 623 of Part C of the Education of the Handicapped Act, supports the establishment and operation of innovative and effective preschool and early education projects and early childhood State Plan projects. Projects funded under the program are age specific, reflect considerations of child development, involve medical, social, special education, and related services, and include parent and family intervention techniques.

The purpose of the HCEEP is to support a variety of experimental models which provide effective services and which can be replicated, and early childhood State Plan projects. The program supports presenting innovative ideas with the potential to advance the status of preschool and early childhood education. It is not the intent of the program to support on-going services.

It has become clear that in order for programs to satisfy the goals of demonstration projects to enhance the provision of services for handicapped infants and those at risk, current training programs need to address in-service training as a priority. Presently, the training of personnel to work in programs serving the infant through age two population is quite diverse in approach, while quite limited relative to the number of training programs available. The need for an in-service priority evolved because of the following principles: (1) Training personnel to work with handicapped infants through age two is different from training personnel for preschool programs; (2) the nature of the infant through age two child as a learner is unique and distinct from that of other learners; (3) a coordinated multi-agency approach to service delivery is imperative; and (4) a family system approach must be the focus of programming for this age group (0–2).

Priority

Auxiliary Activities: In-service Training—Handicapped Children's Early Education Program. In accordance with the Education Department General Administrative Regulations at 34 CFR 75.105(b)(2) and 75.105(c)(3)(i), and subject to available funds, the Secretary proposes to give an absolute preference to each application which provides satisfactory assurance that the recipient will use funds made available for the following activities.

This priority supports projects that demonstrate effective in-service training programs that focus on meeting the needs of qualified personnel to provide services to handicapped and at-risk children age birth through two. Personnel under this priority would include, but are not limited to: pediatricians, neo-natal caregivers (nurses, social workers, physical therapists, occupational therapists, speech pathologists), public health personnel, and parents. Within this priority projects must focus on one or more of the following: (a) Establishing an in-service training program which focuses on training personnel to work with handicapped children from birth through age two (0–2); (b) stressing a curriculum which demonstrates a multi-agency approach to service delivery for handicapped children from birth through age two; (c) focusing on the development of a family systems approach (approaching the family as a system to address the needs of all members affected by the handicapping condition) as a focus of programming for handicapped children from birth through age two; or (d) ensuring individual program priorities within States for handicapped children from birth through age two.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed priority.

All comments submitted in response to the proposed priority will be available for public inspection, during and after the comment period, in Room 4621, Switzer Building, 330 C Street, SW., Washington, DC between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(20 U.S.C. 1424)

(Catalog of Federal Domestic Assistance Number 84.086; Auxiliary Activities: In-Service Training—Handicapped Children's Early Education Program)

Dated: October 4, 1985.

Willaim J. Bennett,

Secretary of Educotion.

[FR Doc. 85–24093 Filed 10–8–85; 8:45 am]

BILLING CODE 4000-01-M

Auxiliary Activities; In-Service Training—Handicapped Children's Early Education Program

AGENCY: Department of Education.

ACTION: Application Notice Establishing the Closing Dates for Transmittal of New Applications for Fiscal Year 1986.

SUMMARY: Applications are invited for new projects under the Auxiliary Activities: In-Service Training—Handicapped Children's Early Education Program.

Authority for this program is contained in Section 624 of Part C of the Education of the Handicapped Act, as amended by Pub. L. 98–199, the Education of the Handicapped Act Amendments of 1983.

(20 U.S.C. 1424)

An application may be submitted by any public or private, profit or non-profit organization or institution.

The Auxiliary Activities program supports research, development or demonstration, training and dissemination activities consistent with Part C of the Act that meet the unique educational needs of handicapped children and youth, including those who are severely handicapped. This application notice, however, addresses only one priority proposed by the Secretary for fiscal year 1986 awards

under the Auxiliary Activities: In-Service Training—Handicapped Children's Early Education Program. A notice of proposed annual funding priority for this program is published in this issue of the **Federal Register.**

Priority

In accordance with the Education Department General Administrative Regulations at 34 CFR 75.105(b)(2) and 75.105(c)(3)(i), and subject to available funds, the Secretary proposes to give an absolute preference to each application which provides satisfactory assurance that the recipient will use funds made available for the following activities.

This priority supports projects that demonstrate effective in-service training programs that focus on meeting the needs of qualified personnel to provide services to handicapped and at-risk children age birth through two. Personnel under this priority would include, but are not limited to: pediatricians, neo-natal caregivers (nurses, social workers, physical therapists, occupational therapists, speech pathologists), public health personnel, and parents. Within this priority projects must focus on one or more of the following: (a) Establishing an in-service training program which focuses on training personnel to work with handicapped children from birth through age two (0)–2); (b) stressing a curriculum which demonstrates a multi-agency approach to service delivery for handicapped children from birth through age two; (c) focusing on the development of a family systems approach (approaching the family as a system to address the needs of all members affected by the handicapping condition) as a focus of programming for handicapped children from birth through age two; or (d) ensuring individual program priorities within States for handicapped children from birth through age two.

Closing Date for Transmittal of Applications

An application for a grant must be mailed or hand delivered by January 20, 1986.

Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: CFDA Number 84.086P, 400 Maryland Avenue, SW., Washington, DC 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.

Applications Delivered by Hand

An application that is hand delivered must be taken to the Department of Education, Application Control Center, Room 3633, Regional Office Building 3, 7th and D Streets SW., Washington, DC.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new project that is hand delivered will not be accepted by the Application Control Center after 4:00 p.m. on the closing date.

Available Funds

It is estimated that approximately $1,000,000 will be available for support of 8 projects under this announcement in fiscal year 1986. These estimates of funding level do not bind the U.S. Department of Education to a specific number of awards or to the amount of any award, unless that amount is otherwise specified by statute or regulations. Award approval is for a period of up to 36 months.

Application Forms

Application forms and program information packages for new applications are scheduled to be available for mailing on November 18, 1985. These materials may be obtained by writing to the Handicapped Children's Early Education Program (HCEEP), Special Education Programs, Department of Education, 400 Maryland Avenue SW. (Switzer Building, Room 3511–M/S 2313), Washington, DC 20202–2313.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is intended only to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or performance requirements beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Secretary further urges that applicants submit only the information that is requested.

(Approved by the Office of Management and Budget under Control Number 1820–0028)

Applicable Regulations

Regulations applicable to this program include the following:

(a) Regulations governing the Auxiliary Activities program (34 CFR Part 315). Final regulations for this program were published on July 9, 1984 (49 FR 28020). A notice of proposed annual funding priority for this program is published in this issue of the **Federal Register.** Applicants should prepare their applications based on the regulations and the proposed annual funding priority for these projects. If there are any substantive changes made in the priority when published in final form, applicants will be given the opportunity to revise or resubmit their applications.

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

FOR FURTHER INFORMATION CONTACT: Dr. Thomas E. Finch, Chief, Program Development Branch, Special Education Programs, Department of Education, 400 Maryland Avenue SW. (Switzer Building, Room 3511–M/S 2313), Washington, DC 20202. Telephone: (202) 732–1184.

(20 U.S.C. 1424)

(Catalog of Federal Domestic Assistance No. 84.086; Auxiliary Activities: Inservice Training—Handicapped Children's Early Education Program)

Dated: October 4, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85–24094 Filed 10–8–85; 8:45 am]

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federal register

Wednesday
October 9, 1985

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Policy Statement; Noise Compliance Regulation for Subsonic Aircraft; General Policy Statement

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

Policy Statement; Noise Compliance Regulation for Subsonic Aircraft

AGENCY: Federal Aviation Administration [FAA], DOT.

ACTION: Notice of General Policy Statement.

SUMMARY: This statement informs the public of the policy the Federal Aviation Administration (FAA) will follow at the end of 1985 with respect to the termination of exemptions from the FAA aircraft noise compliance regulation for four-engine airplanes, 14 CFR 91.303, and with respect to two-engine airplanes with exemptions for "small community service" pursuant to 14 CFR 91.307 which terminate at the end of 1987.

FOR FURTHER INFORMATION CONTACT: John E. Wessler, Director of Environment and Energy, Federal Aviation Administration, Washington, DC 20591 telephone: (202) 426–8406.

SUPPLEMENTARY INFORMATION: On November 18, 1976, the Secretary of Transportation and the FAA Administrator issued the Aviation Noise Abatement Policy, 34 FR 18359. That document, among other matters, announced a program which would ultimately prohibit operations at U.S. airports of all civil, subsonic turbojet airplanes with maximum takeoff weights of more than 75,000 pounds that had not been shown to meet at least the Stage 2 noise standards contained in 14 CFR Part 36. In accordance with that policy, on December 17, 1976, the FAA issued Subpart E of Part 91 of the Federal Aviation Regulations (14 CFR, Subpart E; 41 FR 56046) which, in part, established a phased compliance program for U.S. domestic operators, and provided that they must achieve compliance with Stage 2 or Stage 3 standards for all four-engine turbojet aircraft by January 1, 1985 (14 CFR 91.303).

On February 18, 1980, the Congress enacted the Aviation Safety and Noise Abatement Act of 1979, Pub. L. 96–193, 94 Stat. 50. Title III of that Act required the FAA to promulgate regulations extending application of the January 1, 1985, cut-off date for four-engine turbojet aircraft to U.S. and foreign international operators if no international agreement could be achieved on a compliance deadline. Since no such agreement could be reached, on November 28, 1980, the FAA amended § 91.303 to make it applicable to all operators for their operations in the U.S. (45 FR 79302, November 28, 1980). Thus, from December, 1976 all domestic operators, and from November 1980, all international operators have known that the FAA regulation would require them to have their four-engine turbojet aircraft operating in the U.S. in compliance with § 91.303 by January 1, 1985.

Title III of Pub. L. 96–193 also mandated that certain civil two-engine turbojet airplanes with 100 or fewer seats be given exemptions from the noise rule until January 1, 1988 (the so-called "small community service" exemptions). The FAA implemented the "service to small community" exemption for two-engine subsonic airplanes in 14 CFR 91.307 (45 FR 79316; November 28, 1980).

In early 1984, the FAA began to receive a large number of petitions for general exemptions from § 91.303. On October 12, 1984, Pub. L. 98–473 became effective. It mandated exemptions under certain limited conditions for operators at either Bangor (Maine) or Miami International Airport. In addition, during 1984 it became apparent that no FAA-approved noise-reduction equipment would be available prior to the January 1, 1985, deadline to modify four-engine aircraft through the installation of hush kits and, ultimately, some limited exemptions were granted. As a result of these grants, as well as the denial of a substantial number of additional petitions, the FAA became involved in a series of lawsuits in several of the United States Courts of Appeal in which both grants and denials of exemptions from § 91.303 were challenged.

On March 29, 1985, the United States Court of Appeals for the District of Columbia Circuit entered its opinion in *Airmark, et al.* v. *FAA, et al.*, 758 F. 2d 685 (D.C. Cir., 1985), remanding to FAA certain cases dealing with petitions for exemption from the the FAA's aircraft noise compliance rule. As a consequence of that decision, on April 26, 1985, the FAA issued its decision *In the Matter of the Petition of Lineas Aereas del Caribe, S.A.*, Regulatory Docket No. 24028–2, Exemption No. 4302 (*LAC*) (printed in full at 50 FR 19102, May 6, 1985). That decision contained interpretive information applicable to all potential petitioners for exemptions from the noise rule. In *LAC* the FAA indicated that, in all except "essential air service" cases, it would consider petitions for exemption from the noise rule in light of the five criteria recommended by the Congress in the Conference Report on the Aviation Safety and Noise Abatement Act (H.R. Rep. No. 715, 96th Cong., 1st Sess. 23, reprinted in 1980 U.S. Code Cong. & Ad. News 115, 124). All petitions decided since the *LAC* order have been decided in accordance with the guidance stated in *LAC*.

The *LAC* order, however, addresses only in general terms the situation which will arise for exemption holders if they do not have hush kits installed on their aircraft at the time their exemptions terminate. Such situations can arise in the following cases:

1. The exemption holder has a firm hush kit contract with a husk kit supplier which has already obtained its supplemental type certificate (STC), or which obtains its STC prior to September 30, 1985, but the hush kits cannot be installed by the planned date, which is also the date the exemption will terminate.

2. The exemption holder has a firm hush kit contract with a supplier which did not obtain its STC by September 30, 1985, but, as provided for in the *LAC* order, the exemption holder is able to obtain a substitute contract with a supplier which does obtain its STC by that date, but the hush kits cannot be installed by January 1, 1986.

3. The exemption holder has a firm hush kit contract with a supplier which does not obtain its STC by September 30, 1985, but which does obtain the STC by December 31, 1985.

4. The exemption holder has a firm hush kit contract with a supplier which does not obtain its STC by December 31, 1985, if at all.

The following "Statement of Policy" is intended to furnish exemption holders in these and other circumstances with a clear indication of how the FAA will treat such cases. Obviously, nothing contained in the policy as stated below is intended to preclude the Administrator from acting in such manner as he deems appropriate if unusual or extenuating circumstances arise in connection with an aircraft noise compliance rule exemption matter.

Statement of Policy

A. *Small Community Service Exemptions.* The FAA will terminate all § 91.307 exemptions for two-engine airplanes by January 1, 1988. The hush kit technology and the equipment to retrofit these airplanes have been available for many years at a relatively low cost. There is no justification for operators failing to have these airplanes in compliance by that date.

B. *Other Exemptions—General.* It is, and has been the policy of the FAA to require § 91.303 exemption holders to acquire and install hush kits at the

earliest possible date. Except for two-engine aircraft, the FAA will terminate most exemptions on December 31, 1985, unless earlier termination is called for by the specific exemption. The FAA recognizes, however, that production and installation schedules, even for suppliers which have achieved supplemental type certification for their products, will not, in every case, permit the modification equipment to be installed prior to January 1, 1986. Therefore, the FAA will implement the following specific policies with respect to the situations described below.

C. *The Hush Kit Supplier Fails to Obtain STC by December 31, 1985.* If the hush kit supplier has not received its STC by the end of 1985, there can be no clear way to determine precisely when, or even if, it will be certificated. An indefinite extension of time to exemption holders in this category would not be in the public interest since it would confer a relative benefit on customers of hush kit suppliers that have not progressed as rapidly as others. In light of these considerations, the FAA's policy will be to terminate exemptions not later than December 31, 1985, under these circumstances.

D. *The Hush Kit Supplier Obtains STC after September 30, but before December 31, 1985.* Section 124(e) of Pub. L. 98–473 provides that the Secretary may extend exemptions issued under the authority of that statute beyond December 31, 1985, if she determines that equipment to insure compliance with the ASNA has been certified by the FAA, but will not be available to the exemption holder by that date. It is the FAA policy that holders of exemptions granted under section 124 and those granted under the FAA's general exemption authority will be treated similarly. While discretionary authority exists under both section 124(e) and the general exemption power to extend exemptions past December 31, 1985, the FAA has determined that the public interest in firm adherence to the ASNA Act outweighs the public interest in extending exemptions beyond that date pursuant to either section 124(e) or the general exemption power. Therefore, in cases where the hush kit supplier has received its STC after September 30, but before December 31, 1985, the FAA will terminate the exemptions either on the date the hush kits are installed or on December 31, 1985, whichever occurs first. (As provided in section III of the *LAC* order, an exemption holder in this category may, by November 30, 1985, obtain a substitute contract with another hush kit supplier which has obtained an STC by September 30, 1985.)

E. *The Hush Kit Supplier Has Obtained STC by September 30, 1985.* In this circumstance, the FAA recognizes that hush kit suppliers which have obtained their STCs by September 30, 1985, have made diligent efforts to achieve certification and that, having done so, they will have received a substantial number of orders resulting in correspondingly longer, but nevertheless firm, delivery schedules. Therefore, (1) for those exemption holders which have hush kit contracts with suppliers having their STCs by September 30, 1985, and (2) for exemption holders which had hush kit contracts with suppliers that have not received their STCs by that date, in those cases where, not later than November 30, 1985, the exemption holder has obtained a substitute contract with a supplier which has obtained its STC by September 30, 1985, the FAA will extend the exemptions in these cases so that the expiration date is the earliest date that the hush kit can be installed on the exemption holder's aircraft, or December 31, 1986, whichever occurs first. No exemptions in such cases will be extended beyond December 31, 1986.

F. *Aircraft for Which No Hush Kits Are Available by September 30, 1985.* The FAA anticipates that no hush kits will have been certificated by September 30, 1985, for certain models of aircraft such as the DC–8–50 series and the DC–8–61. In order to provide holders of exemptions for such aircraft the opportunity to extend their exemptions for a reasonable period until they can comply with the noise rule, the FAA adopts the following policy: the holders of exemptions for aircraft for which no hush kits have received an STC by September 30, 1985, may, not later than November 30, 1985, acquire one or more aircraft, not to exceed the number for which the exemption holder already has an exemption, of a type for which a hush kit supplier has received its STC by September 30, 1985. If, not later than November 30, 1985, such exemption holder has entered into a firm contract for the installation of hush kits at the earliest possible delivery date, supported by a non-refundable deposit of at least $75,000 for each such replacement aircraft, with a hush kit supplier which has received its STC by September 30, 1985, then the FAA will extend such exemptions until hush kits can be installed on the exemption holder's replacement aircraft, or until December 31, 1986, whichever occurs first.

G. *Amended Supplemental Type Certification.* The FAA recognizes that, due to the many variations among given types of aircraft and aircraft engines, most hush kit suppliers will need to obtain amendments to the original STC to cover the range of aircraft in their applications for STCs. Thus, although a supplier may be producing a hush kit solely for DC–8–62/63 aircraft, amendments to the original STC may be needed to allow installation on the varied DC–8–62/63 aircraft owned or operated by all that supplier's customers. Therefore, for the purpose of implementing the foregoing policy, the FAA will consider the date a hush kit supplier receives its first STC for a given type of aircraft for which it had firm contracts with purchasers prior to March 29, 1985, and for which an exemption has been issued by the FAA to be the date of certification for all purposes related to the implementation of the policy so long as all STC amendments covered by the initial application for that type and series of aircraft are obtained prior to December 31, 1985.

Issued in Washington, DC on September 30, 1985.

Donald D. Engen,

Administrator.

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H.J. Res. 287/Pub. L. 99-115

To designate October 1985 as "Learning Disabilities Awareness Month". (Oct. 4, 1985; 99 Stat. 489) Price: $1.00

H.J. Res. 394/Pub. L. 99-116

Reaffirming our historic solidarity with the people of Mexico following the devastating earthquake of September 19, 1985. (Oct. 4, 1985; 99 Stat. 490) Price: $1.00