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Monday
January 13, 1986

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

CONTINUED INSIDE

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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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: January 17; at 9 am.

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

RESERVATIONS: Howard Landon 202-523-5227 (Voice)
Melanie Williams 202-523-5229 (TDD)

FUTURE WORKSHOPS: Additional workshops are scheduled bimonthly in Washington and on an annual basis in Federal regional cities. Dates and locations will be announced later.

NOTE: There will be a sign language interpreter for hearing impaired persons at this briefing.

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 51, No. 8
Monday, January 13, 1986

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1062

Milk in the St. Louis-Ozarks Marketing Area; Order Terminating the Remaining Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Termination of rules.

SUMMARY: This action terminates the remaining provisions of the St. Louis-Ozarks order. All of the monthly operating provisions of the order were terminated effective April 1, 1985. Since that time, only the liquidation and continuing obligation provisions have remained in effect. Now that all of the business associated with the operation of the former St. Louis-Ozarks order has been concluded, the remaining provisions are terminated.

EFFECTIVE DATE: January 1, 1986.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, DC 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Order terminating the order: Issued February 27, 1985, published March 1, 1985 (50 FR 8318).

Determinations

It is hereby found and determined, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the St. Louis-Ozarks marketing area (7 CFR Part 1062), that:

(a) The following remaining provisions of the order no longer tend to effectuate the declared policy of the Act:

That part of § 1062.1 which incorporates §§ 1000.4 (c) and (d), 1000.5 (b) and (c), and 1000.6 of the General Provisions.

Effective April 1, 1985, the Deputy Assistant Secretary, at the request of a majority of the producers, terminated all of the operating provisions of the St. Louis-Ozarks order as required by section 608c(16)(B) of the Agricultural Marketing Agreement Act of 1973, as amended. Since then, only the liquidation and continuing obligation provisions of the order have remained in effect.

The market administrator, in his capacity as the order's liquidating agent, has completed the disbursement of all of the money remaining in the administrative, producer-settlement, and marketing service funds established under the order.

(b) Notice of proposed rulemaking and public procedure thereon, and 30 days' notice of the effective date hereon are impracticable, unnecessary, and contrary to the public interest.

Therefore, good cause exists for making this order effective January 1, 1986.

It is therefore ordered, that the remaining provisions of Part 1062 represented by that portion of § 1062.1 which incorporates §§ 1000.4 (c) and (d), 1000.5 (b) and (c), and 1000.6 of the General Provisions are hereby terminated and Part 1062 is vacated effective January 1, 1986, subject, however, to the following condition:

That such termination of the remaining provisions of said order shall not affect of waive any right, obligation, duty, or liability under the said order with respect to milk delivered prior to April 1, 1985 or release or extinguish any violations of the said order, or affect or impair any right or remedy of the United States, the Secretary of Agriculture, or any other person with respect to any such violation which has arisen or occurred or which may arise or occur prior to the time that termination of such remaining provisions becomes effective.

List of Subjects in 7 CFR Part 1062

Milk, Milk Marketing Orders, Dairy products.

PART 1062—[REMOVED]

1. The authority citation for 7 CFR Part 1062 continues to read as follows:

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

2. Part 1062 of 7 CFR is hereby removed, effective January 1, 1986.

Effective date: January 1, 1986.

Signed at Washington, DC on: January 7, 1986.

Alan T. Tracy,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 86–663 Filed 1–10–86; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1137

Milk in the Eastern Colorado Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action continues, for the months of January and February 1986, suspension of provisions of the Eastern Colorado Federal milk order relating to the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. Also continued for the same period is the suspension of the limit on the period of automatic pool plant status for a supply plant which met pool shipping standards during the previous September through February, and the "touch-base" requirement that each producer's milk be received at least three times each month at a pool distributing plant. Continued suspension of the provisions was requested by a cooperative association representing producers supplying the market, which also requested the original suspension for September through December 1985. The action is necessary to assure that the milk of producers who regularly have supplied the fluid milk needs of the market will continue to be priced and pooled under the order without requiring unnecessary and uneconomic movements of milk.

EFFECTIVE DATE: January 13, 1986.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–7311.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued December 5, 1985; published December 11, 1985 (50 FR 50622).

The Administrator of the Agricultural Marketing Service has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Eastern Colorado marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on December 11, 1985 (50 FR 50622) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. No comments opposing the proposed action were received. The proponent of the suspension and another cooperative association filed comments that provided additional information in support of the suspension.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the months of January and February 1986 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In the second sentence of § 1137.7(b), the words "of March through August".

2. In the first sentence of § 1137.12 (a)(1), the words "from whom at least three deliveries of milk are received during the month at a distributing plant".

3. In the second sentence of § 1137.12 (a)(1), the words "20 percent", "of", and "distributing".

Statement of Consideration

This action continues for the months of January and February 1986 suspension of the limit on the amount of producer milk that a cooperative association may divert from pool plants to nonpool plants. Also continued for the same period is a suspension of the limit on the period of automatic pool plant status for a supply plant which met pool shipping standards during the previous September through February, and the "touch-base" requirement that each producer's milk be received at least three times each month at a pool distributing plant. An earlier action suspended these provisions for September through December 1985.

The order provides that a cooperative may divert a quantity of milk not in excess of 20 percent of the cooperative association's member milk received at pool distributing plants. The suspension allows up to 50 percent of a cooperative's member milk supply to be diverted to nonpool plants and remain eligible to share in the marketwide pool.

The continued suspension was requested by Mid-America Dairymen, Inc., (Mid-Am), a cooperative association of producers supplying the market, which also requested the earlier suspension. The cooperative association indicated that producer receipts on the Eastern Colorado order during the months of January through October 1985 have exceeded those of the same period of 1984 by 11.6 percent, while producer milk used in Class I has increased only 1.4 percent. Mid-Am estimates that during the months of January and February 1986, shipments to surplus handling plants in eastern Kansas and Nebraska will average approximately 40 loads per month. Without suspension of the requested provisions, qualification of Mid-Am member milk in western Kansas and western Nebraska under the provisions of the Eastern Colorado order would require approximately the same number of loads of milk per month to be shipped to pool distributing plants. Such shipments would displace Denver-area milk, which would have to be moved to surplus handling plants. Without the requested continued suspension, the cooperative expects to incur substantial unnecessary costs for the movement of its milk solely for the purpose of pooling the milk of its members currently associated with the Eastern Colorado order. No comments in opposition to the proposed action were received. Mid-Am filed comments that provided additional information in support of the suspension. Mountain Empire Dairymen's Association, which represents a substantial majority of the producers supplying the market, also filed a comment supporting a continuation of the suspension.

Milk production is significantly above year-earlier levels and consequently a greater proportion of the available milk supplies will have to be shipped to manufacturing plants for surplus uses. Favorable weather conditions and ample feed supplies provide strong indications that the current production trends will continue, without offsetting increases in Class I use. In view of these circumstances, it is concluded that the diversion limits and "touch-base" requirements of the Eastern Colorado milk order should be suspended for the months of January and February 1986 to ensure the orderly marketing of milk supplies. The suspension will prevent uneconomic movements of some milk through pool plants merely for the purpose of qualifying it for producer milk status under the order.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that without extensive unnecessary and expensive hauling and handling substantial quantities of milk from producers who regularly supply the market otherwise would be excluded from the marketwide pool, thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded an opportunity to file written data, views or arguments concerning this suspension. No views in opposition to this action were received.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1137

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions §§ 1137.7(b) and 1137.12(a)(1) of the Eastern Colorado order are hereby suspended for the months of January and February 1986, as follows:

PART 1137—MILK IN THE EASTERN COLORADO MARKETING AREA

1. The authority citation for 7 CFR Part 1137 continues to read as follows:

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

§ 1137.7 [Amended]

2. In 7 CFR Part 1137, in the second sentence of § 1137.7(b), the words "of March through August" are suspended.

§ 1137.12 [Amended]

3. In 7 CFR Part 1137, in the first sentence of § 1137.12(a)(1), the words "from whom at least three deliveries of milk are received during the month at a distributing plant" are suspended.

4. In 7 CFR Part 1137, in the second sentence of § 1137.12(a)(1), the words "20 percent", "of", and "distributing" are suspended.

Effective Date: January 13, 1986.

Signed at Washington, D.C., on: January 6, 1986.

Alan T. Tracy,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 86-596 Filed 1-10-86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-ANE-19, Amdt. 39-5197]

Airworthiness Directives; Rolls-Royce Limited Dart Engine Series 506, 510, 511, 514, 525, 526, 527, 528, 529, 530, 531, 532, 535, 542, 550, and All Variants of These Series

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) which requires a one time inspection of certain low pressure impellers on Rolls-Royce Limited Dart engine series 506, 510, 511, 514, 525, 526, 527, 528, 529, 530, 531, 532, 535, 542, 550, and all variants of these series. The amendment is needed to include in the inspection process, impellers which were not required to be inspected by the original AD. The added inspections are needed to prevent possible failure of the low pressure impeller which could result in an uncontained engine failure.

DATE: *Effective*—January 6, 1986.

Compliance schedule—As prescribed in body of AD.

Incorporation by Reference—Approved by the Director of the Federal Register on January 10, 1986.

ADDRESSES: The applicable service bulletins (SBs) may be obtained from Rolls-Royce Limited, Manager—Dart Service, East Kilbride, Glasgow G74 4PY, Scotland.

Copies of the SBs are contained in Rules Docket No. 84-ANE-19 in the Office of the Regional Counsel, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Marc J. Bouthillier, Engine Certification Branch, ANE-142, Engine Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7085.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-4987 (50 FR 5374), AD 85-03-03, which requires inspections of certain low pressure impellers. After issuing Amendment 39-4987, the FAA has determined that additional low pressure impellers installed in Rolls-Royce Dart engines may contain material defects which could result in an uncontained engine failure. Therefore, the FAA is amending Amendment 39-4987, by requiring additional parts to be inspected.

During inspection in accordance with the original issue of this AD, an impeller was found with a material defect similar to that found in the failed impellers. It has been determined by analysis that failure of this impeller would have occurred between 2,000 and 3,000 flight cycles. Consequently, it has been determined that certain low pressure impellers not covered by the original AD, may contain material defects similar to those in the failed impellers. Therefore, a need exists to expand inspections to these low pressure impellers.

Since a situation exists that requires the 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.

Conclusion

The FAA has determined that this regulation is an emergency regulation that is not considered to be 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 action 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 (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT"**.

List of Subjects in 14 CFR Part 39

Engines, Air Transportation, Aircraft, Aviation Safety, Incorporation by Reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 39 of the Federal Aviation Regulations (FAR) (14 CFR 39.13) is amended 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 amending Amendment 39-4987 (50 FR 5374), AD 85-03-03, as follows: By adding new paragraphs (c) and (d).

(c) Inspect low pressure impellers with serial numbers listed in Appendix 1 of Rolls-Royce SB Da72-A488, Revision 2, which have not been inspected per (a) above, which have accumulated less than 3,500 flights since new, within the next 100 flights, but not later than February 28, 1986.

(d) Inspect low pressure impellers with serial numbers listed in Appendix 1 of Rolls-Royce SB Da72-A488, Revision 2, which have not been inspected per (a) above, which have accumulated 3,500 or more flights since new, within the next 500 flights, but not later than April 30, 1986.

Rolls-Royce SB Da72-A488, Revision 2, dated July 25, 1985, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to Manager—Dart Service, Rolls-Royce Limited, East Kilbride, Glasgow G74 4PY, Scotland. This document also may be examined at the Office of the Regional Counsel, FAA, New England Region, Attention: Rules Docket No. 84-ANE-19, 12 New England Executive Park, Room Number 311, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday except Federal holidays.

This amendment amends Amendment 39-4987 (50 FR 5374), AD 85-03-03.

This amendment becomes effective on January 6, 1986.

Issued in Burlington, Massachusetts, on December 12, 1985.

Jack A. Sain,

Acting Director, New England Region.

[FR Doc. 86-624 Filed 1-10-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-ANE-24, Amend. 39-5198]

Airworthiness Directives; Secur Aiglon (Formerly l'Aiglon) Model 343 Safety Belts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires a modification of Secur Aiglon

(formerly l'Aiglon) type 343, 343A, 343B, and 343C buckles used on Model 343 safety belts. The AD is needed to prevent any possible blockage and failure to unlock the belt.

DATES: *Effective*—February 6, 1986.

Compliance required within the next 90 days after the effective date of this AD, unless already accomplished.

Incorporation by Reference—Approved by the Director of the Federal Register on February 6, 1986.

ADDRESSES: The applicable service bulletin (SB) may be obtained from: Anjou Aeronautique, Avenue de l'Osier, 49125 Tierce, France.

A copy of the SB is contained in the Rules Docket, Office of the Regional Counsel, FAA, New England Region, Room 311, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Mr. Ted T. Ebina, Brussels Aircraft Certification Office, AEU-100, 15 Rue de la Loi, B-1040 Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (FAR) to include an AD which requires a modification of Secur Aiglon (formerly l'Aiglon) type 343, 343A, 343B, and 343C buckles on Model 343 safety belts was published in the **Federal Register** on Friday, July 26, 1985 (50 FR 30449).

The proposal was prompted by an incident which indicated that the belt buckle restraint system may become jammed, prevent unlocking of the belt buckle, and entrap the occupant if it is fastened in a certain manner.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received. Accordingly the proposal is adopted without change.

Conclusion

The FAA has determined that this regulation involves 30,000 safety belts at an approximate cost of $12.50 per belt. Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT".**

List of Subjects in 14 CFR Part 39

Aircraft, Aviation Safety, Incorporation by Reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the FAA amends Part 39 of the FAR as follows:

1. The authority citation 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 AD:

Secur Aiglon: Applies to Secur Aiglon (formerly l'Aiglon) Model 343 safety belts equipped with type 343, 343A, 343B, 343C buckles installed in, but not limited to, Aerospatiale SA360C helicopters.

Compliance is required as indicated unless already accomplished.

To prevent any possible jamming and failure to unlock the belt, accomplish the following:

Within the next 90 days after the effective date of this AD, modify the belt buckle in accordance with the repair instructions specified in Secur Aiglon SB No. TRW 1, dated April 27, 1984, or later FAA approved revision.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Brussels Aircraft Certification Office, AEU-100, 15 Rue de la Loi, B-1040, Brussels, Belgium, telephone 531.38.30.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Brussels Aircraft Certification Office, AEU-100, 15 Rue de la Loi, B-1040, Brussels, Belgium, may adjust the compliance time specified in this AD.

Secur Aiglon SB No. TRW 1, dated April 27, 1984, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to Anjou Aeronautique, Avenue de l'Osier, 49125 Tierce, France. This document also may be examined at the Office of the Regional Counsel, FAA, New England Region, Room 311, 12 New England Executive Park, Burlington, Massachusetts 01803.

This amendment becomes effective on February 6, 1986.

Issued in Burlington, Massachusetts on December 12, 1985.

Jack A. Sain,

Acting Director, New England Region.

[FR Doc. 86-623 Filed 1-10-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-216 (Texas-39); Order No. 444]

High Cost Gas Produced From Tight Formations; Ceiling Prices

Issued: December 31, 1985.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule.

SUMMARY: Under section 107(c)(5) of the Natural Gas Policy Act of 1978, the Federal Energy Regulatory Commission designates certain types of natural gas as high-cost gas. High-cost gas is produced under conditions which present extra-ordinary risks or costs and once designated many receive an incentive price. Under section 107(c)(5), the Commission issued a rule designating natural gas produced from tight formations as high-cost gas. Jurisdictional agencies may submit recommendations of areas for designation as tight formations. Here, the Federal Energy Regulatory Commission adopts the request of petitioner Mitchell Energy Corporation to amend the recommendation of the Railroad Commission of Texas and designate a portion of the Barnett Shale Formation located in all of Wise County and parts of Denton and Tarrant Counties, Texas, as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective January 30, 1986.

FOR FURTHER INFORMATION CONTACT: Jacob Silverman, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8316.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

The Commission amends § 271.703(d) of its regulations [1] to include a portion of the Barnett Shale Formation in Wise County and parts of Denton and Tarrant Counties, Texas, as a designated tight formation eligible for incentive pricing. The Director of the Office of Pipeline and Producer Regulation (Director) issued a notice proposing the reduction in area on July 30, 1985.[2]

[1] 18 CFR 271.703(d) (1983).

[2] 50 FR 31391 (August 2, 1985).

Background

On September 20, 1983, the Federal Energy Regulatory Commission (Commission) received a recommendation pursuant to § 271.703(d) of the Commission's regulations [3] from the Railroad Commission of Texas (RRC) that the Barnett Shale Formation covering 7,524 square miles in eight Texas counties be designated as a tight formation. The Director issued a notice proposing the designation on November 14, 1983.[4] No comments were received. After staff raised concern about designating the entire eight county area based upon data from only two wells, on May 23, 1985, petitioner Mitchell Energy Corporation (Mitchell) filed a request to reduce the area of the recommendation. The revised area would cover 1,592 square miles, consisting of all of Wise County and parts of Denton and Tarrant Counties. The amended notice designating the reduced area was then issued. No new technical data was requested. No comments were filed and no public hearing was held.

The evidence submitted by the RRC supports the assertion that the Barnett Shale Formation in all of Wise County, and parts of Denton and Tarrant Counties, Texas, meets the guidelines contained in § 271.703(c)(2) of the Commission's regulations for designation as a tight formation. Accordingly, the Commission adopts the RRC's recommendation for the Barnett Shale Formation for the reduced area requested by Mitchell and set forth in the amended notice.

This amendment shall become effective January 30, 1986.

List of Subjects in 18 CFR Part 271

Natural Gas, Incentive Price, Tight Formation.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. The authority citation for Part 271 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(194) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(194) *Barnett Shale Formation in Texas.* RM79–76 (Texas—39).

(i) *Delineation of formation.* The Barnett Shale Formation is found in Texas in all of Wise County and the western one-half of Denton county, Railroad Commission District 9; and the north-western one-quarter of Tarrant County, Railroad Commission District 5. The designated area covers 1,592 square miles.

(ii) *Depth.* The Barnett Shale Formation in the designated area lies uncomformably over the Ordovician (Ellenburger) and lies below the Barnett Lime or Pennsylvanian Morrow. The depth to the top of the Barnett Shale Formation varies from an estimated sub-sea depth of 4,800 feet in Wise County to 7,900 feet in Tarrant County, with an approximate thickness ranging from 236 feet in Wise County to 300 feet in Tarrant County. A typical Barnett Shale section occurs between the electric log depths of 7,194 feet and 7,444 feet on the well log of the Mitchell Energy Corporation C. W. Slay No. 1 well.

[FR Doc. 86–655 Filed 1–10–86; 8:45 am]
BILLING CODE 6717-01-M

[3] 18 CFR 271.703(d) (1983).

[4] 48 FR 52483 (November 18, 1983).

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18 CFR Part 271

[Docket No. RM79–76–135 (West Virginia–3); Order No. 443]

High-Cost Gas Produced From Tight Formation; West Virginia

Issued December 31, 1985.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1985)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This order adopts the recommendation of the Department of Mines, Oil and Gas Division, of the State of West Virginia, that the "Riley-Benson" zones of the Chemung Group be designated as a tight formation under § 271.703 of the Commission's regulations. That portion of the recommendation relating to the remaining 29 zones was recommended for remand by West Virginia until such time as additional data becomes available.

EFFECTIVE DATE: This rule is effective January 30, 1986.

FOR FURTHER INFORMATION CONTACT: Kraig H. Koach, (202) 357–9118.

Final Rule

Before Commissioners: Raymond J. O'Connor, Chairman; A. G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

Based on an amended recommendation made by the Department of Mines, Oil and Gas Division, of the State of West Virginia (West Virginia), the Commission amends § 271.703(d) of its regulations to include the "Riley-Benson" zones of the Chemung Group located in portions of Barbour, Doddridge, Gilmer, Harrison, Lewis, Upshur, and Randolph Counties, West Virginia, as a designated tight formation eligible for incentive pricing. That portion of the original recommendation relating to the remaining 29 zones including those in the Chemung Group, Pocono Group, Hampshire Formation and Brallier Formation is remanded to West Virginia, as requested, for future consideration when additional supporting data becomes available.

Background

On July 30, 1982, the Commission received a recommendation pursuant to § 271.703(d) of the Commission's regulations from West Virginia that the Pocono Group, the Hampshire Formation, the Chemung Group, and the Brallier Formation consisting of a total of 31 zones located in certain areas of Barbour, Doddridge, Gilmer, Harrison, Lewis, Upshur, and Randolph Counties, West Virginia, be designated as a tight formation. A notice of Proposed Rulemaking was issued on September 30, 1982.[1] Several comments to the proposed designation were filed with the Commission.[2] Two informal

[1] 47 FR 43986 (October 5, 1982).

[2] Independent Oil and Gas Association of West Virginia, Peake Operating Company, and Champlin Petroleum Company filed timely comments in support of the recommendation. Royal Land Company, Badger Coal Company, West Virginia Coal Association, Kitt Energy Corporation, Upshur Coals Corporation, and the Public Service Commission of West Virginia filed timely comments

Continued

conferences were conducted by the Commission regarding the comments in opposition. In addition, West Virginia held a separate public hearing on the "Riley-Benson" zones of the Chemung Group, and in a letter dated January 9, 1985, submitted to the Commission additional data on the "Riley-Benson" zones of the Chemung Group. On July 22, 1985, West Virginia notified the Commission of its request for remand of the remaining 29 zones of the originial recommendation, and stated that these zones would be refiled when additional information became available. No comments were submitted by any parties following the second technical conference and no comments were received following West Virginia's public hearing. Therefore, it appears there is no opposition to the amended recommendation that the "Riley-Benson" zones be designated as a tight formation.

In the amended recommended area, the "Riley-Benson" zones overlie the Leopold, Cedar Creek and Alexander zones of the Chemung Group and underlie the Elizabeth, Warren, Upper Speechley, Speechley, Balltown and Bradford zones of the Chemung Group. The "Riley-Benson" interval is approximately 350 feet in thickness. The top of the interval ranges from 5,200 feet in the western portion to 3,000 feet in the eastern portion with the average depth to the top of the interval being 3,783 feet.

Discussion

Analysis of data derived from three types of permeability tests performed on sixteen wells located in the recommended area revealed that the average *in situ* gas permeability throughout the pay section is not expected to exceed the maximum 0.1 millidarcy allowed under the regulations. The results of short duration flow tests (natural open flow data) show an average natural open flow rate of 89 Mcf/d which satisfies the production rate guideline. No well drilled within the recommended area is expected to produce more than five (5) barrels of oil per day. Accordingly, the West Virginia recommendation for the "Riley-Benson" zones of the Chemung Group meets the Commission guidelines set forth in § 271.703(c)(2)(i).[3]

The Commission Orders:

Based on the discussion herein, the Commission adopts the amended recommendation of the Department of Mines, Oil and Gas Division, of the State of West Virginia that the "Riley-Benson" zones of the Chemung Group, be designated as a tight formation under § 271.703(d).

This amendment shall become effective January 30, 1986.

List of Subjects in 18 CFR Part 271

Incentive price, Natural gas, Tight formations.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, *Code of Federal Regulations*, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

1. The authority citation for Part 271 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by adding paragraph (d)(193) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(193) *"Riley-Benson" zones of the Chemung Group in West Virginia.* RM79–76–135 (West Virginia-3).

(i) *Delineation of formation.* The "Riley-Benson" zones cover an area of approximately 3,197 square miles in portions of Barbour, Doddridge, Gilmer, Harrison, Lewis, Upshur, and Randolph Counties, West Virginia.

(ii) *Depth.* The "Riley-Benson" interval is approximately 350 feet in thickness. The top of the "Riley-Benson" zones interval ranges from 5,200 feet in the western portion to 3,000 feet in the eastern portion with the average depth to the top of the interval being 3,783 feet.

[FR Doc. 86–654 Filed 1–10–86; 8:45 am]

BILLING CODE 6717-01-M

in opposition to the recommendation. In addition, West Virginia Oil and Gas Association and Independent Oil and Gas Association of West Virginia filed motions with the Commission for leave to submit comments out of time in support of the recommendation.

[3] 18 CFR 271.703(c)(2)(i) (1985). The Commission may approve a recommendation that a natural gas formation be designated as a tight formation if each of the enumerated guidelines contained in this section is met.

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18 CFR Part 271

[Docket Nos. RM79–76–242 (Wyoming-18); RM79–76–237 (Texas-40); RM79–76–240 (Colorado-40); RM79–76–245 (Colorado-40 Addition); RM79–76–136 (Utah-5); RM79–76–241 (Kentucky-4)]

High Cost Gas Produced From Tight Formations; Wyoming et al., Errata Notice

January 7, 1986.

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Final rule; redesignation of paragraph numbers

SUMMARY: Under the Commission's regulations, natural gas produced from tight formations is designated as high-cost gas which may receive an incentive price. The Commission has previously adopted recommendations of jurisdictional agencies that certain areas be designated as tight formations. This document redesignates paragraph numbers which have been misnumbered. No other changes are made to the previously-issued orders.

EFFECTIVE DATES: The redesignated paragraphs of 18 CFR 271.703 were effective as follows: (d)(187)—September 23, 1985; (d)(188) through (d)(191)—October 28, 1985; and (d)(192)—October 30, 1985.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, (202) 357–8400.

SUPPLEMENTARY INFORMATION:

Certain errors have occurred in the paragraph numbers assigned to designated tight formations. Users of the *Federal Energy Guidelines* should note that the correct paragraph numbers are shown in the Regulations published therein and are not changed by this notice. The following paragraph numbers are redesignated:

1. 18 CFR 271.703(d)(191) entitled "Turner Formation in Wyoming. RM79–76–242 (Wyoming-18)." and appearing at 50 FR 40361 (October 3, 1985) is redesignated as 18 CFR 271.703(d)(192);

2. 18 CFR 271.703(d)(191) entitled "Niobrara Formation in Colorado. RM79–76–240 (Colorado-40)." and appearing at 50 FR 40193 (October 2, 1985) is redesignated as 18 CFR 271.703(d)(189);

3. 18 CFR 271.703(d)(204) entitled "Strawn Formation in Texas. RM79–76–237 (Texas-40)." and appearing at 50 FR 40194 (October 2, 1985) is redesignated as 18 CFR 271.703(d)(191);

4. 18 CFR 271.703(d)(192) entitled "Niobrara Formation in Colorado. RM79–76–245 (Colorado-40 Addition)." and appearing at 50 FR 40193 (October 2, 1985) is redesignated as 18 CFR 271.703(d)(190);

5. 18 CFR 271.703(d)(193) entitled "Dakota Formation in Utah. RM79–76–136 (Utah-5)." and appearing at 50 FR 40193 (October 2, 1985) is redesignated as 18 CFR 271.703(d)(188); and

6. 18 CFR 271.703(d)(211) entitled" 'Coniferous-Big Six' Formation of the Hunton Group and The 'Clinton' Formation of the Crab Orchard Group in Kentucky. RM79–76–241 (Kentucky-4)." and appearing at 50 FR 34090 (August 23, 1985) is redesignated as 18 CFR 271.703(d)(187).

List of Subjects in 18 CFR Part 271

Incentive price, Natural gas, Tight formations.

In consideration of the foregoing, Part 271 of Title 18, *Code of Federal Regulations*, is amended as set forth below.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

1. The authority citation for Part 271 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7171 *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

§ 271.703 [Amended]

2. Section 271.703(d)(191) entitled "Niobrara Formation in Colorado. RM79–76–240 (Colorado-40)." and appearing at 50 FR 40193 (October 2, 1985) is redesignated as § 271.703(d)(189).

3. Section 271.703(d)(191) entitled "Turner Formation in Wyoming. RM79–76–242 (Wyoming-18)." and appearing at 50 FR 40361 (October 3, 1985) is redesignated as § 271.703(d)(192).

4. In § 271.703, paragraphs (d)(192), (d)(193), (d)(204), and (d)(211) are redesignated as (d)(190), (d)(188), (d)(191) and (d)(187), respectively.

[FR Doc. 86–647 Filed 1–10–86; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 436

[Docket No. 85N-0301]

Antibiotic Drugs; Ceftazidime Pentahydrate for Injection

Correction

In FR Doc. 85–28039, beginning on page 48396 in the issue of Monday, November 25, 1985, and corrected on page 52917 in the issue of Friday, December 27, 1985, make the following corrections: On page 48399, in the middle column, in § 436.360(c)(3), in the second line under the formula, "X" should read "$\bar{X}$".

BILLING CODE 1505-01-M

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21 CFR Part 555

[Docket No. 85N-0185]

Chloramphenicol Oral Solution; Removal of Regulation

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is removing the regulation which reflects approval of five new animal drug applications (NADA's) for chloramphenicol oral solution for animal use. In response to the publication of a notice of opportunity for hearing, four sponsors elected not to avail themselves of a right to hearing on the proposed withdrawal of approval and the remaining sponsor did not respond to the notice.

EFFECTIVE DATE: January 23, 1986.

FOR FURTHER INFORMATION CONTACT: Philip J. Frappaolo, Center for Veterinary Medicine (HFV–240), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4940.

SUPPLEMENTARY INFORMATION: In the **Federal Register** July 1, 1985 (50 FR 27059), FDA offered a notice of opportunity for hearing on a proposal to withdraw approval of certain NADA's for chloramphenicol oral solution for animal use. The proposed withdrawal was based on new information establishing that the labeled directions for use have not been followed in practice, and are not likely to be followed in the future. In a notice published elsewhere in this issue of the **Federal Register**, approval of the following NADA's is being withdrawn:

Sponsor	NADA No.
John D. Copanos & Co., Inc., Baltimore, MD 21225	65–364
Medico Industries, Inc. (a Tech-America Co.), Elkan Estates, P.O. Box 338, Elwood, KS 66024	65–487
Michael Gordon, Inc., P.O. Box 8091, San Francisco, CA 94118	65–484
Pfizer, Inc., 235 East 42nd St., New York, NY 10017	65–464
Boehringer Ingelheim Animal Health, Inc. (formerly Philips Roxanne, Inc.), 2621 North Belt Highway, St. Joseph, MO 64502	65–477

The NADA's provide for use of chloramphenicol oral solution for treating dogs for bacterial pulmonary infections, urinary tract infections, enteritis, and infections associated with canine distemper that are caused by organisms susceptible to chloramphenicol. This document removes 21 CFR 555.110c, the regulation which reflects approval of the NADA's

List of Subjects in 21 CFR Part 555

Animal drugs.

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 555 is amended as follows:

PART 555—CHLORAMPHENICOL DRUGS FOR ANIMAL USE

1. The authority citation for 21 CFR Part 555 is revised to read as follows:

Authority: Sec. 512 (i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b (i) and (n)); 21 CFR 5.10 and 5.83.

§ 555.110c [Removed]

2. Section 555.110c *Chloramphenicol oral solution* is removed.

Dated: January 8, 1986.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 86–684 Filed 1–10–86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. 86–3]

Truck Size and Weight, Route Designations; Length, Width and Weight Limitations

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of interpretation for length exclusive devices; opportunity for comments.

SUMMARY: This notice announces an interpretation of length exclusive devices as generically defined in 23 CFR 658.5(e). The regulations implementing the provisions of the Surface Transportation Assistance Act of 1982 exclude from the length limitation all appurtenances at the front or rear of a commercial motor vehicle semitrailer, or trailer, whose function is related to the safe and efficient operation of the semitrailer or trailer. No device excluded from length determination shall be designed or used for carrying cargo.

DATES: This statement of interpretation is effective February 12, 1986. Comments must be received on or before February 3, 1986.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 86–3, Federal Highway Administration, Room 4205, HCC–10, 400 Seventh Street SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., E.t., Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Edwin E. Rugenstein, Office of Motor Carrier Transportation, (202) 426–6282, or David C. Oliver, Office of the Chief Counsel, (202) 426–0825; 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. E.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 411(h) of the Surface Transportation Assistance Act of 1982 (STAA), Pub. L. 97–424, 96 Stat. 2097, described exclusions to length limitations set forth in section 411(a), (b) and (c) on any segment of the National System of Interstate and Defense Highways and those classes of qualifying Federal-aid Primary (FAP) System highways as designated by the Secretary. The term "National Network" is used to reference the combination of the Interstate System and those portions of other FAP highways as set out in the final rule of Part 658, Appendix A on June 5, 1984, 49 FR 23302, FHWA Docket Nos. 83–12 and 83–14 Truck Size and Weight.

Length exclusive devices have been defined in 23 CFR 658.5(e) as all appurtenances at the front or rear of a commercial motor vehicle semitrailer, or trailer, whose function is related to the safe and efficient operation of the semitrailer or trailer, with the provision that no device excluded from length determination shall be designed or used for carrying cargo.

An illustrative list of length exclusive devices such as rear view mirrors, turn signal lamps, marker lamps, steps and handholds for entry and egress, flexible fender extensions, mudflaps and splash and spray suppressant devices, load-induced tire bulge, refrigeration units and air compressors was set forth in section 411(h) of the STAA. The Secretary was authorized to expand upon this list and include other devices as would be necessary for the safe and efficient operation of commercial motor vehicles. The provisions of 23 CFR Part 658 also provide broad latitude to the States to add to the list without the necessity of seeking Federal review.

Several petitions to categorize specific truck appurtenances as length exclusive devices have been received by FHWA including the following:

1. *American President Lines, Ltd.*—a bolster 10¼ inches in height extending 8 inches forward at the front of a trailer to provide a mounting for front locking pins which prevent a container from disengaging from the chassis during transit. This bolster also helps prevent cargo from shifting forward as a result of sudden stops. The bolster holds reflectors and marker lights as well as providing a secure and safely placed mounting for electrical and air brake connectors.

For purposes of this notice, a bolster is defined as a structure fastened to the front of a trailer chassis and does not have, by design or use, the capability to carry cargo. It can extend up to 8 inches beyond the front of the trailer and be up to the allowed width and height of the trailer. The bolster's main functional use would be for safety in stabilizing cargo during speed-change maneuvers.

2. *Strick Corporation*—a mechanical fastening device extending 6 inches forward at the front of a trailer to safely secure the container onto the chassis. This fastening device is very similar to the bolster in the petition by American President Lines, Ltd., and has the same functional use.

3. *North American Van Lines*—a hydraulic lift gate extending 12 inches beyond the rear of a trailer (when in the up position) to facilitate loading operations. The lift gate would be in the up position and no cargo would be carried on it while traveling on the highway.

For purposes of this notice, a lift gate would be primarily used for more efficient and possible safer loading operations. As such it could extend up to 12 inches beyond the rear of a trailer (when in the up position) and be up to the allowed width and height of the trailer. To be excluded from maximum allowable trailer length, it would be required to be in the up position and carry no cargo while traveling on the highway.

4. *Consolidated Freightways, Corporation of Delaware*—a steel structure permanently mounted on the front of a trailer containing the kingpin connection for the fifth wheel and extending approximately 7 feet forward from the front of the cargo-carrying portion of the trailer. It is similar in purpose to that of the gooseneck connection of a lowboy trailer. This would permit the floor of the trailer to be slanted forward and lower to the ground, increasing the volume of a 28-foot trailer by approximately 20 percent.

We are providing public notice by this interpretation that bolsters, mechanical fastening devices and hydraulic lift gates as discussed in petitions 1, 2, and 3 above must be excluded from maximum length requirements imposed by the States.

However, the steel structure as discussed in petition 4 above appears to be a device which is an integral part of the cargo-carrying portion of the trailer. Therefore, we are not extending length exclusive status to this configuration. The addition of such a structure to the front of 28-foot trailers used in a double trailer combination truck would effectively increase the lenght of each trailer (from the fifth wheel connection point to the rear of the trailer) to approximately 33 feet. Such vehicles used in a doubles combination may have significantly different operation characteristics, especially with respect to offtracking. The denial of the request to grant this device length-exclusive status does not preclude its use. The decision to allow its use and to establish guidelines for its use remains with each State.

A docket for comments has been assigned to this interpretation statement and the public is invited to submit their views on these provisions. Modification to this interpretation is possible if the concerns expressed by commenters warrants such action.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

List of Subjects in 23 CFR Part 658

Grant programs—transportation, Highways and roads, Motor carriers—size and weight.

(23 U.S.C 315; 49 CFR 1.48)

Issued on: January 6, 1986.

R. A. Barnhart,

Federal Highway Administrator Federal Highway Administration.

[FR Doc. 86-705 Filed 1-10-86; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-85-1247; FR-2109]

Use of Materials Bulletin No. 38i—HUD Building Product Standards and Certification Program for the Grademarking of Lumber

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

ACTION: Final rule.

SUMMARY: This rule adopts as part of HUD's Minimum Property Standards (MPS), a Use of Materials Bulletin (UM) that references a standard issued by the U.S. Department of Commerce, National Bureau of Standards, for the grademarking of lumber. It also supplements HUD's Building Product Standard and Certification Program by requiring that certain additional information be included on the label or grademark.

EFFECTIVE DATE: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not before further notice of the effective date is published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Mr. Leslie H. Breden, Office of Manufactured and Regulatory Functions, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410-8000; Telephone (202) 755-5929. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: HUD published a proposed rule on August 30, 1985 at 50 FR 35259 which would adopt a Use of Materials Bulletin that references U.S. Department of Commerce Voluntary Product Standard PS 20-70 "American Softwood Lumber Standards" for the grademarking of lumber.

HUD received only two public comments on the proposed rule. Both commenters favored its publication.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements section 102(2)(C) of the National Environment Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, at the above address.

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

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. UM 38i adopts a product standard that is nationally recognized throughout the affected industry and will not create a burden on manufacturers currently meeting the standard.

This rule was listed as Item No. 766 under the Office of Housing in the Department's Semiannual Agenda of Regulations published on October 29, 1985 (50 FR 44167, 44177) under Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs, Housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Minimum property standards, and Incorporation by reference.

Accordingly, 24 CFR Part 200 is amended as follows:

PART 200—INTRODUCTION

1. The authority citation for 24 CFR Part 200 is revised to read as set forth below, and any authority citation following any section in Part 200 is removed.

Authority: Titles I and II of the National Housing Act, (12 U.S.C. 1701-1715z-18); sec. 7(d), Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)).

2. A new § 200.943 is added to read as follows:

§ 200.943 Supplementary Specific Procedural Requirements Under HUD Building Product Standards and Certification Program for the Grademarking of Lumber.

(a) *Applicable Standards.* (1) Lumber shall be grademarked in accordance with the following standard:

U.S. Department of Commerce Voluntary Product Standard PS 20-70 "American Softwood Lumber Standard"

This Standard has been approved by the Director of the Federal Register for incorporation by reference. It is available from the National Bureau of Standards, Gaithersburg, Maryland 20143. The Standard is also available for inspection at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

(b) *Labeling or Marking.* (1) Under the procedures set forth in Section 200.935(d)(6), concerning labeling or marking of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standard is required on the certification label issued by the administrator to the manufacturer. However, in the case of grademarking of lumber, the following information shall be included on the certification label or mark:

(i) The registered symbol which identifies the grading agency;

(ii) Species or species combination;

(iii) Grade;

(iv) Identification of applicable grading rules when not indicated by the species identification or agency symbol;

(v) Mill or grader;

(vi) For members which are less than 5" nominal thickness, indication that the lumber was green or dry at the time of dressing; and

(vii) Indication that the lumber is finger jointed, where applicable.

(2) The certification mark shall be affixed to each piece of lumber.

(c) *Periodic Tests and Quality Control Inspections.* Periodic tests and quality control inspections shall be carried out by the Board of Review of the American

Lumber Standards Committee as defined in PS 20–70.

Dated: December 30, 1985.

Janet Hale,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 86–708 Filed 1–10–86; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

Naval Restricted Area in the Atlantic Ocean Near Port Everglades, FL

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The U.S. Army is amending regulations to expand an existing naval restricted area located in the Atlantic Ocean south from the Port Everglades entrance channel, Broward County, Florida. The revised restricted area prohibits anchoring by certain vessels in the designated area for the protection of the Navy's submarine cables. There are no restrictions on vessels otherwise using the area. In addition, the title of the enforcing agency in these regulations is changed.

EFFECTIVE DATE: February 12, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Lonnie Shepardson at (904) 791–1677 or Mr. Ralph Eppard at (202) 272–0199.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities, the Department of the Army is amending the regulations in 33 CFR 334.580 (previously § 207.171f) which governs the use, administration, and navigation of a naval restricted area in the Atlantic Ocean near Ft. Lauderdale, Florida. The restricted area is enlarged to the south and the prohibition on anchoring within the entire area is changed from "ocean-going vessels or any vessel with draft in excess of 12 feet . . ." to "ocean-going vessels and/or any vessel with an anchor weight of 100 lbs. or more and/or an anchor winch pull capacity of 300 lbs. or more . . ." The title of the naval command enforcing these regulations is changed to reflect an organizational change at the local level. On October 18, 1985 (50 FR 42191), these amendments were published in the notice of proposed rulemaking section of the **Federal Register** with the comment period expiring on November 18, 1985. We received no comments.

This regulation is issued with respect to a military function of the Defense Department, is not a major rule within the meaning of Executive Order 12291, and accordingly, the provisions of Executive Order 12291 do not apply. The Department of the Army also certifies that this regulation would not have a significant economic impact on a substantial number of entities and thus does not require preparation of regulatory flexibility analysis.

List of Subjects in 33 CFR Part 334

Navigation, Navigation (Water), Water Transportation, Waterways.

Accordingly, 33 CFR Part 334 is amended as follows:

PART 334—[AMENDED]

1. The authority for Part 334 continues to read as follows:

Authority: 40 Stat. 266, 33 U.S.C. 1; 40 Stat. 892, 33 U.S.C. 3.

2. Section 334.580 is revised as follows:

§ 334.580 Atlantic Ocean near Port Everglades, Fla.

(a) *The area.* Beginning at a point located at latitude 26°05′30″ N.—longitude 80°03′30″ W.; proceed west to latitude 26°05′30″ N.—longitude 80°06′30″ W.; Thence, southerly to latitude 26°03′00″ N.—longitude 80°06′42″ W.; Thence, east to latitude 26°03′00″ N.—longitude 80°05′44″ W.; Thence, south to latitude 26°01′36″ N.—longitude 80°05′44″ W.; Thence, east to latitude 26°01′36″ N.—longitude 80°03′30″ W.; Thence, north to the point of beginning.

(b) *The regulations.* (1) Anchoring of ocean-going vessels and/or any vessel with an anchor weight of 100 pounds or more and/or an anchor winch pull capacity of 300 pounds or more shall be prohibited in the above described area.

(2) The regulations of this section shall be enforced by the Officer-in-Charge of the Naval Surface Weapons Center, Ft. Lauderdale Facility, Florida, and such agencies as he/she may designate.

Dated: December 11, 1985.

Robert K. Dawson,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 86–567 Filed 1–10–86; 8:45 am]

BILLING CODE 3710–08–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[SW–9–FRL–2953–5]

Guam; Final Authorization of Territorial Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination on the Territory of Guam's application for final authorization.

SUMMARY: The Territory of Guam has applied for final authorization under the authority of the Resource Conservation and Recovery Act (RCRA). EPA has reviewed the Territory of Guam's application and has reached a final determination that Guam's hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA is granting final authorization to the Territory of Guam to operate its program, subject to the limitations on its authority imposed by the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984) (HSWA).

EFFECTIVE DATE: Final authorization for the Territory of Guam shall be effective at 10:00 A.M. on January 27, 1986.

FOR FURTHER INFORMATION CONTACT: Gary Lance, Project Officer, State Programs Section (T–2–5), U.S. EPA Region 9, 215 Fremont Street, San Francisco, California 94105, (415) 974–8125.

SUPPLEMENTARY INFORMATION:

Background

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

On August 23, 1985, the Territory of Guam submitted a complete application to obtain Final Authorization to administer the RCRA program. On November 14, 1985, EPA published a tentative decision announcing that the Territory's hazardous waste program would satisfy all of the requirements necessary for Final Authorization.

Further background information appeared in EPA's tentative determination (Vol. 50, No. 222, FR 47071, November 14, 1985). Along with the tentative determination, EPA announced the availability of the Territory's application for public comment and a hearing was scheduled. The public hearing was not held as scheduled on December 19, 1985 since neither EPA nor the Territory received significant interest in holding the hearing. Therefore, EPA has determined that the Territory's hazardous waste program satisfies all necessary requirements for Final Authorization.

Decision

I conclude that the Territory's application for Final Authorization meets all of the statutory and regulatory requirements established by RCRA. Accordingly, the Territory of Guam is granted Final Authorization to operate its hazardous waste program subject to the limitations on its authority imposed by the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984) (HSWA). This means that the Territory of Guam now has the responsibility for permitting treatment, storage and disposal facilities within its borders and carrying out the other aspects of the RCRA program. The Territory of Guam also has primary enforcement responsibility, although EPA retains the right to conduct inspections and request information under Section 3007 of RCRA, to take enforcement actions under sections 3008, 3013 and 7003 of RCRA and to enforce certain provisions of Territorial law.

Prior to the Hazardous and Solid Waste Amendments (HSWA), a State with Final Authorization would have administered its hazardous waste program entirely in lieu of the EPA. EPA's regulations no longer applied in the authorized State, and EPA could not issue permits for any facilities the State was not authorized to permit.

In contrast, under section 3006(g) of RCRA, 42 U.S.C. 6926(g), the new requirements and prohibitions imposed by the HSWA take effect in authorized States at the same time as they take effect in non-authorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of full or partial permits, until the State is granted authorization to do so.

As a result of the HSWA, there will be a dual Territorial/Federal regulatory program in Guam after final authorization. To the extent the Territorial program is unaffected by the HSWA, the Territorial program will operate in lieu of the Federal program. If the HSWA-related provisions are more stringent than Guam's, EPA will administer and enforce the portions of the HSWA in Guam until the Territory receives authorization to do so. Among other things, this will entail the issuance of Federal RCRA permits for those areas in which the Territory is not yet authorized. Once Guam is authorized to implement a HSWA requirement or prohibition, the Territorial program in that area will operate in lieu of the Federal program. Guam is not being authorized now for any requirement implementing the HSWA. Until that time the Territory will assist EPA's implementation of the HSWA under a Cooperative Agreement. Any Territorial requirement that is more stringent than a HSWA provision remains in effect. For example, if Guam had more specific requirements for treatment facilities, they must comply with the more stringent Territorial requirements.

The Territorial program does not include jurisdiction over Indian Lands, because there are no Indian Lands in Guam.

EPA has published a **Federal Register** notice that explains in detail the HSWA and its effect on authorized States. That notice was published at 50 FR 28702–28755, July 15, 1985.

Compliance With Executive Order 12291

The Office of Management Budget (OMB) has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605 (b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Guam's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the Territory. It does not impose any burdens on small entities. This rule therefore, does not require a regulatory flexibility analysis.

Authority

This notice is issue under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: December 12, 1985.

Judith E. Ayres

Regional Administrator

[FR Doc. 86–668 Filed 1–10–86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket No. 78–72; CC Docket No. 80–286; FCC 85–643]

MTS and WATS Market Structure

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In the above-mentioned *Decision and Order*, the Commission adopted the recommendations of the Federal-State Joint Board regarding broader lifeline measures to aid low income households in affording telephone service. Under the approach recommended by the Joint Board, the Commission would provide matching assistance up to the full amount of the subscriber line charges for subscribers receiving benefits under a qualifying state or local telephone company assistance plan. The Commission took this action to provide the states and local telephone companies with additional incentive to implement local lifeline assistance programs. This program will promote telephone subscribership among low income groups.

EFFECTIVE DATE: February 3, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Margot Bester or Claudia Pabo, Common Carrier Bureau (202) 632–6363.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 69

Communications common carriers, Telephone.

Decision and Order

In the Matter of MTS and WATS Market Structure, Amendment of Part 67 of the Commission's Rules and Establishment of a

Joint Board CC Docket No. 78–72, CC Docket No. 80–286.

Adopted: December 10, 1985.
Released: December 27, 1985.

By the Commission.

I. Introduction

A. Summary

1. In its *Recommended Decision and Order*,[1] adopted October 11, 1985, the Federal-State Joint Board in this proceeding recommended that the Commission implement federal lifeline assistance measures to assist low income households in affording telephone service. Under the approach recommended by the Joint Board, the Commission would provide matching assistance, up to the full amount of the subscriber line charge, for subscribers receiving benefits under a qualifying state and local telephone company assistance plan. Based upon the record and the Joint Board's analysis in its *Recommended Decision* we are endorsing and adopting its recommendation. We believe that implementation of this program will provide the states and local telephone companies with a strong incentive to implement local lifeline assistance programs, and promote telephone subscribership among low income groups.

B. Background

2. The preservation of universal telephone service has been one of the Commission's long-standing goals in the *MTS and WATS Market Structure* proceeding, CC Docket No. 78–72. In the *Third Report and Order* [2] in that proceeding, the Commission stated that it would consider requests by local exchange carriers for waiver of the mandatory flat rate subscriber line charge in the case of low income households that might otherwise be unable to afford telephone service. In the *Second Reconsideration Order*,[3] we found that the existing record did not contain sufficient information to allow the development of a federal lifeline assistance program, but stated that we would conduct further proceedings concerning this matter. We subsequently asked the Joint Board in CC Docket No. 80–286, *Amendment of part 67 of the Commission's Rules*, to prepare recommendations concerning lifeline assistance.[4] The Joint Board recommended that the Commission implement the equivalent of a waiver of the subscriber line charge for low income households, and proceed with an expedited study of broader lifeline assistance measures.[5] In our December 1984 *Decision and Order*,[6] we adopted the Joint Board's recommendations and directed the Joint Board to begin a study of broader assistance measures. The Joint Board released an *Order Inviting Comments* on March 29, 1985.[7] It subsequently concluded that additional information was necessary in order to resolve this matter, and issued an *Order Inviting Further Comments* on July 26, 1985.[8]

II. Joint Board Recommendation

3. The Joint Board found that telephone subscribership levels have remained stable in recent years, and should remain stable or increase in the future. This conclusion was based on Census Bureau data showing telephone subscribership levels, Department of Labor data concerning the rate of increase in local telephone rates, data on pending state rate increase requests, and previous Commission studies of the effect of federal policies on local rate levels, in addition to the information contained in the comments.[9] At the same time, the Joint Board recognized that telephone subscribership is below average in the lowest income groups. In order to assist low income households in affording telephone service during this period of rapid change in the telephone industry, the Joint Board recommended that we adopt a federal lifeline assistance program to supplement the benefits provided under qualifying state or local telephone company lifeline service offerings.

4. The Joint Board recommended that federal assistance be provided through a waiver of the subscriber line charge, up to the amount of the state funded assistance provided for participating households under highly targeted lifeline assistance programs, for example, those providing benefits to individuals who receive Supplemental Security Income (SSI) or Aid to Families with Dependent Children (AFDC). The Joint Board also recommended that qualifying state or local telephone company programs be required to provide for verification of eligibility. Federal assistance would be available for a single telephone line for the principal residence of eligible households. Under the Joint Board proposal, the state contribution subject to matching federal assistance would include reduced rates for local telephone service, reduced connection charges or customer deposit requirements. State funding would be derived from any intrastate source. State or local telephone company lifeline programs which do not meet these critieria would not be eligible for this federal assistance. No showing of actual or imminent declines in telephone subscribership levels would be required as a precondition to receiving federal assistance, however.

5. The Joint Board also recommended that states and local telephone companies seeking to obtain supplemental federal assistance for their subscribers be required to submit information to the Commission demonstrating that their plans meets these criteria. The Joint Board recommended that the Chief, Common Carrier Bureau be given delegated authority to act on these lifeline plans to facilitate implementation.[10] Assistance would be available as soon as the Bureau certifies that the plan satisfies the federal guidelines and the necessary tariff revisions become effective. In addition, the Joint Board's recommended that the Commission require participating states to monitor the effectiveness of lifeline programs and provide the Joint Board and the Commission with annual reports concerning certain aspects of their plans.[11] The Joint Board further

[1] *MTS and WATS Market Structure* and *Amendment of Part 67 of the Commission's Rules*, CC Docket Nos. 78–72 and 80–286, FCC No. 85–639, (released December 9, 1985).

[2] 93 FCC 2d 241 (1983).

[3] CC Docket No. 78–72, 49 FR 7810 (March 2, 1984).

[4] *Further Notice of Proposed Rulemaking*, CC Docket Nos. 78–72 and 80–286, 49 FR 18318 (April 20, 1984).

[5] *Recommended and Decision and Order*, CC Docket Nos. 78–72 and 80–286, 49 FR 48325 (December 12, 1984).

[6] CC Docket Nos. 78–72 and 80–286, 50 FR 939 (January 8, 1985).

[7] CC Docket Nos. 78–72 and 80–286, 50 FR 14727 (April 15, 1985). This *Order* requested comments on four basic issues: (1) The proper state and federal roles in implementing lifeline assistance measures; (2) criteria for determining eligibility for such assistance; (3) the type of lifeline telephone service which should be made available to eligible subscribers; and (4) the mechanism for funding these measures.

[8] CC Docket Nos. 78–72 and 80–286, 50 FR 31738 (August 6, 1985). In this *Order*, the Joint Board asked interested parties to comment on: (1) The types of service offerings and assistance programs currently available to low income households; (2) telephone subscription levels and toll usage by low income households; and (3) the need for and/or appropriate level of federal funding for such assistance programs.

[9] *See Recommended Decision and Order*, CC Docket Nos. 78–72 and 80–286 FCC No. 85–639 at paras. 28–33, (released December 9, 1985).

[10] The Joint Board recommended that it prepare a recommendation should a party seek Commission review of a Bureau Chief decision not to approve supplemental assistance.

[11] These reports would include a description of the assistance measures, the cost of the program, the number of households taking advantage of the program, as well as information on the number of

Continued

recommended that it review the effectiveness of the federal lifeline assistance program in conjunction with its review of subscriber line charges, scheduled to begin in late 1986.

III. Discussion

6. The Commission hereby adopts the Joint Board's recommendation for the implementation of a federal lifeline assistance program. We also adopt the Joint Board's reasoning in support of its recommendation as our own. The information in this proceeding demonstrates that telephone subscribership levels have remained stable in recent years and will remain stable or increase in the future. The April 1980 Census showed that 92.9 percent of households in the United States subscribed to telephone service. Census Bureau data for April 1983, prior to the AT&T divestiture and the implementation of subscriber line charges, showed that 91.9 percent of households subscribed to telephone service. A Census Bureau survey of 58,000 households which has been conducted in March, July and November of each year since November, 1983 demonstrates that telephone subscribership levels have remained stable.[12] The Census Bureau survey data for November, 1983 showed that 91.4 percent of American households had a telephone in their home.[13] The survey data for July 1985 showed that 91.8 percent of households had a telephone in the home.[14] This data also showed that telephone subscribership levels have remained stable among the unemployed and households in the four lowest income categories.[15] The comments filed in this proceeding support the results of the Census Bureau surveys of telephone subscribership. None of the telephone companies filing comments stated that they had experienced declines in subscribership levels, and a number of companies reported increases in subscribership levels despite significant rate increases.

7. However, certain parties argue that local telephone rates will escalate rapidly over the next several years, seriously undermining universal service. The information currently available does not support this contention.[16] To the contrary, it indicates that increases in telephone rates will remain at moderate levels. The Commission has conducted two studies concerning the effect of federal decisions on local telephone service rates. The Commission's initial *Michigan Report* [17] issued in December, 1983, concluded, among other things, that existing federal policies would not cause minimum charges for residential telephone service to increase sharply or cause residential subscribers to discontinue service. The *Michigan II Report* [18] issued in January 1985, affirmed the conclusion reached in the initial *Michigan Report*. As part of our efforts to monitor universal telephone service, we have also examined the revenue increase requests filed by telephone companies at the state level. The level of rate increase requests pending before the state commissions has decreased significantly since 1984.[19] Department of Labor data on increases in local telephone rates also show moderate, although steady increases in local telephone rates over the last several years.[20]

8. Despite the fact that telephone subscribership levels have remained stable for all income groups, and should remain stable or increase in the future, subscribership among those in the lowest income categories is significantly below the national average. We endorse the Joint Board's recommendation for implementation of a narrowly targeted federal lifeline assistance program to assist these low income households in affording telephone service.[21] Despite the consensus in the comments in opposition to funding this assistance through telephone industry revenues, rather than directly, we agree with the Joint Board's conclusion that this is a realistic approach at present. The provision of matching federal assistance to households receiving benefits under a qualifying state or local telephone company lifeline assistance plan will provide a strong incentive for implementation of assistance plans that respond appropriately to local conditions. We strongly encourage the states and local telephone companies to participate in this program, [22] and we have every reason to expect that the states and local telephone companies will act in a responsible manner to preserve universal telephone service. Although the record in this proceeding does not support imposition of a mandatory federal program, we would be deeply concerned if the states or local companies fail to act should they experience a decline in subscribership levels.

9. We agree that the provisions which the Joint Board has recommended for targeting assistance and verifying eligibility will ensure that the federal assistance is directed to those households with the greatest need. We also concur in the Joint Board's recommendation that the supplemental federal assistance be provided through a waiver of the subscriber line charge. This represents a reasonable level of funding in light of existing local rate levels and will be relatively easy to implement. We also endorse the Joint Board recommendation for funding the federal assistance through the carrier common line charge. In addition, we support the Joint Board recommendation that states and local telephone companies wishing to make supplemental federal assistance available to their subscribers be required to submit information to the Commission demonstrating that their plans meet the federal criteria. Review of these plans by the Chief, Common Carrier Bureau to ensure compliance will allow funding for qualifying plans to be made available expeditiously. We also support the Joint Board's recommendation for review of this program in conjunction with the Joint

existing subscribers who switch to lifeline service from other service offerings and the number of new subscribers using the service. The Joint Board also asked that these reports contain any available information concerning the effect of the plan on subscribership levels among low income groups.

[12] Letter to Mr. Edward J. Minkel, Managing Director, FCC from Kenneth A. Riccini, Chief, Current Population Surveys Branch, Demographic Surveys Division, Bureau of the Census, at Table 1, dated October 3, 1985.

[13] Letter to Mr. Edward J. Minkel from Kenneth A. Riccini, at Table 1, dated October 3, 1985. This reflects the number of households with a telephone in the home. The percentage of households reporting that telephone service is available to them is slightly higher.

[14] *Id.*

[15] *Id.* at Tables *2* and *4*. *See Recommended Decision* and *Order*, CC Docket No. 78–72 and 80–286, FCC 85–639 at para. 28 (released December 9, 1985).

[16] *See Recommended Decision and Order*, CC Docket No. 78–72 and 80–286, FCC 85–639 at paras. 32 and 33 (released December 9, 1985).

[17] *Order, Petition by the State of Michigan Concerning the Effect of Certain Federal Decisions on Local Telephone Service* ("Michigan Report"), 96 FCC 2d 891 (1983).

[18] *Further Report on the Effects of Federal Decisions on Universal Service*, FCC No. 84–636, (released January 9, 1985).

[19] *Summary of State Telephone Rate Cases* (released September 30, 1985). There were approximately $7 billion in state rate increase requests pending before state commissions by the end of 1983. At present, there are approximately $3 billion in pending rate increase requests before the state commissions.

[20] U.S. Department of Labor, Bureau of Labor Statistics, Producer Price Index, Series 4811–111, Local Service, Residential; Consumer Price Index, U.S. City Average, Local Telephone Charges.

[21] This program is in addition to existing provisions which allow the equivalent of a waiver of the subscriber line charge waiver for low income households.

[22] In this regard, we urge states which have constitutional, statutory or judicially imposed prohibitions on telephone assistance programs to eliminate these restrictions.

Board's reexamination of subscriber line charges, scheduled to begin in 1986. This will allow us to make any adjustments which prove to be desirable based on our experience in implementing this program.

V. Ordering Clauses [23]

10. Accordingly, the Commission adopts the Joint Board's recommendation concerning federal lifeline assistance measures to aid low income households in affording telephone service.

11. It is further ordered, that § 69.203 of the Commission's rules is amended as set out in Attachment A, effective February 3, 1986.

12. It is further ordered, that the Chief, Common Carrier Bureau is delegated authority to act on lifeline assistance plans as recommended by the Joint Board.[24]

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 69—[AMENDED]

Part 69 of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 69 continues to read:

Authority: Sections 4, 201, 202, 203, 205, 218, 403, 47 U.S.C. 154, 201, 202, 203, 205, 218, 403 of the Communications Act, as amended.

2. Section 69.203(d) is amended by substituting the phrase "paragraphs (f) and (g)" for "subsection (f)".

3. Section 69.203 is amended by adding the following paragraph (g):

§ 69.203 Interim Common Line charges.

* * * * *

(g)(1) The End User Common Line charge for residential subscribers shall be reduced to the extent of the state assistance as calculated in (g)(2) of this section, or waived in full if the state assistance equals or exceeds the residential End User Common Line Charge under the circumstances described below. In order to qualify for this waiver, the subscriber must be eligible for and receive assistance or benefits provided pursuant to a narrowly targeted telephone lifeline assistance plan requiring verification of eligibility, implemented by the state or local telephone company. A state or local telephone company wishing to implement this End User Common Line reduction or waiver for its subscribers shall file information with the Commission Secretary demonstrating that its plan meets the criteria set out in this section, and showing the amount of state assistance per subscriber as described in (g)(2) of this section. The reduction or waiver of the End User Common Line Charge shall be available as soon as the Commission certifies that the state or local telephone plan satisfies the criteria set out in this subsection, and the relevant tariff provisions become effective.

(2)(i) The state assistance per subscriber shall be equal to the difference between the charges to be paid by participating subscribers and those to be paid by other subscribers for comparable monthly local exchange service, service connections and customer deposits, except that benefits or assistance for connection charges and deposit requirements may only be counted once annually. In order to be included in calculating the state assistance, such benefits must be for a single telephone line to the household's principal residence.

(ii) The monthly state assistance per participating subscriber shall be calculated by adding the amounts calculated in paragraphs (g)(2)(ii) (A) and (B) of this section.

(A) The amount of the monthly state assistance per participating subscriber for local exchange service charges shall be calculated by dividing the annual difference between the charges paid by all participating subscribers for residential local exchange service and the amount which would have been charged to non-qualifying subscribers for comparable service by twelve times the number of subscribers participating in the state assistance program. Estimates may be used when historic data is not available.

(B) The amount of the monthly state assistance for service connections and customer deposits per participating subscriber shall be calculated by determining the annual amount of the reductions in these charges for participating subscribers each year, and dividing this amount by twelve times the number of participating subscribers. Estimates may be used when historic data is not available.

[FR Doc. 86-517 Filed 1-10-86; 8:45 am]

BILLING CODE 6712-01-M

[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 burdens upon the public. The implementation of new or modified requirements or burdens is subject to approval by the Office of Management and Budget as prescribed by the Act.

[24] This action is taken pursuant to sections 4 (i) and (j), 5, 201, 202, 203, 205, 218, 221, 403 and 410 of the Communications Act, as amended, U.S.C. 154(i), 155, 201, 202, 203, 205, 218, 221, 403 and 410.

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47 CFR Part 73

[MM Docket No. 85-91; FCC 85-653]

Expanding the Use of Automatic Transmission Systems at AM, FM and Television Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action extends the permitted use of automatic transmission systems (ATS) to include use by directional AM stations and television stations. Nondirectional AM stations and FM stations have been allowed use of ATS since 1976. Recent technological advances and Commission actions have eliminated the barriers preventing authorization of ATS use by directional AM stations and television licensees. This action is therefore needed to allow these services the flexibility of ATS use, and to update the ATS rules which have remained unchanged since 1976.

EFFECTIVE DATE: February 5, 1986.

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

FOR FURTHER INFORMATION CONTACT: Bernard Gorden, Mass Media Bureau (202) 632-9660.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting, Television broadcasting.

Report and Order

(Proceeding Terminated)

In the Matter of Amendment of the Commission's Rules to Expand the Use of Automatic Transmission Systems at AM, FM and Television Broadcast Stations (MM Docket 85-91).

Adopted: December 18, 1985.
Released: January 6, 1986.

Introduction

1. By this *Report and Order*, the Commission is amending its Rules to expand the permitted use of automatic transmission systems (ATS) for directional AM and television stations. (Currently, ATS use is permitted for FM and nondirectional AM stations only.) In addition, this action deregulates the Commission's ATS requirements.

Background

2. An ATS consists of devices that monitor and automatically control the broadcast station's transmission system. The ATS system initiates an alarm to the operator whenever a malfunction or an uncorrected out of tolerance

condition occurs.[1] For example, such an ATS automatically makes the necessary adjustments to maintain authorized transmitter parameters, and immediately alerts the station operators if and when any malfunction of the system's control features occurs. It can also automatically switch the transmitter to critical modes of operation to prevent interference conditions, such as in the different day and nighttime operating parameters of many AM stations. In addition, ATS can terminate transmitter operation in the event of some catastrophic occurrence or if critical maximum operating limits are exceeded for a sustained period of time.

3. In December 1976, the Commission adopted provisions for ATS use at FM and nondirectional AM stations.[2] Initially, the Commission had envisioned that all AM, FM, and TV stations, regardless of complexity, could use automatic transmission systems. However, because of the unresolved tolerance issue for AM directional antenna current phase factors, and because of commenters' concerns regarding the availability of adequate TV signal processing equipment, the Commission deferred authorization of ATS for those services until the remaining technical considerations were resolved. In December 1983, the Commission resolved the directional AM antenna tolerance issue.[3] Additionally, technological advances in electronic control devices since 1976 have made ATS equipment available to TV licensees. Because of these developments, the Commission initiated a new proceeding in 1985 to permit use of ATS for television stations and directional AM stations.[4]

[1] The distinction betweens ATS and remote control operation is that, under remote control operation, only remote indications of the transmitter's operating conditions are provided to the operator. Thus, if a malfunction or uncorrected out of tolerance condition occurs, the operator must manually make corrective adjustments or terminate transmissions. ATS operation, on the other hand, requires no operator evaluation or intervention; however, an operator must be on duty to comply with section 318 of the Communications Act of 1934, as amended.

[2] *First Report and Order*, Docket No. 20403 (42 FR 1233, January 6, 1977).

[3] *Report and Order*, BC Docket No. 78-28 (49 FR 1373, January 11, 1984).

[4] *Notice of Proposed Rule Making*, MM Docket 85-91 (50 FR 13838, April 8, 1985). Simultaneously, the original proceeding on automatic transmission systems in Docket 20403 was terminated by a *Memorandum Opinion and Order* (50 FR 13791, April 8, 1985). The remaining issues and comments of that proceeding are outdated and no longer relevant to the proposals in Docket 85-91.

4. In response to the *Notice of Proposed Rule Making* (*Notice*), in this new proceeding, comments were filed by Robert A. Jones, P.E. (Jones); National Broadcasting Company, Inc. (NBC); National Association of Broadcasters (NAB); and John E. Leonard (Leonard). Reply comments were filed by CBS, Inc. (CBS); and American Broadcasting Companies, Inc. (ABC). Finally, an informal letter was filed by Innovative Automation (Innovative).

Issues

5. The issues to be resolved in this proceeding are:

(1) Should the Commission extend its ATS provisions to permit such use at TV and directional AM stations?

(2) Should the Commission remove the detailed design requirements for monitoring, control, and alarm functions of ATS?

(3) Miscellaneous issues.

Issue 1: Expansion of ATS Use for TV and Directional AM Stations

6. The *Notice* proposed to expand the provisions for use of automatic transmission systems to include television and directional AM stations. All commenters were supportive of our proposal. NBC stated that it anticipates no difficulties with ATS operation for television or directional AM stations. Additionally, NBC stated that such control equipment is now readily available. CBS, in its reply comments, agreed with the *Notice*, stating that ATS should be permitted for all AM, FM, and television stations. Leonard commented on the availability of cost-effective and reliable equipment to perform the ATS functions for television and directional AM stations.

7. Upon review, the Commission concludes that technological advances during the past decade have produced cost-effective automation equipment that will enable licensees to monitor and control the operating parameters of television and directional AM stations. Therefore, we are amending our Rules to permit ATS use at these broadcast facilities.

Issue 2: Removal of Detailed Methodology Requirements

8. The existing ATS rules contain detailed design requirements for the monitoring, control, and alarm functions. Because other rule sections already specify tolerances for various operating parameters, the stability of which is necessary for avoiding interference, the *Notice* proposed to delete the "how to" or detailed methodology requirements from these rules and leave the implementation decisions to licensees.

9. In response, the commenters unanimously supported our proposal. In general, they stated that the existing ATS rules inhibit the implementation of innovative approaches to automatic transmitter control systems, and add complexity and cost to ATS systems. NAB said that it is "particularly pleased" with this proposal, because the existing ATS rules ". . . are overly-complicated and burdensome and have in fact, actually hindered the development of the use of ATS throughout the broadcast industry." Other commenters indicated that this required level of complexity for ATS added to the cost of the equipment and in some cases, reduced the overall reliability of the system. NAB also commented that the cost of certain ATS facilities, designed to meet the existing requirements, may even exceed the cost of the transmitter to be monitored and controlled. Finally, ABC, in its reply comments, asked the Commission to not require automatic adjusters for directional AM stations using ATS.

10. In response to ABC's request, the use of automatic adjusters is not an ATS requirement for directional AM stations. Further, it is the Commission's objective to eliminate complicated and burdensome technical requirements which are not needed to prevent interference. The record supports the removal of the detailed ATS facility design requirements, and the Rules will be amended accordingly. However, the responsibility remains with each licensee to assure compliance with all station operating parameter tolerances.

Issue 3: Miscellaneous Issues

11. In the *Notice*, the Commission proposed to combine the separate but similar AM, FM, noncommercial FM, and TV automatic transmission system requirements into a common rule applicable to these broadcast facilities. The commenters responed favorably to this editorial change. Therefore, it will be adopted as proposed.

12. In its comments, NAB suggested that the Commission: (1) Retain the ATS definition in the Rules; (2) remove the certification requirement upon completion of installation of an ATS, and replace the certification with a reminder to test as often as necessary; (3) clarify the circumstances when transmitter shutdown is not required; and (4) extend to 30 minutes the duration to a malfunction of the ATS after which a shutdown is mandatory.

13. In response to NAB's first suggestion, the Commission

inadvertently omitted the definition of ATS in the Appendix of the *Notice*. Thus, the ATS definition will be placed in the Rules as originally intended. With respect to the replacement of the certification requirement with a reminder to test "as often as necessary," the Commission believes that such a reminder is not necessary because the station licensee always has the responsibility to ensure that the ATS will operate properly and not allow a condition that could cause interference.[5] Therefore, we are adopting the simple certification statement requirement as proposed. This certification should be a written statement to the station licensee that the ATS is operational.

14. The purpose on an ATS is to control the transmission system automatically in such a manner as to maintain proper station operation and prevent interference to other stations. NAB suggested that certain ATS malfunctions (e.g. an underpower condition) do not cause interference, thus, shutdown should not be required. Therefore, NAB recommended that the consolidated ATS rules clarify under what conditions shutdown is required. The Commission never intended to require a shutdown if the ATS malfunction does not produce a condition capable of causing interference. Therefore, the consolidated ATS rules will clarify the requirements.

15. NAB commented that the rules should be liberalized by extending the length of time an ATS system has to remedy an out of tolerance condition before mandatory shutdown. They stated that the allowed 3 minutes is insufficient for the operator to react to a malfunction and take corrective measures. They believe that thirty minutes would be more appropriate.

16. The Commission disagrees with the NAB's analysis for the following reasons: First, an ATS, by definition, is intended to operate independent of operator intervention. Thus, any deviant operation which is not automatically corrected within the period would indicate a system malfunction. Second, as implied in paragraph 14 *supra*, any malfunction which would necessitate shutting down the transmitter is an interference condition. The Commission can not allow such a condition to exist for 30 minutes, particularly in view of obligations under international treaties. Therefore, this 3 minute requirement will be retained as proposed.

17. Additional comments from CBS and Innovative indicated that, with the sophistication of technology currently available, unattended (ATS) operation should be considered. However, as stated in the *Notice*, this aspect of ATS operation is inconsistent with the requirements of section 318 of the Communications Act (47 U.S.C. 318) that operation of broadcast and certain other types of nonbroadcast stations must be attended at all periods of operation by persons holding radio operator licenses (or permits). In view of this, fully unattended ATS operation is beyond the immediate scope of this proceeding. Finally, in the Appendix of the *Notice*, Paragraph (f) of § 73.1500 was inadvertently omitted. This paragraph specified that the transmitting apparatus must be manually activated at the start of each broadcast day. This omission is rectified in the attached Appendix.

[5] In the *Notice*, we proposed that prior to commencing use of the ATS, the station chief operator, technical director, or consulting engineer shall certify the system has been installed, tested, and fully complies with all prescribed technical standards of the ATS rules applicable to the particular class of station.

Final Regulatory Flexibility Analysis

I. Need and purpose of this action:

The Rules currently prescribe standards for automatic transmission systems for FM stations and nondirectional AM stations. This action extends the provisions to allow ATS operation at directional antenna AM stations and television stations. The rule amendments will also editorially update the existing provisions by replacing them with a common rule applicable to all classes of broadcast stations.

II. Summary of issues raised by the public comments in response to the Initial Regulatory Flexibility Analysis:

None.

III. Significant alternatives considered and rejected:

Support for all the Commission's proposals was nearly unanimous. Some commenters suggested minor changes to the proposals and most were adopted. The only significant alternative submitted by commenters that was rejected by the Commission was the suggestion for extending the time period prior to shutdown of the transmitter in an interference condition. Because this protects other stations from interference, we believe that 3 minutes is a justifiable time period. The retention of this limitation should have no particular economic impact on small entities.

Paperwork Reduction Act Statement

18. The proposals contained herein have 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.

Actions

19. The Secretary shall cause a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with section 603(a) of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 et seq., (1981)).

20. Accordingly, it is ordered that, under the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, Part 73 of the Commission's Rules is amended as set forth in the attached Appendix, effective February 5, 1986.

21. Further information on this proceeding may be obtained from Bernard Gorden at (202) 632–9660.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 73—[AMENDED]

47 CFR Part 73 is amended as follows:

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

2. 47 CFR Part 73 is amended by removing the following sections in their entirety:

(1) 47 CFR 73.140 Use of automatic transmission systems (ATS).
(2) 47 CFR 73.142 Automatic transmission system facilities.
(3) 47 CFR 73.144 Fail-safe transmitter control for automatic transmission systems.
(4) 47 CFR 73.146 Automatic transmission system monitoring and alarm points.
(5) 47 CFR 73.340 Use of automatic transmission systems (ATS).
(6) 47 CFR 73.342 Automatic transmission system facilities.
(7) 47 CFR 73.344 Fail-safe transmitter control for automatic transmission systems.
(8) 47 CFR 73.346 Automatic transmission system monitoring and alarm points.
(9) 47 CFR 73.540 Use of automatic transmission systems (ATS).
(10) 47 CFR 73.542 Automatic transmission system facilities.

(11) 47 CFR 73.544 Fail-safe transmitter control for automatic transmission systems.

(12) 47 CFR 73.546 Automatic transmission system monitoring and alarm points.

2. 47 CFR 73.1500 is added to read as follows:

§ 73.1500 Automatic transmission system (ATS)

An automatic transmission system consists of monitoring devices, control, and alarm circuitry, arranged so that they interact automatically to operate a broadcast station's transmitter and maintain technical parameters within licensed values.

(a) Licensees of AM, FM, or TV broadcast stations may utilize an automatic transmission system (ATS) in lieu of either direct or remote control of the station transmitting system.

(b) No authorization from the FCC is required to operate the transmitter using an automatic transmission system. Prior to commencing use of the ATS, the station chief operator, technical director, or consulting engineer shall certify in writing to the station licensee that the system has been installed, tested, and fully complies with all prescribed technical standards of the Rules applicable to the particular class of station.

(c) Broadcast stations operating automatic transmission systems must be provided with one or more ATS duty operator points. Each such point shall have a means to turn the transmitting apparatus off at all times.

(d) Whenever an automatic transmission system duty operator point is established at a location other than at the main studio or transmitter, notification of that location must be sent to the FCC in Washington, DC, within 3 days of initial use of that point. This notification is not required if responsible station personnel may be contacted at the transmitter or studio site during hours of operation when the ATS duty operator is elsewhere.

(e) The ATS must incorporate circuits that will terminate station transmission within 3 minutes if the adjustment controls do not correct an operating condition which is capable of causing interference.

(f) The transmitting apparatus must be manually activated at the beginning of each broadcast period.

(g) For AM station operation, the ATS may incorporate a means to transmit emergency information under the provisions of § 73.1250(f).

[FR Doc. 86-518 Filed 1-10-86; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

48 CFR Parts 1301, 1302, 1304, 1305, 1306, 1314, 1315, 1319, 1331, 1337, and 1353

[Docket No. 50343-5183 (Amdt. 85-1)]

Acquisition Regulation; Competition in Contracting

AGENCY: Department of Commerce.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms as a final rule the interim rule relating to competition in contracting and miscellaneous conforming amendments to the Commerce Acquisition Regulation.

EFFECTIVE DATE: January 13, 1986.

FOR FURTHER INFORMATION CONTACT: John Dammeyer, Procurement Analyst, Office of Procurement Management, HCHB, Room H6424, U.S. Department of Commerce, 14th St. between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230, (202)377-4248.

SUPPLEMENTARY INFORMATION:

Background

On March 27, 1984 the Department of Commerce issued a rule known as the Commerce Acquisition Regulation (CAR) (49 FR 12956-12969, March 30, 1984). That rule implemented and supplemented the Federal Acquisition Regulation (FAR) which was separately promulgated by the General Services Administration (GSA), the Department of Defense (DOD), and the National Aeronautics and Space Administration (NASA). The FAR was promulgated as the uniform, simplified acquisition regulation called for by Executive Order 12352, "Federal Procurement Reforms".

On May 8, 1985 the Department of Commerce issued an interim rule known as Commerce Acquisition Regulation (CAR) Amendment 85-1 (50 FR 19361). The primary purpose of that interim rule was to implement the Competition in Contracting Act of 1984, Pub. L. 98-369 (CICA), and recent revisions to the FAR made by GSA, DOD, and NASA to implement that Act. The CICA and the revisions to the FAR require increased use of full and open competition in the acquisition of property and services by agencies of the Federal Government. The CICA requires that any solicitation for bids or proposals issued by the Department on or after April 1, 1985 comply with the requirements of the Act.

The interim rule invited comments by June 12, 1985. No written comments were received. Therefore, this notice makes the interim rule final. As stated in the interim notice, this regulation is not a major rule as defined in Executive Order 12291 and it does not contain a collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 1301, 1302, 1304, 1305, 1306, 1314, 1315, 1319, 1331, 1337, and 1353

Government procurement.

Accordingly, the interim regulation amending 48 CFR Parts 1301, 1302, 1304, 1305, 1306, 1314, 1315, 1319, 1331, 1337, and 1353 which was published May 8, 1985 (50 FR 19361) is adopted as final without changes.

Issued in Washington, DC., January 6, 1986.

Hugh L. Brennan,

Director, Office of Procurement and Administrative Services, U.S. Department of Commerce.

[FR Doc. 86-678 Filed 1-10-86 8:45 am]
BILLING CODE 3510-17-M

Proposed Rules

Federal Register
Vol. 51, No. 8
Monday, January 13, 1986

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Chapter X

[Docket Nos. AO-160-A64, ect.]

Milk in the Middle Atlantic and Other Marketing Areas; Notice of Hearing on Proposed Amendments To Tentative Marketing Agreements and To Orders

7 CFR Part—	Marketing area	AO Nos.
1004	Middle Atlantic	AO-160-A64
1001	New England	AO-14-A61
1002	New York-New Jersey	AO-71-A75
1006	Upper Florida	AO-356-A24
1007	Georgia	AO-366-A26
1011	Tennessee Valley	AO-251-A29
1012	Tampa Bay	AO-347-A27
1013	Southeastern Florida	AO-286-A34
1030	Chicago Regional	AO-361-A23
1032	Southern Illinois	AO-313-A34
1033	Ohio Valley	AO-166-A54
1036	Eastern Ohio-Western Pennsylvania.	AO-179-A50
1040	Southern Michigan	AO-225-A37
1044	Michigan Upper Peninsula	AO-299-A24
1046	Louisville-Lexington-Evansville	AO-123-A55
1049	Indiana	AO-319-A34
1050	Central Illinois	AO-355-A23
1064	Greater Kansas City	AO-23-A56
1065	Nebraska-Western Iowa	AO-86-A43
1068	Upper Midwest	AO-178-A39
1075	Black Hills	AO-248-A19
1076	Eastern South Dakota	AO-260-A27
1079	Iowa	AO-295-A36
1093	Alabama-West Florida	AO-386-A5
1094	New Orleans-Mississippi	AO-103-A47
1096	Greater Louisiana	AO-257-A34
1097	Memphis	AO-219-A42
1098	Nashville	AO-184-A49
1099	Paducah	AO-183-A41
1102	Fort Smith	AO-237-A35
1106	Southwest Plains	AO-210-A46
1108	Central Arkansas	AO-243-A38
1120	Lubbock-Plainview	AO-328-A26
1124	Oregon-Washington	AO-368-A15
1125	Puget Sound-Inland	AO-226-A31
1126	Texas	AO-231-A53
1131	Central Arizona	AO-271-A26
1132	Texas Panhandle	AO-262-A36
1134	Western Colorado	AO-301-A19
135	Southwestern Idaho-Eastern Oregon.	AO-360-A6
1136	Great Basin	AO-309-A26
1137	Eastern Colorado	AO-326-A23
1138	Rio Grande Valley	AO-335-A31
1139	Lake Mead	AO-374-A10

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: A public hearing will be held on the issue of amending all Federal milk marketing orders to implement the Class I price differentials mandated by the Food Security Act of 1985. The differentials involved are the dollar amounts added to the Minnesota-Wisconsin manufacturing grade milk price for the second preceding month in determining the minimum Class I (bottling) milk price that handlers must pay under each of the orders. By law the amendments must be in effect by May 1, 1986.

DATE: The hearing will convene at 10:00 a.m on January 28, 1986.

ADDRESS: The hearing will be held at the Ramada Hotel Old Town, 901 N. Fairfax Street, Alexandria, Virginia 22314, (703) 683-6000.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-4829.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Ramada Hotel Old Town, 901 N. Fairfax Street, Alexandria, Virginia, beginning at 10:00 a.m., on January 28, 1986, with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to amending the Class I price provisions in each of the orders in accordance with the Food Security Act of 1985. The Food Security Act of 1985, Title 1, Dairy, Subtitle C—Milk Marketing Orders, amended Section 8c(5)(A) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)(A)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to provide specific minimum Class I milk price differentials in each of the orders for a two-year period. Through the hearing process, the changes mandated by Congress will be incorporated into the orders in an orderly fashion by following the required procedures for amending the orders.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR Part 900.12(d)) with respect to proposal No. 1.

The amendments proposed to be implemented on the basis of this proceeding are set forth as follows:

Proposal No. 1

Amend the orders in accordance with the requirements of the Food Security Act of 1985, which would result in minimum Class I price differentials for each order as follows:

Marketing area, *subject to order*	*Class I differential*
New England	[1] $3.24
New York-New Jersey	[2] 3.14
Middle Atlantic	3.03
Georgia	3.08
Alabama-West Florida	3.08
Upper Florida	3.58
Tampa Bay	3.88
Southeastern Florida	4.18
Michigan Upper Peninsula	[3] 1.35
Southern Michigan	1.75
Eastern Ohio-Western Pennsylvania	1.95
Ohio Valley	2.04
Indiana	2.00
Chicago Regional	1.40
Central Illinois	1.61
Southern Illinois	1.92
Louisville-Lexington-Evansville	2.11
Upper Midwest	1.20
Eastern South Dakota	1.50
Black Hills, South Dakota	2.05
Iowa	1.55
Nebraska-Western Iowa	1.75
Greater Kansas City	1.92
Tennessee Valley	2.77
Nashville, Tennessee	2.52
Paducah, Kentucky	2.39
Memphis, Tennessee	2.77
Central Arkansas	2.77
Fort Smith, Arkansas	2.77
Southwest Plains	2.77
Texas Panhandle	2.49
Lubbock-Plainview, Texas	2.49
Texas	3.28
Greater Louisiana	3.28
New Orleans-Mississippi	3.85
Eastern Colorado	2.73
Western Colorado	2.00
Southwestern Idaho-Eastern Oregon	1.50
Great Basin	1.90
Lake Mead	1.60
Central Arizona	2.52
Rio Grande Valley	2.35
Puget Sound-Inland	1.85
Oregon-Washington	1.95

[1] Zone 1.
[2] 1-10 mile freight zone.
[3] Zone 2.

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 2

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator of each of the aforesaid specified marketing areas, or from the Hearing Clerk, Room 1079, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator of each of the 44 Orders

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, DC, on: January 3, 1986.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 86-664 Filed 1-10-86; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Reg. Q; Docket No. R-0514]

Interest on Deposits; Advertising of Interest on Deposits

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rulemaking.

SUMMARY: The Board is proposing to revise § 217.6 of its Regulation Q—Interest on Deposits (12 CFR Part 217), governing the advertising of interest on deposits by member banks. Currently, the Board's rules concerning advertising appear in the regulation, Board interpretations and policy statements, and various staff opinions. The proposed regulation updates, clarifies and simplifies the Board's advertising rules, as well as removing some current restrictions on member bank advertising for deposits. The Board is proposing three alternatives concerning what interest rate(s) must be stated in advertisements of interest on deposits: (1) Continue the requirement that banks state the annual rate of simple interest for the deposit; (2) require banks to state the annual percentage yield for the deposit; or (3) require banks to state both the annual rate of simple interest and the annual percentage yield in advertisements of interest on deposits.

DATE: Comments must be received by March 6, 1986.

ADDRESS: Interested parties are invited to submit written data, views, or arguments concerning the proposal to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551, or such comments may be delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments should refer to Docket No. R-0514. Comments may be inspected in room B-1112 between 8:45 a.m. and 5:15 p.m. on business days, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Senior Attorney (202/452-3711) or John Harry Jorgenson, Senior Attorney (202/452-3778), Legal Division, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) authorizes the Board to prescribe rules governing the advertisement of interest on deposits by member banks. The current rule is codified in Regulation Q at 12 CFR 217.6—*Advertising of Interest on Deposits.* Additional advertising requirements are set forth in other sections in Regulation Q, in various Board interpretations and policy statements, and in staff opinions and rulings. The Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board have virtually identical rules for institutions subject to their respective jurisdictions. Section 19(j) requires that the Board consult with these agencies if it intends to issue rules pursuant to the section, and the views of these agencies are being solicited.

The Board's current regulations on advertising were adopted in 1969; the only significant regulatory change since 1969 has been to require advertisements to disclose the presence of an early withdrawal penalty. Other advertising requirements have largely come through Board interpretations and policy statements. The Board believes that revision of these rules is warranted in view of the deregulation of interest rate ceilings resulting from actions of the Depository Institutions Deregulation Committee ("DIDC") pursuant to the Depository Institutions Deregulation Act of 1980 (Title II of Pub. L. 96-221). The Board is concerned that current rules, promulgated when deposit accounts were heavily regulated, may be inappropriate in a deregulated environment or may be inadequate to insure that depositors receive accurate and adequate information in advertisements for deposit accounts. The Board also believes that simplification of these rules would assist member banks. Current Board rulings and staff opinions in conflict with any amendments adopted by the Board would be rescinded, and remaining interpretations and opinions would be consolidated and keyed to regulatory provisions to further simplify Regulation Q. Regulation D and related Regulation Q issues arising from deregulation have been addressed previously by the Board. 51 FR 27 (Jan. 2, 1986).

The proposed revisions to § 217.6—Advertising include both technical amendments reflecting present Board policy and substantive amendments, and supercede previous regulatory proposals on which the Board has not taken final action pending completion of the comprehensive review of Regulation Q.

1. *Accuracy of advertising.* Currently, section 217.6 (g)[1] prohibits member banks from making any advertisement, announcement, or solicitation relating to the interest paid on deposits that is inaccurate or misleading or misrepresents its deposit contracts. The Board proposes to retain the substance of this provision and to amend it to clarify that advertisements relating to rates of interest, such as "we pay high rates," as well as those that state specific interest rates would be subject to the Board's general advertising regulations.

[1] All citations are to current regulations, Board interpretations and policy statements, and staff opinions.

The provision would also be amended to clarify that "advertisement" includes all promotional material. There is concern, however, that application of all of the advertising provisions to all types of media may give consumers more information than they can absorb in a short period of time and may have an adverse effect on the ability of member banks to utilize certain media such as radio or television. Therefore, the Board requests comments on whether the requirements of the proposed advertising section should apply uniformly to all media or whether less stringent standards should be applied to advertisements over radio or television, and, if so, what those standards should be.

2. *Required provisions.* At present, the requirements for member bank advertisements are contained in separate regulatory sections and various Board policy statements and interpretations. The Board proposes to consolidate all provisions concerning required information into one subsection.

a. *Interest rate.* Member banks currently are required to state interest rates in terms of the annual rate of simple interest when they advertise any interest rates. The rate of simple interest may no longer be the principal rate used for comparing investment vehicles, however, and may not provide consumers an adequate basis on which they can make their investment decisions. For example, the return to depositors by institutions offering the same simple rate will vary depending on the frequency of compounding. Consequently, the Board believes that the requirement that member banks state the simple rate of interest on deposits should be reviewed.

Some mechanism for comparing the return on the deposits being advertised is desirable. Ideally, such a mechanism would take into consideration all of the characteristics associated with deposits, but the number of variables that affect the rate of return on deposits is large, especially for accounts that permit withdrawals and additional deposits. Consequently, development of a single formula or mechanism applicable to all deposit categories does not appear to be feasible.

The Board is requesting comment on three alternatives with regard to the interest rate that would be required to be stated in advertisements. Under the first alternative, the current requirement that advertisements of interest on deposits be required to state the annual rate of simple interest for the deposit would be retained. In discussing this alternative, commenters are requested to address the applicability of the "simple interest" rule to variable rate deposits and multiple rate deposits. At present, the Board's policy statement of March 22, 1984 (¶ 2–411.3, FRRS) states that advertisements for these deposits should contain details concerning the length of time for which each rate would apply and, where known, what each rate to be paid during the life of the deposit would be. The policy statement further states that advertisements for multiple rate deposits must include a statement of the average effective annual yield for the deposit which assumes compounding of interest at least annually.

The second alternative on which the Board requests comment is to require that any advertisement stating an interest rate must also state an annual percentage yield ("APY") for the deposit. Two of the most significant variables—the simple interest rate and the frequency of compounding—would be captured through use of an APY.[2] The APY would be calculated using formulas derived from the interest compounding formulas approved by the Board in 1971[3] (12 CFR 217.151; ¶ 2–412, FRRS). A bank would be free to state other interest rates in its advertisements in conjunction with the APY, but the APY would have to receive greater prominence.

The third alternative on which comment is requested represents a combination of alternatives one and two. Under this alternative, the advertising regulations would be amended to require banks to state both the APY and the annual rate of simple interest in advertisements of interest on deposits.

The three alternatives differ only on the subject of what interest rate, or combination of rates, should be stated in advertisements of interest on deposits. Neither the APY nor simple interest rule method provides an adequate basis for comparing the returns from variable rate deposits and from deposits with different maturities. Two deposit accounts could have the same advertised APY or simple rates but yield different amounts. For example, the required APY for a variable rate deposit likely would not reflect the actual yield received for the term of the deposit since the APY would be based on the initial rate offered for the deposit which may change during the term of the deposit. Similarly, actual yields may differ for deposits with different maturities but identical APYs since the APY assumes renewal of the shorter-term deposit at its initial interest rate. Under all alternatives, the Board is proposing that maturity and interest rate variability also be stated in advertisements. Since the effect of service charges on the rate of return on a deposit is also not captured, the presence of such service charges would also be stated in advertisements.

b. *Multiple Rate Deposits.* The Board has issued various interpretations and policy statements with regard to advertising multiple rate and variable rate deposits. Generally, advertisements for multiple rate deposits must state the length of time for which the advertised rate and subsequent rates apply. Where all rates are known in advance, advertisements should clearly state each rate in equal prominence with an equivalent of the APY which assumes compounding at least annually. Advertisements for variable rate deposits should indicate the basis on which future fluctuations in rates would occur.

Under alternative one, advertisements for deposits on which multiple fixed interest rates will be paid would continue to be required to state each rate to be paid throughout the life of the deposit, the length of time for which

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[2] The Board also considered Dr. Richard Morse's idea of using cents of interest earned per $100 per day (cents/$100/day). The Board is concerned, however, that advertising the amount of interest earned per $100 per day may result in greater confusion and not be of significant benefit to consumers. The actual numbers advertised under the Morse method for accounts with the same simple rate of interest would vary by fractions of pennies. It is unlikely that consumers would find such minute differences useful in distinguishing among accounts. More importantly, yield figures are common in the financial industry, and consumers are familiar with their use. Since the Morse concept would be a substantial change from this industry practice, the Board believes that this approach would impose additional burdens on depository institutions without commensurate benefit to consumers. the possibility of developing a hypothetical "typical" account which would capture additional factors was also reviewed. Such an approach, however, was deemed impracticable because of difficulty in determining what a "typical" account should be since deposit and withdrawal patterns as well as use of particular services vary significantly among consumers.

[3] The APY for deposits other than those compounded continuously would typically be calulated by using the formula $APY = 100\ [(1 + R/M)^N - 1]$ where "R" is the rate of simple interest, "M" is the number of compounding periods per year, and "N" is the number of periods per year for which interest is actually compounded. Where continuous compounding is used, the formula would be $APY = 100\ (e^{rt} - 1)$ where "e" is the Naperian logarithmic base (2.71820), "r" is the simple rate of interest, and "t" is the time expressed as a fraction in which the numerator is the number of periods for which interest is actually compounded and the denominator is either 360 or 365 based on the the particular bank's accounting practices. The APY would be required to be accurate to one decimal point.

each rate would apply, and the average effective annual yield of the deposit which assumes compounding at least annually. Under alternative 2, advertisements for these deposits would be required to state only a composite APY based on the multiple rates if any rate is stated in the advertisement. The composite APY is equivalent to the average effective annual yield and would assume compounding of interest at least annually, as required at present. Alternative 3 would require the simple rates and composite APY to be stated.

With regard to advertisements of variable rate deposits, current requirements that the advertisements clearly state the time period for which the rates would apply, the method by which future changes in rates will be determined, and the frequency of adjustment of these rates would continue under all alternatives. In addition, advertisements for variable rate deposits would be required to state clearly that the advertised rate is subject to change.

c. *Deposits for Which Interest Is Not Compounded.* Alternative 1 would require only that advertisements for these deposits state the annual rate of simple interest. Alternative 2 would require that advertisements for multi-year deposits on which interest is not compounded state an APY that assumes annual compounding,[4] thus enabling consumers to better compare yields for varying types of deposits since it parallels the treatment accorded other deposits under this alternative.

d. *Bonus Payments.* The Board proposes to simplify its policy concerning advertising of a bonus on an account (¶ 2–460.1, FRRS) and to incorporate the policy into the regulation to require member banks to indicate clearly the conditions under which the bonus will be paid. At present, member banks must disclose the conditions under which a bonus will or will not be paid, including whether the bank retains complete discretion as to whether a bonus will be paid.

e. *Service Charges.* The Board is also proposing to amend the regulation to require that if recurring and ordinary charges will be imposed on an account, that fact should be disclosed in any advertisement. The Board previously addressed this issue with regard to NOW accounts under a Board policy statement of September 1980 (¶2–411, FRRS). As service charges also affect other accounts, the Board believes this policy should apply to advertisements for all interest bearing deposits.

The proposed amendment would require that the presence of recurring or ordinary service charges be disclosed in advertisements by a general statement such as "This account is subject to service charges." Recurring or ordinary service charges would include such charges as account maintenance fees, per check fees, fees imposed if the balance in an account falls below some minimum, and fees for account balance inquiries. The actual fees need not be stated in an advertisement. The Board requests comment on the types of fees that should be regarded as ordinary or recurring and whose presence should be disclosed in advertisement.

f. *Additional Provisions.* The present regulatory requirements that advertisements disclose the applicability of any early withdrawal penalty would be retained as would the requirement that any time or amount requirements for an advertised rate be clearly stated. These provisions would be simplified. The proposed regulation would also continue to require member banks to insure that any person or organization that solicits deposits for them complies with the terms of the regulation.

3. *Prohibited terms.* The proposed regulation would prohibit member banks from referring to Individual Retirement Account ("IRA") or Keogh (H.R. 10) plan deposits as tax-exempt or tax-free. In its policy statement of March 1984, the Board stated that the use of these terms when referring to IRA or Keogh (H.R. 10) plan deposits is misleading and inaccurate since contributions to, and earnings on, IRAs are deferred from federal income taxes rather than exempt from taxes.

Another provision in the proposed regulation prohibits member banks from using the term "profit" in referring to interest paid on deposits. This provision was included in the 1966 policy statement on advertising and was part of the 1969 regulation. Public comment is sought on whether "profit" should continue to be prohibited term.

4. *Current regulatory provisions modified.* In order to simplify the advertising requirements and reduce advertising restrictions on member banks, the amended regulations would permit depository institutions to advertise rates not now permitted under the current regulations. At present, member banks are prohibited from advertising a total percentage yield, compounded or simple, based on a period in excess of a year. (12 CFR 217.6(e)) Member banks are also prohibited from advertising an average annual percentage yield achieved by compounding during a period in excess of a year.

The proposed regulations under alternatives one or two do not contain these prohibitions. However, under alternative one, member banks would continue to be required to state the simple rate in greater prominence than any other rate, while under alternative two member banks would be required to state the APY in greater prominence than any other rate. The Board requests commenters to discuss whether the requirements are adequate to ensure that consumers are not misled by these advertisements stating yields based on periods greater than a year. Commenters are also asked to discuss the benefits and disadvantages of removing these prohibitions under any of the options.

The remaining changes to the current regulatory provisions concerning advertising consist of restructuring the regulation to simplify it and rewriting several sections to provide greater clarity. Regulatory language reflecting alternative two appears in brackets.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires the Board to consider the impact of this proposal on small entities.

The proposed revisions to the advertising section of Regulation Q do not appear to impose significant new requirements on covered institutions. Most of the changes involve formally incorporating existing Board policy statements into the regulation. However, the Board is seeking public comment on three alternatives concerning what interest rate(s) should be required to be stated in advertisements of interest on deposits. Since adoption of alternative two could involve the most significant change from current bank operating procedures it will be discussed first. Under existing rules, if an institution includes the annual percentage yield in an advertisement of a deposit account, it must also state the associated simple interest rate. Alternative two of the proposed rule would no longer require that the simple interest rate be included in advertisements which state the APY, but would require the APY be included in advertisements that show the simple rate. By accounting for the conversion into principal of the interest earned during the year, the APY provides the consumer with a measure of the actual rate of interest on an account. If no compounding is present, then the APY is equal to the simple rate of interest for accounts with a maturity of one year or

[4] The APY in such cases would be lower than the simple interest rate.

less. The greater the frequency of compounding, the higher will be the calculated APY. For simple interest accounts with maturities greater than one year, however, the APY computation assumes annual compounding. This assumption is necessary to prevent the APY advertising requirements from being misleading when comparing returns on simple interest accounts with those on accounts where interest is compounded.

Currently, deposit account advertisements frequently report both the simple interest rate and the associated annual percentage yield. It is anticipated that adoption of alternative two would result in a simplification of deposit account advertisements since many institutions would probably choose to state only the APY in such advertisements. Adoption of this alternative may benefit consumers to the extent that it reduces confusion caused by the presence of two stated interest rates for the same deposit in the same advertisement. Moreover, this rule may reduce the potential for advertising to mislead consumers when some advertisements state only a simple rate of interest while others contain both the simple rate and the annual yield.

The precise impact of alternative two on member banks advertising expenses is unknown. On the one hand, some banks currently include in advertisements the simple interest rate and references to the frequency of compounding, if applicable, but do not explicitly state and APY. The new rule would require these institutions to modify their current advertisements to include the APY, although they no longer need to mention the simple interest rate. On the other hand, many institutions currently include both the simple interest rate (and sometimes the compounding frequency) and the APY in advertisements. Under the proposed rule, these institutions can simplify their advertisements by eliminating the former items.

Aside from seeking public comment on the proposal that banks be required to state any APY in their deposit account advertisements but not be required to state a simple rate, the Board is seeking comment on two possible alternatives to this rule. This first alternative would be to maintain the current regulatory requirements which mandate the disclosure of the simple rate of interest in all advertisements which refer to a specific rate of interest. The second alternative would require deposit account advertisements to state both the simple rate of interest and the APY in equally prominent type set.

Alternative one, to maintain the current advertising requirements with respect to the mandatory statement of the simple rate of interest in advertisements, would not impose any new costs on member banks. However, it may not address consumers' need to have a rate which they can readily use for shopping among deposit account alternatives that have various compounding features. On the other hand, requiring disclosure of both the simple rate and the APY (alternative three) would increase aggregate bank advertising expenses somewhat since not all institutions currently state the APY in all advertisements. Like alternative two, this alternative would give consumers a rate they can use in shopping among various deposit account alternatives.

Some banks' advertising expenses will be affected by the new requirement that interest-bearing deposit accounts subject to recurring service charges contain a warning statement to that effect. The Board currently has a policy statement that encourages banks to give such a disclosure for NOW accounts. The proposed rule, however, covers all types of interest-bearing deposit accounts subject to recurring fees. The Board believes that the proliferation of nontransaction types of deposit accounts, such as savings accounts that are subject to service fees warrants the increased scope of the coverage. For example, between 1981 and 1984 the percentage of banks that assessed a fee against savings accounts that failed to maintain a specified minimum balance increased from 11 percent to 43 percent.[5]

Regulation Q advertising rules apply equally to all member banks. Since most of the proposed revisions to Regulation Q codify existing interpretations or policy statements, it is unlikely that small banks will be differentially impacted by the proposed rule.

Regulation Q provisions do not extend to institutions supervised by the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, or the National Credit Union Administration. Consequently, coordination among the agencies is important in order for consumers to receive maximum benefits from the proposed rule changes. Different rules for depository institutions under different supervision would be both confusing to consumers and unfair to institutions facing the more restrictive rules. Board staff has initiated contact and will work with the staffs of the other banking agencies in order to achieve a uniform set of advertising rules. At this time, it is unclear whether uniformity among the agencies will be achieved, leaving the possibility that member banks will operate under different rules than other depository institutions.

[5] *SOURCE:* Sheshunoff and Company Inc., *Pricing Bank Services and Loans*, 1981 and 1984 reports.

List of Subjects in 12 CFR Part 217

Advertising, Banks, banking; Federal Reserve System; Foreign banking.

Regulatory language reflecting alternative two appears in brackets.

PART 217—[AMENDED]

Pursuant to its authority under section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) the Board proposes to amend Regulation Q (12 CFR Part 217) by redesignating § 217.6 to be § 217.4 and revising the newly redesignated § 217.4 to read as follows:

§ 217.4 Advertising of interest on deposits.

(a) *Accuracy of advertising.* No member bank shall make any advertisement relating to interest on deposits that is inaccurate or misleading or that misrepresents its deposit contracts. As used in this section, "advertisement" includes any announcement, solicitation or other promotional material concerning deposits.

(b) *Required information.* Member bank advertisements relating to interest on deposits shall comply with the following requirements:

(1) *Annual rate of simple interest.* Any advertisement for deposits stating interest rates shall state the annual rate of simple interest for the deposit in greater prominence than any other stated rate. Advertisements for deposits maturing in less than one year shall contain a statement that the interest rate may change at renewal.

[(1) *Annual percentage yield.* Any advertisement for depoists stating interest rates shall state and annual percentage yield (APY), labeled as such, for the depoist in greater prominence than any other stated rate.[1]

[1] The annual percentage yield shall be calcualted using the following formulas—

$APY = 100 [1 + R/M^N - 1]$ where "R" is the rate of simple interest, "M" is the number of compounding periods per year, and "N" is the number of periods for which interest is actually compounded.

Where continous compounding is used, the formula would by $APY = 100 (e^{rt} - 1]$ where "e" is the Naperian Logarithmic base (2.71820), "r" is the rate of simple interest, and "t" is the time which may be expressed as a fraction in which the numerator is the number of periods for which interest is actually compounded and the denominator is either 360 or 365 based on the particular bank's accounting practices.

APYs shall be accurate to one decimal point.

Advertisements for deposits maturing in less than one year shall contain a statement that the APY may change at renewal.]

(2) *Multiple fixed rate deposits.* Advertisements stating an interest rate for deposits on which more than one rate will be paid during the life of the deposit shall state each rate and the length of time for which each rate is effective, and the average effective annual yield for the deposit which assumes compounding of at least annually.[2]

[(2) *Multiple fixed rate deposits.* Advertisements stating an interest rate for deposits on which more than one rate may be paid during the life of the deposit shall state a composite APY based on the multiple rates. The composite annual percentage yield shall be calculated using the formula

$$APY = 100\left[\left(\sqrt[q_b]{\left(1+\frac{R_1}{M}\right)^{q_1}\left(1+\frac{R_2}{M}\right)^{q_2-q_1}\cdots\left(1+\frac{R_b}{M}\right)^{q_b-q_{b-1}}}\right)^{N}-1\right]$$

where:
R_1 = rate of simple interest paid from period 1 through q_1
R_2 = rate of simple interest paid from period q_1+1 through q_2
* * * * *
R_b = rate of simple interest paid from period $q_{b-1}+1$ through q_b
b = number of different interest rates
M = number of compounding periods per year
q_b = M times maturity in terms of years
N = number of periods for which interest is actually compounded
APYs shall be accurate to one decimal point.]

(3) *Variable rate deposits.* Advertisements for variable rate deposits shall clearly state:

(i) That the rate is subject to change;

(ii) The time period for which the rate will apply, the method by which future changes in rates will be determined, and the frequency of adjustments of those rates.

[(4) *Deposits for which interest is not compounded.* Advertisements stating a rate of interest for deposits where interest is not compounded shall state an APY which assumes compounding of interest at least annually. The annual percentage yield for deposits where interest is not compounded shall be calculated using the formula:

$$APY = 100\left[\sqrt[y]{1+yR}-1\right]$$

where:
R = the rate of simple interest and
y = the number of years to maturity
APYs shall be accurate to one decimal point.]

(4) [(5)] *Time or amount requirements.* Any time or amount requirements for advertised rates shall be clearly stated, together with any lower rates that apply if the deposit is withdrawn at an earlier maturity or prior to maturity.

(5) [(6)] *Service charges.* Advertisements for deposits on which recurring or ordinary service charges are imposed shall state that the deposit is subject to such charges.[3] Such a statement may be expressed in the following manner: "This account is subject to service charges."

(6) [(7)] *Bonus payments.* Advertisements of a bonus on a deposit shall indicate the conditions under which the bonus will be paid.

(7) [(8)] *Penalty for early withdrawal.* Advertistments for deposits subject to an early withdrawal penalty shall include a clear and conspicuous statement to that effect.

(c) *Prohibited terms.*—(1) *IRA/KEOGH Plan deposits.* Advertisements for Individual Retirement Account or Keogh (HR 10) plan deposits shall not state or imply that these deposits are tax-free or tax-exempt.

(2) *"Profit".* The term "profit" shall not be used in referring to interest paid on deposits.

(d) *Solicitation of deposits for banks.* A member bank shall ensure that any person or organization soliciting deposits on behalf of the member bank complies with the rules contained in this section.

By order of the Board of Governors of the Federal Reserve System, January 3, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-416 Filed 1-10-86; 8:45 am]

BILLING CODE 6210-01-M

[2] The average effective annual yield is the equivalent of a composite annual percentage yield and may be calculated using the formula in footnote 1.

[3] Recurring or ordinary service charges include such charges as account maintenance fees, per check fees, deposit or withdrawal fees and charges imposed if the accounts goes below a minimum balance.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-CE-39-AD]

Airworthiness Directive; Mitsubishi Heavy Industries, Limited, Models MU-2B, MU-2B-10, MU-2B-15, MU-2B-20, MU-2B-25, MU-2B-26, MU-2B-30, MU-2B-35 and MU-2B-36 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to supersede Airworthiness Directive (AD) 80-18-12R1 (Amendment 39-3956), applicable to certain Mitsubishi Heavy Industries, Limited, (MHI), Models MU-2B, -10, -15, -20, -25, -26, -30, -35 and -36 airplanes. The existing AD requires repetitive inspections and replacement, as necessary, of certain nose landing gear strut assembly components on the above airplanes. The proposal would shorten the time for accomplishment of the initial inspection. The new AD is needed because the FAA has learned of three incidents of cracks in the nose landing gear outer cylinder assembly which were discovered prior to the first inspection specified in AD 80-18-12R1. A crack in the nose landing gear outer cylinder assembly could lead to collapse of the nose landing gear. This proposed action will help prevent failure of the nose landing gear strut.

DATE: Comments must be received on or before May 17, 1986.

ADDRESSES: MHI Service Bulletin (S/B) No. 181, Revision B, dated August 8, 1985, applicable to this AD, may be obtained from Mitsubishi Heavy Industries, Ltd., 10, Oye-Cho, Minato-ku, Nagoya, Japan, or Mitsubishi Aircraft International, Inc., P.O. Box 3848, San Angelo, Texas 76901, or the Rules Docket at the address below.

Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 85–CE–39–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8:00 a.m. and 4.00 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Richard, Aerospace Engineer, Airframe Section, ANM–172W, Western Aircraft Certification Office, Northwest Mountain Region, FAA, P.O. Box 92007, Worldway Postal Center, Los Angeles California 90009–2007, Telephone No. (213) 297–1374.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and emergency aspects of the rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRN) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85–CE–39–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

The manufacturer has a report that a crack has been found in a nose landing fear strut assembly on an MU–2B airplane that had not been overhauled, and which was found prior to the first inspection required by their Service Bulletin (S/B) No. 181, Revision A. The FAA maintenance analysis center has two other reports of similar cracks on U.S. registered airplanes. As a result, MHI has issued MU–2B S/B No. 181, Revision B, dated April 8, 1985, applicable to certain models of MU–2B airplanes, which gives instructions for inspection and replacement of the nose landing gear strut assembly and which changes the initial inspection of the nose landing gear outer cylinder assembly from 4,000 hours total time-in-service to 200 hours time-in-service. The Japan Civil Aviation Bureau, who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Japan has classified this service bulletin and the actions recommended therein by the manufacturer as mandatory and has issued (Japanese) AD TCD–1768–1–85 to assure the continued airworthiness of the affected airplanes. On airplanes operated under Japanese regulations, this action has the same effect as an AD on airplanes certified for operation in the United States.

The FAA relies upon the certification of the Japan Civil Aviation Bureau combined with the FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this design certificated for operation in the United States. The FAA has examined the available information related to the issuance of MU–2 S/B No. 181, Revision B, and the mandatory classification of this service bulletin by the Japan Civil Aviation Bureau. Based on the foregoing, the FAA believes that the condition addressed by MU–2 S/B No. 181, Revision B, is an unsafe condition that may exist on other products of this type design certificated for operation in the United States.

Consequently, the proposed AD is applicable to certain MHI Model MU–2B, MU–2B–10, MU–2B–15, MU–2B–20, MU–2B–25, MU–2B–26, MU–2B–30, MU–2B–35, and MU–2B–36 airplanes. It would require repetitive inspections on these model airplanes until the nose landing gear strut assembly is replaced in accordance with MHI MU–2 S/B No. 181, Revision B.

There are approximately 388 United States registered airplanes affected by the proposed superseding AD. The cost of complying with this proposed AD is estimated to be $660 per airplane. The cost to the private sector is estimated to be $256,080. Few, if any, small entities own the affected airplanes. The cost of compliance is so minimal that it would not impose a significant economic burden on any such owner.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 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); 14 CFR 11.89.

2. By superseding Amendment 39–3892 as amended by amendment 39–3956, AD 80–18–12 R1, with the following new AD:

Mitsubishi Heavy Industries, Ltd.: Applies to Models MU–2B, MU–2B–10, MU–2B–15, MU–2B–20, MU–2B–25, MU–2B–26 (Serial Numbers 008 through 347 except Serial Numbers 313 and 321); and MU–2B–30, MU–2B–35, MU–2B–36 (Serial Numbers 501 through 696 except Serial Numbers 652 and 661) airplanes with certain nose landing gear strut assemblies installed, certificated in any category. (This proposed AD would not apply to MU–2B series airplanes having serial numbers with "SA" suffix.)

Compliance: Required as indicated, unless previously accomplished. To preclude failure of the nose landing gear (NLG) strut assembly with part numbers and serial numbers listed in MHI MU–2 Service Bulletin (S/B) No. 181, Revision B, dated April 8, 1985 (hereafter referred to as S/B No. 181) installed, accomplish the following:

(a) For those airplanes with NLG strut assemblies having 4000 or more hours time in service on the effective date of this AD, within the next 200 hours time-in-service, and thereafter at intervals not to exceed 200 hours time-in-service from the last inspection, inspect for cracks using magnetic flux inspection method or fluorescent penetrant inspection method in accordance with "INSTRUCTIONS", Part I of S/B No. 181.

(b) For those airplanes with NLG strut assemblies having less than 4,000 hours time-in-service on the effective date of this AD:

(1) For the outer cylinder assembly, within the next 200 hours time-in-service and thereafter at intervals not to exceed 200 hours time-in-service from the last inspection, inspect for cracks using magnetic flux inspection method or fluorescent penetrant inspection method in accordance with "INSTRUCTIONS", Part I, of S/B No. 181.

(2) For the trunnion and the axle assembly, prior to achieving 4,200 hours total time in service and thereafter at intervals not to exceed 200 hours time in service from the last inspection, inspect for cracks using magnetic flux inspection method or fluorescent penetrant inspection method in accordance with "INSTRUCTIONS", Part I of S/B No. 181.

(c) If cracks are found during any inspection required by paragraphs (a) or (b) of this AD, prior to further flight, replace the cracked parts with serviceable parts marked "SP" in accordance with "INSTRUCTIONS", Part II of S/B No. 181.

(d) Installation of the outer cylinder assembly, axle assembly or trunnion marked "SP" is terminating action for the repetitive inspection for that particular part. When all affected parts are replaced in accordance with Part II, permanently identify the NLG strut assembly with "SB 181" in vicinity of the NLG assembly part number.

(e) Special flight permits may be issued in accordance with FAR Section 21.197 to ferry aircraft to a maintenance base in order to accomplish this AD.

(f) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Western Aircraft Certification Office, ANM-170W, Northwest Mountain Region, FAA, Post Office Box 92007, Worldway Postal Center, Los Angeles, California 90009-2007.

All persons affected by this proposed AD may obtain copies of the documents referred to herein upon request to Mitsubishi Heavy Industries, Ltd., 10, Oye-Cho, Minato-ku, Nagoya, Japan, or Mitsubishi Aircraft International, Inc., P.O. Box 3848, San Angelo, Texas 76901, or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, MO 64106.

This amendment, if promulgated, will supersede Amendment 39-3892 (45 FR 54729) as amended by Amendment 39-3956 (45 FR 70227), Ad-80-18-12 R1.

Issued in Kansas City, Missouri, on January 2, 1986.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 86-627 Filed 1-10-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-ASO-30]

Proposed Alteration of Transition Area, Hattiesburg, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description of the Hattiesburg, Mississippi, transition area to reflect a recent change in the name of the airport and decommissioning of the Hub City radio beacon. The present description of the transition area also contains language that provides for the unnecessary dual designation of airspace and has erroneous geographical coordinates for two existing airports. This action will correct these deficiencies and simplify the transition are description. No significant change in airspace designation will result from this proposed action.

DATE: Comments must be received on or before: February 20, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Manager, Airspace and Procedures Branch, ASO-530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Supervisor, Airspace Section, Airspace, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-ASO-30." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that will alter the description of the Hattiesburg, Mississippi, transition area to reflect a change in airport name, revise geographical coordinates, and delete reference to a radio beacon which has been decommissioned. In addition, the description will be simplified to preclude the existing dual designation of airspace. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Order 7400.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter

that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); [14 CFR 11.65]; 49 CFR 1.47.

2. By amending § 71.181 as follows:

Hattiesburg, MS—[Revised]

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Bobby L. Chain Municipal Airport (lat. 31°15'54" N., long. 89°15'11" W.); within an 8.5-mile radius of Pine Belt Regional Airport (lat. 31°28'01" N., long. 89°20'13" W.); within 3 miles each side of the Eaton VORTAC 181° radial, extending from the 8.5-mile radius area to 8.5 miles south of the VORTAC.

Issued in East Point, Georgia, on January 2, 1986.

William H. Pollard,

Acting Director, Southern Region.

[FR Doc. 86-628 Filed 1-10-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF INTERIOR

Office of Territorial and International Affairs

15 CFR Part 303

[Docket No. 51185-5185]

Proposed Limit on Duty-Free Insular Watches in Calendar Year 1986

AGENCY: Import Administration, International Trade Administration, Commerce; Office of Territorial and International Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: This action invites the comments of interested persons on a proposal to establish the total quantity of duty-free insular watches and watch movements for 1986 at 6,000,000 units and to divide this amount among the three insular possessions of the United States and the Northern Mariana Islands. We propose to do this by amending § 303.14(e), which now permits a total of only 5,500,000 units distributed among the three insular possessions and the Northern Mariana Islands.

DATE: Comments must be received by February 27, 1986.

ADDRESS: Send comments to the Statutory Import Programs Staff, Rm. 1523, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Faye Robinson, (202-377-1660.

SUPPLEMENTARY INFORMATION: Pub. L. 97-446, enacted January 12, 1983 requires the Secretaries of Commerce and the Interior, acting jointly, to establish a limit on the quantity of watches and watch movements which may be entered free of duty during each calendar year. The law also requires the Secretaries to establish the shares of this limited quantity which may be entered from the Virgin Islands, Guam, American Samoa and the Northern Mariana Islands. Regulations of the establishment of these quantities and shares are contained in §§ 303.3 and 303.4, 15 CFR Part 303.

The Departments propose to establish for calendar year 1986 a total quantity and respective territorial shares as shown in the following table:

Virgin Islands	4,000,000
Guam	1,000,000
American Samoa	500,000
Northern Mariana Islands	500,000
Total	6,000,000

Compared with the total quantity established for 1985, this amount represents an increase of 500,000 units. The proposed territorial shares represent an increase of 500,000 units for the Virgin Islands. The proposed shares for Guam, American Samoa, and the Northern Mariana Islands would not change.

Our reasons for proposing these amounts are as follow:

1. There are no producers in American Samoa and the Northern Mariana Islands. This proposal would establish these territories' shares at the minimum required by the statute.

2. There is only one producer in Guam, and the amount we propose here is consistent with the needs of the existing producer and with the existing set-aside of 500,000 units for possible allocation to new firms in Guam.

3. We expect total Virgin Island shipments in 1986 to be between 3 and 3.5 million units. The amount we propose is consistent with the anticipated needs of the existing producers along with a set-aside of 500,000 units for possible allocation to new firms in the Virgin Islands.

In accordance with Executive Order 12291 dated February 17, 1981, the Departments of Commerce and the Interior have determined that this rule does not constitute a "major rule" as defined by section 1(b) of the Order. It is not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Therefore, preparation of a Regulatory Impact Analysis is not required.

This regulation was submitted to the Office of Management and Budget for review, as required by Executive Order 12291.

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., the General Counsel of the Department of Commerce has certified that this action will not have a significant economic impact on a substantial number of small entities. Fewer then ten entities are directly affected by this action. The commercial benefits of the program governed by these regulations, for entities both directly and indirectly affected, are less than $10 million per year.

This rule does not contain information collection requirements subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 15 CFR Part 303

Imports, Customs duties and inspection, Watches and jewelry, Marketing quotas, Administrative practice and procedure, Reporting and recordkeeping requirements, American Samoa, Guam, Virgin Islands, Northern Mariana Islands.

PART 303—[AMENDED]

For reasons set forth above, we propose to amend Part 303 as follows:

1. The authority citation for Part 303 continues to read as follows:

Authority: Pub. L. 97–446, 96 Stat. 2329 (19 U.S.C. 1202); Pub. L. 94–241, 90 Stat. 263 (48 U.S.C.A. 1681, note).

2. Section 303.14 is amended by revising paragraph (e).

§ 303.14 Allocation factors and miscellaneous provisions.

* * * * *

(e) *Territorial shares.* The shares of the total duty exemption are 4,000,000 for the Virgin Islands, 1,000,000 for Guam, 500,000 for American Samoa, and 500,000 for the Northern Mariana Islands.

Dated: January 8, 1986.

John L. Evans,

Deputy to the Deputy Assistant Secretary for Import Administration.

Richard T. Montoya,

Assistant Secretary for Territorial and International Affairs.

[FR Doc. 86–690 Filed 1–10–86; 8:45 am]

BILLING CODE 3510–DS–M
BILLING CODE 4310–10–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76–247 (Texas–16 Addition)]

High-Cost Gas Produced From Tight Formations; Ceiling Prices

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (1982), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Railroad Commission of Texas that an additional area of the Olmos Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on February 21, 1986.

Public hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on January 22, 1986.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Edward G. Gingold, (202) 357–9114, or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

I. Background

On November 8, 1985, the Railroad Commission of Texas (Texas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that an additional area of the Olmos Formation located in the southern portion of the state of Texas be designated as a tight formation. The Commission previously adopted a recommendation that the Olmos Formation in certain areas of Webb and Dimmit Counties be designated a tight formation (Order No. 263 issued September 30, 1982, in Docket No. RM79–76–080 (Texas-16)). Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Texas' recommendation that the additional area of the Olmos Formation be designated a tight formation should be adopted. Texas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Texas recommends that an additional portion of the Olmos Formation underlying certain portions of the A.W.P. (Olmos) Field, located in southern Texas in Railroad Commission District 1, be designated as a tight formation. The recommended area consists of approximately 4,853 contiguous acres and is located approximately 3½ to 5 miles southeast of Tilden, McMullen County, Texas. Specifically, the area recommended is all of Sections 24, 25, 27, 37, 38, 39, the west ½ of Section 23, the southwest ¼ of Section 28, the north ½ of Section 41, and the north ½ of Section 42, out of the Two Rivers Ranch Subdivision as shown by plat recorded in Volume O, page 460 (Bracken Lease) and page 464 (McClaugherty Lease) of the Deed Records of McMullen County, Texas.

According to the recommendation, there are forty-nine producing wells in the designated area. Twenty-seven of the wells are oil wells and twenty-two are gas wells. Field rules allow for one well per 80 acres with a tolerance of 40 acres for the last well on a lease. There has been no authorization for infill drilling; however, information contained in the recommendation shows that it has been recommended to Texas that the rules be amended to include an option to drill to a density of 40 acres per well. This drilling density is more typical for an oil bearing formation.

Since the area is being recommended as a high-cost natural gas tight formation, specific comments are requested on the fact that a majority of the wells in the area are oil wells.

The Olmos Formation is a very fine grained, clayey, glauconitic, feldspathic quartz sand with accessory mica, rock fragments, heavy minerals and planktonic foraminifera. It is composed of two sections known as the Massive Olmos and the Second Olmos Stringer and is the uppermost of three formations comprising the Taylor Group of Cretaceous age. The Taylor Group conformably overlies the Austin Chalk and is unconformably overlain by the Excondido Formation of the Navarro Group. The top of the Olmos Formation occurs at depths of 9,100 feet to 9,600 feet below mean sea level.

III. Discussion of Recommendation

Texas claims in its submission that evidence gathered through information and testimony presented at a public hearing convened by Texas on the matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells competed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce, without stimulation, more than five (5) barrels of oil per day.

Texas further asserts that existing State law and established casing procedures assure protection of all fresh water zones.

Accordingly, under the authority delegated to the Director of the Office of Pipeline and Producer Regulation by

Commission Order No. 97, [Reg. Preambles 1977–1981] FERC Stats. and Regs. ¶30,180 (1980), the Director gives notice of the proposal sumbitted by Texas that the additional area of the Olmos Formation, as described and delineated in Texas' recommendation as filed with the Commission be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before February 21, 1986. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–247 (Texas—16 Addition) and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, DC, during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. The person shall specify the amount of time requested at the hearing, and should file the request with the Secretary of the Commission no later than January 22, 1986.

List of Subjects In 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

Accordingly, the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, will be amended as set forth below, in the event the Commission adopts Texas' recommendation.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended as follows:

1. The authority citation for Part 271 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by revising paragraph (d)(111) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(111) *The Olmos Formation in Texas.* RM79–76 (Texas—16—(i) *Dimmit and Webb Counties*—(A) *Delineation of formation.* The Olmos Formation is located in the northwest portion of Webb County and the southern portion of Dimmit County in Texas. The Formation includes all of that portion of Dimmit County extending approximately 14 miles north of the boundary of Webb County, and all of that portion of Northwest Webb County west of a north-south line extending south from a point approximately 1.5 miles east of the southwest corner of La Salle County, and north of an east-west line located approximately 22 miles south of the southwest corner of La Salle County.

(B) *Depth.* The top and base of the Olmos Formation are found at approximate depths of 4,146 feet and 5,237 feet respectively, on the log of the Trans Delta Corporation Petty Well No. 6–7. This well is located in Section 7, Block 8, of the I. &G.N.R.R. Co. Survey in the S.W. Catarina Field, Webb County, Texas.

(ii) *A.W.P. (Olmos) Field, McMullen County*—(A) *Delineation of formation.* The Olmos Formation designated area underlies portions of the A.W.P. (Olmos) Field and consists of 4,853 contiguous acres located 3½ to 5 miles southeast of Tilden, Texas. Specifically, the area is all of Sections 24, 25, 27, 37, 38, 39, the west ½ of Section 23, the southwest ¼ of Section 28, the north ½ of Section 41, and the north ½ of Section 42, out of the Two Rivers Ranch Subdivision as shown by plat recorded in Volume O, page 460 (Bracken Lease) and page 464 (McClaugherty Lease) of the Deed Records, McMullen County, Texas.

(B) *Depth.* The top of the Olmos Formation occurs at depths of from 9,100 feet to 9,600 feet below mean sea level.

[FR Doc. 86–658 Filed 1–10–86; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 145

[Docket No. 85N–0502]

Canned Fruit Cocktail; Advance Notice of Proposed Rulemaking on the Possible Amendment of U.S. Standards of Identity, Quality, and Fill of Container

Corrections

In FR Doc. 85–28352, beginning on page 49066 in the issue of Friday, November 29, 1985, make the following corrections:

1. On page 49067, in the first column, in paragraph "(8)", the fifteenth line should read: "in § 145.135(a)(4)(i) provides for the".

2. On page 49067, in the second column, under the heading "*1.1 Produce Definition*", in the second line of the definition for "Cherries", the word "*cerasus*" was misspelled.

3. On page 49067, in the third column, in the fourth line, the word "dextrose" was misspelled.

4. On page 49067, in the third column, in the ninth line, the number "2.2." should read "2.2.1" and in the line immediately following the table, the number "2.2.1.1" should read "2.2.1.2".

5. On page 49067, in the third column, in the sixth and eighth lines below the table, the words "individuals" and "require" should read "individual" and "required".

6. On page 49068, in the first column, the first line under "2.3.4 *Halved cherries*" should read "80% or more by count (based on sample average)".

7. On page 49069, in the second column, the equation should read:

$$\frac{\text{each fruit's weight}}{\text{sum of all fruit weights}} \times 100 = \%\ \text{of the fruit weight}$$

8. On page 49069, in the third column, in paragraph (a)(2)(ii) of § 145.135, in the second line, "*Prunus persica*" should read "*Pyrus communis*".

9. On page 49069, in the third column, in paragraph (a)(3)(i) of § 145.135, in the fourth line, "§ 1.45.3" should read "§ 145.3".

BILLING CODE 1505–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 628

[FHWA Docket No. 84-9, Notice 2]

Skid Accident Reduction Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Withdrawal of advance notice of proposed rulemaking.

SUMMARY: The FHWA is withdrawing the advance notice of proposed rulemaking on the skid accident reduction program, 49 FR 22105, May 25, 1984, and is closing Docket No. 84-9. Based on comments received and a review of current programs, it has been determined that new regulations are unnecessary.

EFFECTIVE DATE: January 13, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Howard Hanna, (202) 426-2131, Office of Highway Safety; or Mr. Leon Noel, (202) 426-0327, Office of Engineering; or Mr. David C. Oliver, (202) 426-0825, Office of the Chief Counsel.

SUPPLEMENTARY INFORMATION: On May 25, 1984, the FHWA published an advance notice of proposed rulemaking (49 FR 22105) to solicit comments to assist in the determination and extent of necessary revision to the current skid accident reduction program and policies on skid resistant pavement surface design. Comments have been received and reviewed. In addition, FHWA has made a review of selected States' skid accident reduction programs. It was FHWA's intent to identify any area in which current policy or technical guidance is inadequate or needs to be updated.

In implementing sections 105(f), 152, and 402 of Title 23, U.S.C., and section 203 of the Highway Safety Act of 1973 (Pub. L. 93-97, 87 Stat. 283, Title II), the FHWA's policy has been to require each State to develop and implement, on a continuing basis, a highway safety improvement program. The overall objective of these programs is to reduce the number and severity of accidents and decrease the potential for accidents on all highways (23 CFR Part 924). Various program standards have been issued to guide the States in implementing their safety programs (23 CFR Part 1204). Highway Safety Program Standard 12 requires States to adopt standards for pavement design and construction with specific provisions for high skid resistant qualities. It also requires a program for resurfacing or other surface treatment emphasizing the correction of locations or sections of streets and highways with low skid resistance and high or potentially high accident rates susceptible to reduction by providing improved surfaces.

Discussion of Comments to Docket 84-9

Twenty-nine replies were received in response to the advance notice: 22 from State highway agencies, two from aggregate associations, and one each from a county highway department, a private citizen, the American Automobile Association, the Center for Auto Safety (CAS) and the National Transportation Safety Board (NTSB).

In response to the ANPRM the CAS asserted that additional regulations are needed to mandate skid accident reduction programs and minimum skid levels for performance. The CAS also reiterated its support for all previous NTSB findings including the need for FHWA to enforce all existing regulations. The CAS also requested that the 1976 AASHTO "Guidelines for Skid Resistant Pavement" be considered in a new rulemaking proposal due to a perceived number of shortcomings.

The NTSB proposed new rulemaking to require States to provide expertise and skid testing capabilities to urban jurisdictions. The NTSB emphasized the need for States to implement existing policies and guidance. Furthermore, the NTSB encouraged FHWA to complete a review of the Skid Accident Reduction program prior to issuing a NPRM.

The American Automobile Association proposed new regulations to mandate skid accident reduction programs and State assistance to local jurisdictions.

Fifteen of the 20 States which responded were generally opposed to new rulemaking. These States indicated that additional rulemaking is not necessary or appropriate since the States already had satisfactory skid resistant pavement design and skid accident reduction programs. These States felt that existing FHWA policy and technical guidance were adequate and permitted the needed flexibility. The other five States offered comments on the specific recommendations made by the NTSB, and did not comment on the overall adequacy of existing policy and guidance.

Both aggregate associations felt that FHWA has issued ample policies and guidance and that it is not necessary to revise existing regulations. One aggregate association also expressed concern that in view of current economic constraints, flexibility to modify current policies to meet local conditions must remain with the States.

Of all 29 responses, three respondents favored some form of new regulations: two comments favored skid accident reduction programs established by FHWA rule rather than technical guidance; two comments suggested regulations to require States to provide technical expertise and skid testing capabilities to local entities; and one comment endorsed the concept that FHWA establish standards of skid numbers for minimum performance. Although no comments were sought on any specific proposed regulations, two States noted their opposition to any new rulemaking affecting local jurisdictions because of legal authority limitations and economic constraints. One respondent also opposed new rulemaking which established minimum acceptable performance levels for skid resistant pavements. This respondent indicated that flexibility must be maintained because of the wide variability and local availability of materials.

One respondent submitted comments concerning geometric design elements as they relate to frictional properties and did not comment specifically on existing policy and programs.

Comments Concerning Changes Recommended by NTSB

Twenty respondents commented on one or more of the four specific recommendations made by the NTSB to change current policy.

Five of 13 respondents, including three States and NTSB, agreed with the proposed policy change to promote full width surface treatments. One of these States noted, however, that this policy may not be cost-effective in certain cases such as grooving all lanes of a multi-lane highway. Three States felt that such a policy would not be cost-effective in view of maintenance needs and limited funding. One of these States assumed that "full width" included shoulders. The other five States noted that the proposal is unclear in that "full width" should first be defined, i.e., full lane, all lanes, or full roadway width including shoulders.

Thirteen of 18 respondents including 12 States disagreed with the proposed policy change to promote skid trailers with left and right wheel locking capability. These respondents felt that such a policy would provide only redundant inventory data at considerable expense resulting from new or modified equipment, and increased maintenance, downtime, and manpower. Five States indicated, however, that this data may be desirable at certain locations where a

differential in friction levels may exist. Of the four respondents, including two States and NTSB, that agreed with this proposed policy change, one State already had skid trailers with dual wheel locking capabilities and the other State assumed that a smooth tire could be mounted on the second wheel.

Fourteen of 20 respondents, including 13 States, disagreed with the proposed policy change to promote skid testing at the posted speed limit. These respondents felt that the standard 40 m.p.h. speed allows good comparison between different pavement surface types and that the proposed policy would yield unreliable data for varied speeds. In addition, other problems were cited such as difficulties in obtaining posted speed in traffic and on grades, increased safety hazards during testing, and increased wear and tear on equipment which would result in increased maintenance costs and downtime. Five respondents, including three States and NTSB, agreed with this proposal. Two of the three States noted that skid testing at the posted speed is desirable, traffic and geometry permitting, and the other State indicated that testing at the posted speed limit may only be practical up to 40 m.p.h. One State did not agree nor disagree with the proposal but indicated that, while the proposal may have merit, research is needed first to develop reliable correction factors for the different speeds.

Twelve respondents, including 10 States, generally agreed that evaluation of the skid properties of all newly developed surface treatments is desirable and is an ongoing standard policy in these States. Four respondents specifically noted that a change in policy to promote this concept is not necessary since it is adequately addressed by current policy.

Comments Concerning Research Needs

In response to the request for comments concerning new developments having potential in the skid accident reduction program, one State commented on the development of a "wet weather safety index." This State indicated that this approach is very promising since it considers all factors, geometrics as well as safety, that affect wet weather accidents.

FHWA Field Reviews

To supplement the comments received in the docket, the FHWA reviewed 21 States' skid accident reduction programs. Based on the field reviews, the FHWA concluded that States have evaluated aggregates and mix designs commonly used, that pavement surfaces are evaluated using standard methods of test, and that these evaluations have resulted in improved specifications and designs. The States FHWA reviewed have the ability to search for locations with a large number of accidents and the processes to improve such locations.

Although the FHWA's review found that, overall, the States have effective programs, areas of weakness were identified in the application of current policy and technical guidance. The FHWA concludes that there is a need for increased monitoring of State programs to identify and correct specific problem areas that may be unique to each State. The FHWA has taken corrective action by directing its field offices to conduct reviews of each State's program.[1]

FHWA Response to NTSB Safety Recommendations

The ANPRM included 4 specific changes to FHWA policy (Federal-aid Highway Program Manual 6-2-4-3) recommended by the NTSB. The FHWA responded to the NTSB on September 13, 1985. The FHWA response is briefly discussed in the following paragraphs.

1. *Full width surface treatments*—The NTSB had observed locations where only a portion of a travel lane had been patched or resurfaced for significant distances along a highway. The NTSB correctly pointed out that such practices can create a difference in tire-pavement friction between vehicle wheel paths. This can be critical to safe vehicle operation especially during wet weather. The FHWA, the commenters to the docket, and the States reviewed by the FHWA generally agreed with the NTSB. The FHWA has issued a memorandum to our field offices which includes a discussion of the problem and advises action to minimize partial width resurfacing.

2. *Skid trailers with left and right wheel locking capabilities*—Most highway agencies routinely skid test only in the left wheel track of a travel lane, some test only in the right wheel track, and a few alternate between left and right. The FHWA responded to the NTSB's concerns in Technical Advisory TA 5040.17, issued December 23, 1980, by recommending that both wheel paths should be tested when evaluating suspected high accident sites. The FHWA does not have sufficient justification to support a regulation for dual wheel path testing as a routine practice.

3. *Skid testing at the posted speed limit*—The American Society for Testing and Materials' (ASTM) standard test method for skid resistance of paved surfaces (E 274) notes 40 m.p.h. as "standard." This has proved to be a reliable tool for inventory purposes and identifying skid prone locations. The FHWA recognizes that some agencies test at the period speed limit and that site evaluations may require tests at several speeds. Because there are several factors involved in choosing the appropriate test speed, the FHWA maintains that such decisions should be made by the agencies directly responsible for the tests.

4. *Evaluation of the skid properties of newly developed surface treatments*—Current policy and guidance clearly indicate that agencies should evaluate skid resistance properties of existing and newly developed pavements. The FHWA does not detect a need to change current policy, but acknowledges a need to increase field reviews to detect and correct problem areas and thereby improve conformity with current policy.

FHWA Conclusions

Two of the responses to the docket suggested that FHWA require State highway agencies to provide the technical expertise and skid testing capabilities to local agencies. At this time, the FHWA lacks the legal basis to adopt and enforce such a regulation.

Based on the factors discussed above, the FHWA concludes that new rulemaking is not needed but that a renewed emphasis on compliance with existing policy and technical guidance is appropriate. The FHWA has directed each of its field offices to review its States' programs or to follow-up on recently completed reviews and to report on the actions taken. The FHWA believes this course of action is the most appropriate method to make timely improvements in the States' programs.

Therefore, the FHWA is hereby withdrawing its advance notice of proposed rulemaking on the skid accident reduction program and closing Docket No. 84-9. Existing Federal-aid highway procedures contained in Title 23, United States Code, and Title 23, Code of Federal Regulations, will apply to the use of skid resistant pavement surfaces on Federal-aid highway projects. These Federal-aid procedures include applicable items, such as the aforementioned design standards and pavement design, in addition to construction, maintenance, and contract requirements, and requirements

[1] Memorandum from R. A. Barnhart to Regional Federal Highway Administrators, dated September 13, 1985, is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D. A copy is available for review in the public docket file.

applicable to each Federal-aid system including Federal share payable.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. Withdrawal of this notice of proposed rulemaking will not have a significant economic effect inasmuch as no costs will be associated with this action. Accordingly, a full regulatory evaluation is not required. Under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing, the advance notice of proposed rulemaking published in the **Federal Register** on May 25, 1984, (49 FR 22105), (Docket 84–9) is hereby withdrawn.

This withdrawal is issued under the authority of 23 U.S.C. 109, 315, and 402, and the delegation of authority in 49 CFR 1.48(b).

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on January 6, 1986.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 86–706 Filed 1–10–86; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 169

Rights-of-Ways Over Indian Lands

October 7, 1985.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs intends to amend several sections of its rights-of-way regulations which impose a variety of specific requirements on grantees of rights-of-way over Indian lands. These requirements were intended to implement public laws enacted around the turn of the century which authorized the Secretary of the Interior to issue rights-of-way for various specific purposes. In 1948 Congress gave the Department comprehensive authority to grant rights-of-way for any purpose or any term of years without the antiquated restrictions of the older statutes. The regulations continue to reflect the old requirements, however, and the result has been inconsistent application of the 1948 Act. The removal or revision of these sections would end that practice.

DATES: Comments are due on or before February 12, 1986.

ADDRESS: Comments may be sent to Frank Hissong, Realty Specialist, Division of Real Estate Services, Code 224, Bureau of Indian Affairs, Washington, DC 20245.

FOR FURTHER INFORMATION CONTACT: Colleen Kelley, Attorney-Advisor, Division of Indian Affairs, Office of the Solicitor, Washington, DC 20240, telephone number (202) 343–5134.

SUPPLEMENTARY INFORMATION: The authority of the Secretary of the Interior to amend these regulations is contained in 25 U.S.C. 2 and 9, 5 U.S.C. 301, 25 U.S.C. 323–328, and Reorganization Plan No. 3 of 1950 (64 Stat. 1262). The authority of the Secretary has been delegated to the Assistant Secretary—Indian Affairs in 209 DM 8.

On April 16, 1981, the Bureau of Indian Affairs published in the **Federal Register** (46 FR 22205) a notice of intent to remove §§ 169.23–169.27. Comments were received in response to the notice of intent in two areas. One area concerned the possibility that the revisions removing the specific restrictions on rights-of-way would result in rights-of-way being granted for extended terms to the detriment of tribes. As proposed, the regulations would not specify any term but would allow tribes to negotiate for any term they wish. Moreover, tribal consent is required for all rights-of-way by the regulations. This issue is discussed further, *infra*.

The second area of concern involved the interaction between the proposed changes and the lawsuit, *Southern Pacific Transportation Company v. Andrus*. The Department concluded that it would be appropriate to stay further rulemaking until the Ninth Circuit concluded its review of the issue of whether tribal consent may be required for the acquisition of a rights-of-way. On March 1, 1983 the Ninth Circuit issued its opinion, 700 F.2d 550 (9th Cir. 1983). The court found that the Secretary acted within his authority in requiring by regulation that tribal consent be obtained for acquisition of a rights-of-way. A petition for certiorari was denied November 7, 1983. Consequently, the Department now believes it is appropriate to issue these regulations.

The primary reason the regulations are proposed to be amended is to implement the Act of February 5, 1948 (25 U.S.C. 323–328) which authorizes the Secretary of the Interior to grant rights-of-way without restrictions as to term or conditions. Although the authority has been present since 1948, the regulations still contain restrictions and conditions imposed by earlier rights-of-way statutes which were not repealed by the 1948 Act. For example, § 169.25 limits rights-of-way for oil and gas pipelines to a term of 20 years, and § 169.23 provides that railroad rights-of-way shall not exceed 50 feet in width on each side of the centerline of the road. Sections 169.23–169.27 also all state: "Except when otherwise determined by the Secretary, rights-of-way granted for such purposes under the Act of February 5, 1948 . . . shall also be subject to the provisions of this section." The proposed amendment would remove all five of these sections making a Secretarial determination unnecessary. It will also provide the parties to a right-of-way agreement wider discretion in negotiating the terms. This is viewed as consistent with the policy of Indian self-determination, and should facilitate the construction of needed utilities across Indian lands—many of which serve Indian communities. This action would also further the goals of Executive Order 12291, which is to remove unnecessary and burdensome restrictions on the public.

For these same reasons it is proposed that paragraph (a) of § 169.28 be removed and paragraphs (b) and (c) be redesignated as (a) and (b).

Because each right-of-way circumstances is unique, § 169.18 will be amended so that the regulations have no specific requirement as to the term of the right-of-way. Rather, the term shall be established as a result of an agreement between the right-of-way applicant and the Indian landowner with the concurrence of the Secretary. In selecting a term, the goal shall be to maximize economic return to the Indian landowner.

Three amendments are proposed for § 169.2. In paragraph (a) the amendment adds the word "all" so that it is clear that all right-of-way granted subsequent to the promulgation of these regulations must be in accordance with the procedures and conditions prescribed in Part 169. Another revision to paragraph (a) makes reference to the exception outlined in paragraph (c) of this section. Finally, we have amended the language relating to section 803(e) of Title 16 so

that it more carefully corresponds to the language used in the Federal Power Act and to be consistent with the Federal Energy Regulatory Commission's decision in *Secretary of the Interior* v. *Escondido Mutual Water Co.* 6 FERC ¶ 61,189 (February 26, 1979).

The Office of Management and Budget has informed us that the information collections contained in 25 CFR Part 169 need not be reviewed by them under the Paperwork Reduction Act (Pub. L. 96-511).

Primary Author

The authors of this document are Frank Hissong, Realty Specialist, Bureau of Indian Affairs and Colleen Kelley, Attorney-Advisor, Division of Indian Affairs, Office of the Solicitor.

Determination of Effects

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and 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.*).

List of Subjects in 25 CFR Part 169

Indian-lands and Rights-of-way.

For the reasons outlined in the preamble it is hereby proposed that Part 169 of Chapter I of Title 25 of the Code of Federal Regulations be amended as set forth below.

PART 169—RIGHTS-OF-WAY OVER INDIAN LANDS

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

Authority: 5 U.S.C. 301; 62 Stat. 17 [25 U.S.C 323-328].

2. Section 169.2 is amended by revising paragraphs (a) and (c) to read as follows:

§ 169.2 Purpose and scope of regulations.

(a) Except as otherwise provided in § 1.2 of this chapter and in paragraph (c) of this section, the regulations in this Part 169 prescribe the procedures, terms and conditions under which all rights-of-way over and across tribal land, individually owned land and Government owned land may be granted.

* * * * *

(c) The regulations contained in this Part 169 do not cover the granting of rights-of-way upon tribal lands within a reservation for the purpose of constructing, operating, or maintaining dams, water conduits, reservoirs, powerhouses, transmission lines or other works which shall constitute a part of any project for which a license is required by the Federal Power Act. The Federal Power Act provides that any license which shall be issued to use tribal lands within a reservation shall be subject to and contain such conditions as the Secretary of the Interior shall deem necessary for the adequate protection and utilization of such lands. (16 U.S.C. 797(e)). In the case of tribal lands under the jurisdiction of a tribe as provided in section 16 of the Act on June 18, 1934 (48 Stat. 984), the Federal Power Act requires that annual charges for the use of such tribal lands under any license issued by the Federal Power Commission shall be subject to the approval of the tribe (16 U.S.C. 803(e)).

3. Section 169.18 is revised to read as follows:

§ 169.18 Tenure of approved right-of-way grants.

All rights-of-way granted under the regulations in this Part 169 shall be in the nature of easements for the term stated in the conveyance instrument.

§§ 169.23-169.27 [Removed]

4. Sections 169.23 through 169.27 are removed.

5. Section 169.28 is redesignated as § 169.23 and revised to read as follows:

§ 169.23 Public highways.

(a) In lieu of making application under the regulations in this Part 169, the appropriate State or local authorities in Nebraska or Montana may, upon compliance with the requirements of the Act of March 4, 1915 (38 Stat. 1188), lay out and open public highways in accordance with the respective laws of those States. Under the provisions of that act, the applicant must serve the Secretary with notice of intention to open the proposed road and must submit a map of definite location on tracing linen showing the width of the proposed road for the approval of the Secretary prior to the laying out and opening of the road.

(b) Applications for public highway rights-of-way over and across roadless and wild areas shall be considered in accordance with the regulations contained in Part 265 of this chapter.

Ronal D. Eden,

Acting Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 86-524 Filed 1-10-86; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-269-84]

Residential Rental Property; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides a notice of a public hearing on proposed regulations relating to tax exempt status of industrial development bonds.

DATES: The public hearing will be held on Monday, February 10, 1986, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Monday, January 27, 1986.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LT-269-84), Washington, DC 20224.

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

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 103(b) of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Thursday, November 7, 1985 (50 FR 46303).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations, should submit, not later than Monday, January 27, 1986, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

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

government and answers to these questions.

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

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

By direction of the Commissioner of Internal Revenue:

Paul A. Francis,

Acting Director, Legislation and Regulations Division.

[FR Doc. 86-725 Filed 1-10-86; 8:45 am]

BILLING CODE 4810-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 5

[Notice No. 577; Re: Notice Nos. 480, 491, 549, 555]

Reduced Proof Distilled Spirits Products

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Reopening of comments period for advance notice of proposed rulemaking.

SUMMARY: On August 4, 1983, ATF published an advance notice of proposed rulemaking, Notice No. 480 at 48 FR 35460, relating to new standards of identity for distilled spirits products bottled at less than the minimum bottling proof required by 27 CFR 5.22. This notice was published in response to a petition submitted by Heublein Spirits Group. Heublein's petition sought amendment of the standards of identity to allow bottling of distilled spirits at less than the prescribed minimum alcohol content in conjunction with the word "Mild" on the label to describe them, and revocation of ATF Ruling 75-32 which requires such products to be designated "Diluted."

ATF is reopening this issue for additional comments. In particular, ATF is requesting comments on a new petition from Joseph E. Seagram & Sons, Inc.

DATE: Written comments must be received by April 14, 1986.

ADDRESSES: Send written comments to: Chief, FAA, Wine, and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 [Attention: Notice No. 480].

Copies of the petition and written comments will be available for public inspection and copying during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4406 Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John A. Linthicum, FAA, Wine, and Beer Branch, (202) 566-7626.

SUPPLEMENTARY INFORMATION: Subsequent to the publication of Notice No. 480, the comment period was extended by Notice No. 491 [48 FR 49870]. The comment period was reopened by Notice No. 549 [49 FR 44921] until January 31, 1985, and extended again by Notice No. 555 [50 FR 4236] until April 15, 1985.

In response to these notices, ATF has received a total of 493 comments from distillers, trade buyers, consumers, and others. The comment file is a cross section of widely divergent opinions on the concept of reducing the minimum alcohol content of distilled spirits below the current minimum standards.

More recently, ATF has received a similar petition, from Joseph E. Seagram & Sons, Inc. The Seagram petition also seeks to allow for new products to fill a consumer demand for lower calorie, lower alcohol distilled spirits products. This petition requests that the words "reduced alcohol" be allowed for distilled spirits products which have had alcohol removed from the finished product by centrifugal film evaporation or a similar distillery process, but which are not diluted with water. The Seagram petition requests that the word "diluted" be retained for distilled spirits products in which the alcohol content is reduced by the addition of water. Seagram's research indicates that the use of centrifugal film evaporation to reduce the alcohol content retains the distinctive and essential character, taste, aroma, and color of the original product.

The Seagram petition, focusing on some of the familiar distilled spirits products with a current minimum alcohol content of 80° proof (vodka, gin, rum, and whiskies), suggests the establishment of a finite range, from 48° proof to 80° proof, for the designation "reduced alcohol." The current minimum standards for alcohol content would remain unchanged, and a new designation, "reduced alcohol," would be established for finished products from which alcohol has been removed by centrifugal film evaporation or a similar distillery process, to a level not less than 48° proof.

In addition, ATF notes that few of the 493 comments received have been from consumers. ATF would like to receive more comments from consumers. Therefore, ATF is reopening the comment period and requesting additional public comments on all aspects of the concept of reducing the minimum alcohol content of distilled spirits below the current minimum standards.

Authority: This notice is issued under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981, as amended; 27 U.S.C. 205.

Approved: January 7, 1986.

Stephen E. Higgins,

Director.

[FR Doc. 86-701 Filed 1-10-86; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF EDUCATION

34 CFR Parts 500, 501, 505, 510, 514, 525, 526, 527, 537, 561, 573, and 574

Bilingual Education; General Provisions; Basic Programs (Programs of Transitional Bilingual Education, Programs of Developmental Billingual Education, and Special Alternative Instructional Programs); Family English Literacy Program; Special Populations Program; Program for the Development of Instructional Materials; Educational Personnel Training Program; Training Development and Improvement Program; and Short-Term Training Program

AGENCY: Department of Education.

ACTION: Notice of extended comment period.

SUMMARY: A Notice of Proposed Rulemaking (NPRM) was published on November 22, 1985, in FR Vol. 50, No. 226, pp. 48352-48370. The programs affected by the Notice of Proposed Rulemaking provide financial assistance for programs of bilingual education.

The comment period on the proposed rule was scheduled to end on January 21, 1986. In order to provide the public with additional time to prepare and submit their views, the comment period is extended to January 28, 1986.

DATES: Comments are due January 28, 1986.

FOR FURTHER INFORMATION CONTACT: William A. Wooten, Telephone: (202) 245-2600.

Dated: January 9, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86-776 Filed 1-10-86; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2953-6(a)]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed Rulemaking; Extension of the Public Comment Period.

SUMMARY: On October 16, 1985 (50 FR 41909), USEPA proposed rulemaking to disapprove Indiana's Porter County total suspended particulate (TSP) plan, Indiana Rule 325 IAC 6-6. The State of Indiana and Bethlehem Steel Corporation requested an extension to the public comment period. USEPA has evaluated these requests and is extending the public comment period as requested to February 16, 1985.

DATE: Comments must be postmarked on or before February 16, 1985.

ADDRESSES: Comments should be submitted to: Gary V. Gulezian, Chief Regulatory Analysis Section (5AR-26) Air and Radiation Branch, Region V, U.S. Environmental Protection Agency, 230 S. Dearborn Street, Chicago, Illinois 60604.

Copies of the SIP revision material and the comment period extension requests are available at the following addresses for review: (It is recommended that you telephone Robert B. Miller, at (312) 353-0396, before visiting the Region V office.)

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

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, (312) 353-0396.

Authority: 42 U.S.C. 7401-7642.

Dated: December 24, 1985.

Alan Levin,

Acting Regional Administrator.

[FR Doc. 85-669 Filed 1-10-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271

[SW-3-FRL-2953-6]

West Virginia; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of tentative determination on the application of West Virginia for final authorization, public hearing and public comment period.

SUMMARY: West Virginia has applied for final authorization under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed West Virginia's application and has made the tentative decision that the State's hazardous waste management program satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA tentatively intends to grant final authorization to the State to operate its program, subject to the limitations on this authority imposed by the Hazardous and Solid Waste Amendments of 1984. West Virginia's application for final authorization is available for public review and comment and a public hearing will be held to solicit comments on the application if significant public interest is expressed.

DATE: If significant public interest is expressed in holding a hearing, a public hearing is scheduled for February 13, 1986. EPA reserves the right to cancel the public hearing if significant public interest in a hearing is not communicated to EPA in writing by February 5, 1986. EPA will determine by February 6, 1986 whether there is significant interest to hold the public hearing. The State will participate in the public hearing held by EPA on this subject if a hearing is to be held. All written comments on the State's final authorization application must be received by the close of business on February 14, 1986.

ADDRESSES: Copies of the State's Final Authorization application are available from 8:00 a.m. to 4:30 p.m. at the following addresses for inspection and copying:

Department of Natural Resources, Division of Water Resources, 1201 Greenbrier Street, Charleston, WV 25311, Contact: Kimberly Fetty, (304) 348-7861

U.S. Environmental Protection Agency, 841 Chestnut Street, Philadelphia, PA 19107, Contact: Diane McCreary, (215) 587-7904

U.S. Environmental Protection Agency, Headquarters Library, PM-211A, 401 M Street SW., Washington, DC 20460, (202) 382-5926

Written comments on the application and any written requests for a public hearing on the State of West Virginia's application must be sent to: Renee Gruber, Program Manager, VA/WV Section (3HW31), U.S. EPA Region III, 841 Chestnut Street, Philadelphia, Pennsylvania 19107, (215) 597-3436.

If you wish to find out whether or not EPA will hold a public hearing on the State's application based upon EPA's decision that there was significant public interest in such a hearing, write or telephone after February 6, 1986 the EPA contact person listed above, or telephone Kimberly Fetty, Information Representative, Division of Water Resources, 1201 Greenbrier Street, Charleston, WV 254311, (304) 348-7861.

If significant public interest is expressed, EPA will hold a public hearing on the State's application for final authorization on Febraury 13, 1986, at 7:30 p.m., in the Division of Water Resource's Conference Room located at 1201 Greenbrier Street, Charleston, WV 25311.

FOR FURTHER INFORMATION CONTACT: Renee Gruber, Program Manager, Virginia/West Virginia Section, U.S. EPA Region III, 841 Chestnut Street, Philadelphia, Pennsylvania 19107, (215) 597-3436.

SUPPLEMENTARY INFORMATION:

A. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows EPA to authorize State hazardous waste programs to operate in lieu of the Federal hazardous waste program, subject to the limitations on its authority imposed by the Hazardous and Solid Waste Amendments of 1984. Two types of authorization may be granted. The first type, known as "Interim Authorization," is a temporary authorization which is granted if EPA determines that the State program is "substantially equivalent" to the Federal program (Section 3006(c), 42 U.S.C. 6926(c)). EPA's implementing regulations at 40 CFR 271.121-271.137 established a phased approach to interim authorization:

Phase I, covering the EPA regulations in 40 CFR Parts 260-263, and 265 (universe of hazardous wastes, generator standards, transporter standards, and standards for interim status facilities) and Phase II, covering the EPA regulations in 40 CFR Parts 124, 264, and 270 (procedures and standards for permitting hazardous waste management facilities).

Phase II, in turn, has three components. Phase II A covers general permitting procedures and technical standards for containers and tanks. Phase II B covers permitting of incinerator facilities, and Phase II C addresses permitting of landfills, surface impoundments, waste piles, and land

treatment facilities. By statute, all interim authorizations expire on January 31, 1986. Responsibility for the hazardous waste program reverts to EPA on that date if the State has not received final authorization, as described below.

The second type of authorization is "final (permanent) authorization" that is granted by EPA if the Agency finds that the State program is (1) "equivalent" to the Federal program, (2) consistent with the Federal program and other State programs, and (3) provides for adequate enforcement (Section 3006(b), 42 U.S.C. 6926(b)). States need not have obtained interim authorization in order to qualify for final authorization. EPA regulations for final authorization appear at 40 CFR 271.1–271.23.

B. The State of West Virginia

The State received interim authorization, Phase I and Phase II, Components A and B on March 28, 1984. West Virginia did not apply for Phase II C interim authorization. On March 30, 1984 the State submitted a draft application for final authorization. The major Agency concern was the absence of adequate State criminal penalty provisions in West Virginia Code section 20–5E–15(b) needed to meet the requirements at 40 CFR 271.16(a)(3)(ii). The needed statutory amendment was enacted by the West Virginia Legislature during the February-April 1985 session.

The State's application for final authorization was submitted on May 30, 1985. Prior to submission of the application to EPA, the State solicited public comments and held a public hearing on March 27, 1985. EPA determined that the application was not complete, and that the State failed to address some of the issues raised during the review of the draft application.

EPA's comments were forwarded to the State on July 5, 1985. The comments requested the State to make revisions to the Memorandum of Agreement. The comments on the Program Description requested clarification of the State's compliance/enforcement and permitting management procedures. The official application, which satisfactorily addressed EPA's comments, was submitted on October 29, 1985.

EPA has reviewed West Virginia's application, and has tentatively determined that the State's program meets all of the requirements necessary to qualify for final authorization. Consequently, EPA tentatively intends to grant final authorization to West Virginia. In accordance with section 3006 of RCRA and 40 CFR 271.20(d), the Agency will hold a public hearing on its tentative decision on February 13, 1986 if significant public interest is expressed. The public may also submit written comments on EPA's tentative determination up until February 14, 1986. Copies of West Virginia's application are available for inspection and copying at the location indicated in the **"ADDRESSES"** section of this notice.

In making its final decision, EPA will consider all public comments on its tentative determination. Issues raised by those comments may be the basis for a decision to deny final authorization to the State of West Virginia. EPA expects to make a final decision on whether or not to approve the State's program within 90 days, and will give notice of it in the **Federal Register**. The notice will include a summary of the reasons for the final determination and a response to all major comments.

C. Effect of HSWA on West Virginia's Authorization

Prior to the November 1984 Hazardous and Solid Waste Amendments amending RCRA, a State with final authorization would have administered its hazardous waste program entirely in lieu of EPA. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obligated to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by the HSWA take effect in authorized States at the same time as they take effect in non-authorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of full or partial Federal permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, the HSWA applies in authorized States in the interim.

As a result of the HSWA, there will be a dual State/Federal regulatory program in West Virginia if final RCRA authorization is granted. To the extent the authorized State program is unaffected by the HSWA, the State's program will operate in lieu of the Federal program. Where HSWA-related requirements apply, EPA will administer and enforce these portions of the HSWA in West Virginia until the State receives authorization to do so.

Any State requirement that is more stringent than a Federal HSWA provision will also remain in effect; thus, the universe of the more stringent provisions in the HSWA and the approved State programs define the applicable Subtitle C requirements in West Virginia.

Today's tentative determination does not include authorization for any requirement implementing HSWA. Once the State is authorized to implement a HSWA requirement or prohibition, the State program in that area will operate in lieu of the Federal program. Until that time the State will assist EPA's implementation of the HSWA under a Cooperative Agreement.

EPA has published a **Federal Register** notice that explains in detail the HSWA and its effect on authorized States. That notice was published at 50 FR 28702 through 28755, July 15, 1985.

Compliance With Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization effectively suspends the applicability of certain Federal regulations in favor of West Virginia's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and record-keeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of section 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b), EPA Delegations 7.

Dated: December 23, 1985.

Stanley L. Laskowski,

Acting Regional Administrator.

[FR Doc. 86–670 Filed 1–10–86; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 721

[OPTS-50540; FRL-2954-1]

N,N,N'N'-Tetrakis (oxiranylmethyl)-1,3-Cyclohex anedimethanamine; Proposed Determination of Significant New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for a chemical substance which was the subject of premanufacture notice (PMN) P–84–7 and a TSCA section 5(e) consent order issued by EPA. The Agency believes that this substance may be hazardous to human health and that the use described in this proposed rule may result in significant human or environmental exposure.

DATE: Written comments should be submitted by March 14, 1986.

ADDRESS: Since some comments are expected to contain confidential business information (CBI), all comments should be sent in triplicate to: Document Control Officer (TS–793), Office of Toxic Substances, Environmental Protection Agency, Rm. E–209, 401 M Street SW., Washington, DC 20460.

Comments should include the docket control number OPTS–50540. Non-confidential versions of comments received on this proposal will be available for reviewing and copying from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays, in room E–107 at the address given above. For further information regarding the submission of comments containing CBI, see Unit XI of this preamble.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Room E–543, 401 M St. SW., Washington, DC 20460, Toll Free: (800–424–9065), In Washington, DC: (554–1404), Outside the USA: (Operator—202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Authority

Section 5(a)(2) of TSCA authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B) of TSCA, submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. Such a notice is subject generally to the same requirements and procedures as a PMN submitted under section 5(a)(1)(A) of TSCA which are interpretated at 40 CFR Part 720 published in the **Federal Register** of May 13, 1983 (48 FR 21722). In particular, these include the information submission requirements of section 5(b) and (d)(1) of TSCA. In addition, such notices are subject to the regulatory authorities of section 5(e) and (f) of TSCA. If EPA does not take regulatory action under section 5, 6, or 7 of TSCA to control activities on which it has received a SNUR notice, section 5(g) of TSCA requires the Agency to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR Part 707. Persons who intend to import a substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28. The EPA policy in support of the import certification requirements appears at 40 CFR Part 707.

II. Applicability of General Provisions

EPA promulgated general provisions applicable to SNURs under 40 CFR Part 721, Subpart A published in the **Federal Register** of September 5, 1984 (49 FR 35011). Interested persons should refer to that document for a detailed discussion of the general provisions. EPA is proposing that these general provisions apply to this SNUR without change except as discussed in this preamble and set forth in § 721.1017.

III. Summary of This Proposed Rule

The chemical substance which is the subject of this proposed rule is identified as *N,N,N',N,*-tetrakis (oxiranylmethyl-1,3-cyclohexanedimethamine, CAS number 65992–66–7. It is listed on the TSCA inventory as 1,3-cyclo-hexanedimethanamine, *N,N,N',N'*-tetrakis (oxiranylmethyl). It was subject of PMN P–84–7 and was identified in the PMN as *N,N,N'N'*-tetraglycidyl-1,3-bisaminomethyl cyclohexane. EPA is proposing to designate the following as a significant new use of the substance: any manner or method of manufacture, import, or processing associated with any use of the substance without establishing a program whereby (1) persons who may be dermally expose to the substance wear gloves, face shields, and protective clothing, (2) persons who may be exposed to the substance through inhalation wear respirators during any spray application of the substance, (3) persons who are required to wear protective clothing and equipment are informed of the hazards of the substance, and (4) containers of the substance which may be distributed in commerce are labeled.

IV. Background

On October 4, 1983, EPA received a PMN which the Agency designated as P–84–7. EPA announced receipt of the PMN in the **Federal Register** of October 14, 1983 (48 FR 46851). For convenience, the substance is referred to by its PMN number.

The substance is a higher performance epoxy resin that will be blended with lesser performance epoxy resins to make fiber-reinforced composite materials and high performance coatings. The PMN submitter will import the substance for that use.

Based upon the physical and chemical characteristics described in the PMN, the Agency believes the substance will be absorbed via all routes of exposure.

The substance was mutagenic with activation in the Ames Test and in an assay using *E. coli*. The Agency believes that the substance may have carcinogenic potential based on (1) its analogy to aziridines, as a class, which have been shown to exhibit general carcinogenic activity and (2) the results of studies in animals on phenyl glycidyl ether and diglycidyl ether of resorcinol which are close structural analogues.

The Agency believes that the substance may cause adverse changes in male reproductive organs in humans based on the results of animal studies on its glycidyl ether analogues.

Based on submitted data, the substance is known to be a severe skin irritant and is expected to be a severe eye irritant.

During review of the PMN, the Agency concluded that the uncontrolled manufacture, import, processing, distribution in commerce, and use of the substance may present an unreasonable risk of injury to human health. Therefore, EPA regulated the substance under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of its health effects.

EPA concluded that use of appropriate protective equipment will significantly reduce exposures and potential risks to persons. A section 5(e) consent order requiring the use of appropriate controls

was negotiated with the notice submitter. The order became effective October 3, 1984. The PMN submitter planned to import the substance and the negotiated consent order prohibited manufacture of the substance in the U.S. while it allowed importing and processing with the use of controls for employee protection. As a result of further evaluation by EPA, the proposed SNUR does not treat manufacture of the substance in the U.S. differently; rather, it would extend the use of controls for worker protection to cover manufacturing. Thus, this proposed rule designates, as a significant new use of P–84–7, any manner or method of manufacturing, importing, or processing the substance for any use without the use of appropriate controls for worker protection.

By issuing a section 5(e) consent order which allows controlled commercial manufacturing, importing, or processing of the substance, EPA has taken a regulatory approach which is appreciably less burdensome than an order prohibiting manufacturing, importing, or processing of the substance until additional data are submitted. At the same time, the section 5(e) consent order protects human health by requiring precautionary controls pending the development of the data needed for a more fully reasoned evaluation of the risks associated with the substance.

Section 5(e) orders apply only to the notice submitter. When the notice submitter commenced commercial import of the substance and submitted a Notice of Commencement of Import to EPA, the Agency added the substance to the TSCA Chemical Substance Inventory. When a substance is listed on the Inventory, other persons may manufacture, import, or process the substance without controls. Therefore, EPA is proposing to designate the use set forth in paragraph (a)(2) of the proposed § 721.1017 as a significant new use so that the Agency can review this use before it occurs.

Through a SNUR, the Agency would ensure that all manufacturers, importers, and processors are subject to similar reporting requirements. In addition, a SNUR would afford EPA the opportunity to review exposure and toxicity information on the substance before a significant new use occurs and, if necessary, take action to ensure that persons will not be exposed to levels of P–84–7 that are potentially hazardous.

V. Determination of Proposed Significant New Use

To determine what would constitute a significant new use of this chemical substance, EPA considered relevant information about the toxicity of the substance and potential exposures associated with possible uses (such as uses not consistent with the terms of the section 5(e) order), and the four factors listed in section 5(a)(2) of TSCA. In particular, EPA considered the extent to which potential uses might change the magnitude and duration of exposure of humans to P–84–7. Based on these considerations, EPA proposes to define the significant new use of P–84–7 as set forth in parargraph (a)(2) of the proposed § 721.1017.

EPA has already determined in the section 5(e) order that unrestricted manufacture, processing, distribution in commerce, and use of the substances may present an unreasonable risk. While such a finding is not necessary to promulgate a SNUR, it strongly supports a determination that the use of the substance would be significant.

VI. Recordkeeping

To ensure compliance with this proposed rule and to assist enforcement efforts, EPA is proposing, under its authority in sections 5 and 8(a) of TSCA, that in addition to meeting the requirements in § 721.17, persons who manufacture, import, or process P–84–7 maintain the following records for 5 years from their creation: (1) Determinations that gloves are impervious; (2) names of persons who have been informed of the hazards of the substance, the means by which they are informed, and the dates they were informed; (3) dates of shipment of containers of the substance and the names of persons to whom they were shipped and, (4) names used for the substance and the accompanying dates of use.

These recordkeeping requirements would apply to small manufacturers, importers, and processors as well because the small business exemption of section 8 of TSCA is not applicable when the chemical substance which is the subject of the rule also is the subject of a section 5(e) order.

The Agency considered omitting these specific recordkeeping requirements, but believes compliance monitoring for this proposed SNUR would be made more difficult without them. The basis for the Agency's recordkeeping requirements has been set forth in the preambles to previously proposed SNURs. Persons interested in a complete discussion of this issue should read the proposed SNUR for P–83–370 published in the **Federal Register** of January 13, 1984 (49 FR 1753).

VII. Exemptions to Reporting Requirements

EPA has codified general exemption provisions covering SNUR reporting under § 721.19. On a case-by-case basis the Agency may modify these provisions. However, in this case, the Agency is proposing that § 721.19 apply in its entirety.

EPA issued its final premanufacture notification rules under 40 CFR Part 720 published in the **Federal Register** of May 13, 1983 (48 FR 21722), including § 720.36 which contained detailed rules for the section 5(h)(3) exemption for chemical substances manufactured or imported in small quantities solely for research and development. On September 13, 1983 (48 FR 41132), EPA stayed the effectiveness of § 720.36, among other provisions of the PMN rule, pending further rulemaking to revise the provisions. Revisions of § 720.36 and other provisions were proposed on December 27, 1984 (49 FR 50201). Because § 720.36 was not in effect when EPA codified § 721.19, the Agency relied on the general definition of "small quantities solely for research and development" in § 720.3(cc) and section 5(h)(3) of TSCA to determine whether activities qualify under this exemption. Upon promulgation of a revised § 720.36, EPA intends to amend § 721.19 to adopt the provisions of the revised § 720.36.

Section 721.19(g) of the general SNUR provisions exempts persons from SNUR reporting when they manufacture (the term manufacture includes import) or process the substance solely for export and label the substance in accordance with section 12(a)(1)(B) of TSCA. While EPA is concerned about worker exposure during manufacture and processing of the substance, section 12(a) of TSCA prohibits EPA from requiring reporting of such manufacture or processing for a significant new use. However, such person would be required to notify EPA of such export under section 12(b) of TSCA (see § 721.7 of the general SNUR provisions). Such notification will allow EPA to monitor manufacture and processing activities which are not subject to significant new use reporting. The term "manufacture solely for export" is defined in the PMN rule (40 CFR 720.3(s)); an amendment clarifying this definition was proposed on December 27, 1984 (49 FR 50208). The term "process solely for export" is defined in § 721.3 of the general SNUR provisions in a similar fashion. Thus, persons would be exempt form reporting under this SNUR if they manufacture or process the substance solely for export from the U.S. under the following

rstrictions: (1) There is no use of the substance in the U.S. except in small quantities solely for research and development; (2) processing is restricted to sites under the control of the manufacturer or processor, respectively; and (3) distribution in commerce is limited to purposes of export. If a person manufactured or processed the substance both for export and for use in the U.S., such activity would not be "solely for export" because the manufacture and processing would be for use in the U.S.

VIII. Applicability of Proposal to Uses Occurring Before Promulgation of Final Rule

To establish a significant new use rule the Agency must, among other things, determine that the use is not ongoing. In this case, the chemical substance in question has just undergone premanufacture review. When the notice submitter began import of the substance, the submitter sent EPA a Notice of Commencement of Import and the substance was added to the Inventory. The notice submitter is prohibited by the section 5(e) order from undertaking the activity which the Agency is proposing be designated as a significant new use. Therefore, at this time, the Agency has concluded that this use is not ongoing. However, EPA recognizes that once the chemical substance which is the subject of this SNUR was added to the Inventory, it may be manufactured, imported, or processed by other persons for the significant new use as defined in this proposal before promulgation of the rule.

If, after publication of this proposal, someone were to undertake the designated significant new use, they could argue that the use is not "new" at the time the rule is promulgated, and therefore not a significant new use. EPA finds that the intent of section 5(a)(1)(B) is best served by determining whether a use is a significant new use as of the proposal date of the SNUR. If a use begun during the proposal period were not considered to be a significant new use, it would be almost impossible for the Agency to establish SNUR notice requirements, since any person could defeat the SNUR by initiating the proposed significant new use before the rule became final. This is contrary to the general intent of section 5(a)(1)(B).

Thus, if the substance is manufactured, imported, or processed between proposal and promulgation for a proposed significant new use, the Agency will consider such use to be a significant new use if it is retained in the final rule. EPA recognizes that this interpretation may disrupt commercial activities of persons who begin manufacture, import, or processing of the substance for a significant new use during the proposal period. However, this proposal constitutes notice of that potential disruption; and, persons who commence a proposed significant new use do so at their own risk.

The Agency, not wishing to unnecessarily disrupt the commercial activities of persons who engage in a proposed significant new use prior to promulgation of a final SNUR, is considering amending Subpart A of 40 CFR Part 721 to allow for advance SNUR compliance (i.e., compliance prior to the date of promulgation). EPA will solicit public comment on an advance compliance exemption when such an exemption is proposed in the Federal Register.

IX. Test Data and Other Information

EPA recognizes that, under TSCA section 5, persons are not required to develop any particular test data before submitting a notice. Rather, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonalbly ascertainable by them. However, in view of the potential health risks that may be posed by a significant new use of this substance, EPA believes, as a result of its review of the original PMN for the chemical substance which is the subject of this SNUR, that a reasoned evaluation of the risks posed by these uses would require additional data on the carcinogenic and reproductive effects of the substance. These data might be generated by a 90-day subchronic inhalation study, a 2-year dermal carcinogenicity study, and a 2-generation reproductive study. These studies may not be the only means of addressing the potential risks.

EPA encourages potential SNUR notice submitters to test the substance for these concerns. SNUR notices submitted for a significant new use without such test data may increase the likelihood that EPA will take action under section 5(e). As part of an optional prenotice consultation, EPA will discuss the test data it believes necessary to evaluate a significant new use of the substance.

Test data should be developed according to TSCA good laboratory practices regulations at 40 CFR Part 792. Failure to do so may lead the Agency to find such data to be insufficient to reasonably evaluate the health effects of the substance. EPA encourages persons to consult with the Agency before selecting a protocol for testing the substance. EPA urges SNUR notice submitters to provide detailed information on human exposure that will result from the significant new use. In addition, EPA urges persons to submit information on potential benefits of the substance and information on risks posed by the substance compared to risks posed by substitutes.

X. Economic Analysis

The Agency has evaluated the potential costs of establishing significant new use reporting requirements for this substance. This evaluation is summarized below.

Promulgation of this SNUR will result in costs to both the Agency and persons wishing to manufacture, import, or process P–84–7.

The Agency's cost of issuing the SNUR is estimated at $43,600. Enforcement costs cannot be quantified at this time.

Persons wishing to manufacture, import, or process P–84–7 have three options. First, they can manufacture, import, or process P–84–7 and conduct their activities within the limits of the SNUR. Second, they can submit a SNUR notice describing the intention to manufacture, import, or process P–84–7 for a significant new use. Finally, they can choose not to manufacture, import, or process P–84–7 due to the existence of the SNUR.

A person selecting the first option will incur costs not to trigger the SNUR. For example, such person would have to purchase protective equipment and labels.

The Agency, for analytical purposes, assumed the following: a worker would be exposed to P–84–7 over 180 days per year; gloves would be replaced daily; face shields would be replaced annually; face shield lenses would be replaced 5 times per year; the respirator would last for a year; and, cartridges and filters would be replaced weekly. On an annual basis, then, these costs would total $643 per worker. Assuming a 10-year life-cycle for P–84–7 and a 10 percent discount rate, the present value of the $643 is $3,951. These costs would be lower if the person already had the equipment in use for manufacturing, importing, or processing other substances and did not have to purchase it specially for use with P–84–7.

If a new label had to be developed because of the labeling provisions of this SNUR, there would be associated costs. The cost of development of a label is estimated at $135–$500. The annualized cost is $80. These costs, however, would probably not be attributable to the SNUR because products containing P–84–7 have

probably not been commercialized and labels probably have not been made up yet. So, this SNUR probably will not increase labeling costs significantly above routine costs.

The present value of costs associated with the SNUR's recordkeeping requirements over a 10-year period, assuming a 10 percent discount rate, is $1,520. The annualized cost is $225.

If a person chooses to file a SNUR notice with information to mitigatge EPA's concerns, it would incur the following costs.

First, it could incur the costs of filing a SNUR notice. Such costs have been estimated at $1,400–$8,000. Second, it might incur the costs of some exposure controls. Third, it might incur up to a 3.2 percent reduction in profits due to delays in manufacture and the cost of regulatory followup. Finally, if a person decided to submit the results of the testing suggested by the Agency in this SNUR, it would incur the costs of that testing. That cost, however, is expected to be prohibitively high. The cost of the 2-year rodent bioassay alone is estimated at $850,000. Therefore, the Agency does not expect persons to choose to perform the testing.

If a person found the costs of controlling exposure too expensive to justify manufacturing, importing, or processing of P–84–7 it would not incur any direct costs as a result of this SNUR. The person, and society, would lose the benefits that would have been derived from its manufacture, import, or processing. However, the terms of the 5(e) consent order issued for P–84–7 are similar to the terms of the SNUR, and the original PMN submitter intends to produce the substance under the terms of the 5(e) consent order. EPA believes that this is an indication that an aacceptable profit will result from the manufacture, import, or processing of P–84–7 under the terms of the SNUR.

EPA has not attempted to quantify the specific benefits of the proposed SNUR. In general, however, benefits will accrue if the proposed action leads to the identification and, if necessary, the control of unreasonable risk before significant health and ecotoxicity effects can occur. And, the use of personal protective equipment will give workers protection against a number of potentially dangerous chemicals, in addition to P–84–7.

The Agency's complete economic analysis is available in the public file.

XI. Confidential Business Information

Any person who submits comments which the person claims as confidential business information (CBI) must mark the comments as "confidential," "trade secret," or other appropriate designation. Any comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2. EPA requests that any person submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

XII. Rulemaking Record

EPAS has established a record for this rulemaking (docket control number OPTS–50540). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following:

1. The PMN for the substance.
2. The **Federal Register** notice of receipt of the PMN.
3. The section 5(e) consent order.
4. The economic analysis of the proposed rule.
5. The economic support document for the section 5(e) order.
6. The toxicology support document.
7. The engineering support document.

The Agency will accept additional materials for inclusion in the record at any time between this proposal and designation of the complete record.

EPA will identify the complete rulemaking record by the date of promulgation. A public version of this record containing sanitized copies from which CBI has been deleted is available to the public from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the OTS Public Information Office, Rm. E–107, 401 M St., SW., Washington, DC.

XIII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore, requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "major rule" because it will not have an effect on the economy of $100 million or more, and will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this proposed rule, for the reasons discussed in Unit X of this preamble, EPA believes that the cost will be low. In addition, because of the nature of the proposed rule and the substance identified in it, EPA believes that there will be few significant new use notices submitted. Further, while the expense of a notice, the suggested testing, and the uncertainty of possible EPA regulation may discourage certain innovation, that impact may be limited because such factors are unlikely to discourage innovation of high potential value. Finally, this SNUR may encourage innovation in safe chemical substances or highly beneficial uses.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small businesses. The Agency cannot determine whether parties affected by this proposed rule are likely to be small businesses. However, EPA believes that few manufacturers, importers, or processors will submit SNUR notices. Therefore, although the costs of preparing a notice under this rule might be significant for some small businesses, the number of such businesses affected is not expected to be substantial.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in the proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2070–0012. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Recordkeeping and reporting requirements, Significant new uses.

Dated: January 7, 1986.

John A. Moore,

Assistant Administrator, for Pesticides and Toxic Substances

PART 721—[AMENDED]

Therefore, it is proposed that 40 CFR Part 721 be amended as follows:

1. The authority citation for Part 721 would continue to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

2. By adding a new § 721.1017 to read as follows:

§ 721.101 N,N,N',N'-tetrakis(oxiranylmethyl)-1,3-cyclohexanedimethanamine.

(a) *Chemical substances and significant new use subject to reporting.* (1) The following chemical substance referred to by its CAS number and chemical name is subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section: 65992-66-7, N,N,N',N'-tetrakis(oxiranylmethyl)-1,3-cyclohexanedimethanamine.

(2) The significant new use is: Any manner or method of manufacture, import, or processing associated with any use of the substance without establishing a program whereby:

(i) Persons who may be dermally exposed to the substance wear:

(A) Gloves which are determined by the manufacturer, importer, or processor to be impervious to the substance under the conditions of exposure, including the duration of exposure. The manufacturer, importer, or processor makes this determination either by testing the gloves under the conditions of exposure or by evaluating the specifications provided by the manufacturer of the gloves. Testing or evaluation of the specifications includes consideration of permeability, penetration, and potential chemical and mechanical degradation by the substance and associated chemical substances.

(B) A face shield at least 8 inches in length for eye protection.

(C) Clothing which covers any other exposed areas of the arms, legs, and torso.

(ii) During spray application of the substance, persons who may be exposed to the substance through inhalation, at a minimum, wear a National Institute for Occupational Safety and Health approved, category 21c respirator, excluding single-use or disposable types, in accordance with 30 CFR 11.130, Subpart K. The respirator is equipped with high efficiency particulate filters for maximum protection, unless an air-supplied respirator is selected. Use of the respirator is according to 29 CFR 1910.134 and 30 CFR Part 11. If a full face piece type respirator is selected, the face shield requirement described in paragraph (a)(2)(i)(B) of this section is waived during spray application.

(iii) Persons required to wear protective equipment are informed of the following in writing, and by presenting the information as part of a training program in safety meetings at which attendance is recorded: that they should avoid all contact; that the substance may be harmful if absorbed through the skin or inhaled; that chemicals similar in structure to the substance have been found to cause cancer and adverse changes in male reproductive organs in laboratory animals; and that the required use of impervious gloves, face shield, and other clothing, and of a respirator during spray operations, will help to protect them.

(iv)(A) A label is affixed to each container of the substance or formulation containing the substance which may be distributed in commerce which includes a warning statement which consists, at a minimum, of the following language:

WARNING!: Avoid all contact. Harmful if absorbed through the skin or inhaled. Chemicals similar in structure to [Insert appropriate name] have been found to cause cancer and adverse changes in male reproductive organs in laboratory animals. The required use of a respirator during spray operations, impervious gloves, face shield, and other clothing will help to protect you.

(B) The first word on the label is capitalized, and the type size of the first word is no smaller than 6 point type for a label 5 square inches or less in area, 10 point type for a label above 5 but no greater than 10 square inches in area, 12 point type for a label above 10 but no greater than 15 square inches in area, 14 point type for a label above 15 but no greater than 30 square inches in area, or 18 point type for a label over 30 square inches in area. The type size of the remainder of the warning statement is no smaller than 6 point type. All required label text is of sufficient prominence, and is placed with such conspicuousness relative to other label text and graphic material, to ensure that the Warning Statement is read and understood by the ordinary individual under customary conditions of purchase and use.

(b) *Specific Requirements.* The provisions of Subpart A of this Part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* In addition to the requirements of § 721.17, manufacturers, importers, and processors of the chemical substance identified in paragraph (a)(1) of this section must maintain the following records for 5 years from their creation:

(i) Determinations that gloves are impervious.

(ii) Names of persons who have been informed in accordance with paragraph (a)(2)(iii) of this section, the means by which they were informed, and the dates they were informed.

(iii) Dates of shipment of containers which have been labeled in accordance with paragraph (a)(2)(iv) of this section and the identities of persons to whom they were shipped.

(iv) Names used for the substance and accompanying dates of use.

(2) [Reserved]

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

[FR Doc. 86-671 Filed 1-10-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

[CC Docket No. 78-72; CC Docket No. 80-286; FCC 85-611]

MTS and WATS Market Structure

AGENCY: Federal Communications Commission.

ACTION: Recommended decision and order.

SUMMARY: The Federal-State Joint Board recommends new permanent separations procedures for the expenses in Account 645. It recommends that these expenses be segregated into the following categories based on an analysis of job functions: (1) End user service order processing; (2) end user payment and collection; (3) end user billing inquiry; (4) interexchange carrier service; and (5) coin collection and administration. The Joint Board recommends that the expenses in each of the categories be further subdivided into service-related subcategories with the exception of coin collection. The subcategories will, in most cases, allow direct assignment of cost to the appropriate jurisdiction.

The Joint Board recommends that the new permanent procedures become effective June 1, 1986 for AT&T and the larger telephone companies and January 1, 1987 for the smaller telephone companies. The Joint Board further recommends new interim allocation procedures for the smaller companies. This recommendation will facilitate Commission action adopting appropriate separations procedures for the allocation of Account 645 costs. Implementation of proper separations procedures will ensure that these costs are recovered from the appropriate state and interstate subscribers.

ADDRESS: Federal Communications Commission, Washington, DC 20554

FOR FURTHER INFORMATION CONTACT: Susan Lee O'Connell at (202) 632-4047 or Claudia Pabo at (202) 632-6363.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 67

Commercial Expenses, Communications Common Carriers.

Recommended Decision and Order

In the Matter of MTS and WATS Market Structure Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board CC Docket No. 78-72, CC Docket No. 80-286.

Adopted: October 11, 1985.
By the Federal-State Joint Board.
Released: November 15, 1985.

I. Introduction

A. Summary

1. The Federal-State Joint Board hereby presents its recommendations, concerning the allocation of Account 645, Local Commercial Operations.[1] We recommend that the expenses in Account 645 for each study area be segregated into the following categories on the basis of an analysis of job functions: (1) End user service order processing; (2) and user payment and collection; (3) end user billing inquiry; (4) interexchange carrier service; and (5) coin collection and administration. We recommend that end user payment and collection expenses be allocated to service related subcategories based on relative state and interstate billed revenues and assigned to the appropriate jurisdiction. End user service order processing and end user billing inquiry expenses would be assigned to service related subcategories based on relative state and interstate contacts, weighted if appropriate to reflect differences in work times. The amounts in these subcategories would then be assigned to the relevant jurisdiction based on the jurisdictional nature of the service involved. The expense in the interexchange carrier service category would be divided, based on an analysis of job functions, into subcategories for service order processing, payment and collection and billing inquiry. The amounts in each of these subcategories would then be allocated to service related subsidiary categories using the allocations factors for categorizing end user costs, and assigned to the appropriate jurisdiction. We recommend that coin collection and administration expenses be allocated based on the division of the revenues deposited in the coin boxes.

2. We recommend that the new procedures for separating the costs in Account 645 become effective June 1, 1986 for the American Telephone and Telegraph Company (AT&T) and study areas with more than 50,000 working loops, excluding WATS, wideband and private line loops.[2] We recommend an effective date of January 1, 1987 in the case of study areas with 50,000 or fewer working loops, excluding WATS, wideband, and private line loops. The interim phase-down procedures, previously recommended by the Joint Board and adopted by the Commission,[3] would apply to study areas with more than 50,000 working loops, excluding WATS, wideband and private line loops, for which AT&T begins to provide its own billing inquiry service prior to the effective date of the new permanent separations procedures. Should AT&T begin to provide its own billing inquiry service for study areas with 50,000 or fewer loops prior to January 1, 1987, we recommend freezing the customer contact factor [4] for these areas pending implementation of the new permanent separations procedures, rather than initiating the phase-down. The existing permanent procedures for the allocation of Account 645 costs would continue to apply until the effective date of the new permanent procedures in the case of study areas for which AT&T does not begin to provide its own billing inquiry service.

B. Background

1. Interim Allocation Procedures

3. On November 15, 1984, the New York State Department of Public Service (New York State) filed a Petition for Rulemaking seeking interim changes in the procedures for the allocation of Account 645.[5] New York State pointed out that AT&T planned to discontinue use of the billing inquiry service offered by New York Telephone Company (New York Telephone) effective January 1, 1985.[6] New York State emphasized that unless the Commission amended the existing separations procedures applicable to Account 645, there would be a sudden and substantial transfer of costs to the intrastate jurisdiction.[7] New York State therefore requested an interim freeze of the customer contact factor[8] used in Part 67 of the Commission's rules to allocate Account 645 costs between the state and interstate jurisdictions.

4. The potential effect of AT&T's decision to discontinue use of Bell Operating Company (BOC) billing inquiry service resulted from the Part 67 procedures for the categorization and allocation of Account 645 costs which do not reflect the actual cost of performing the various local commercial office functions. Part 67 currently assigns the costs for local commercial operations to the following categories: (1) Message toll and telegram; (2) exchange, including semi-public; (3) directory advertising; and (4) TWX and private line services. The assignment is based on the relative number of users for the underlying telephone services. Each subscriber is counted once for every service which he or she uses.

5. Message toll and telegram expense is further segregated based on the number of billed messages for each service. Message toll expense is then allocated between the jurisdictions based on the customer contact factor which reflects the relative number of business office contacts concerning state and interstate toll service. Expenses incurred in providing telegram service are assigned to the local exchange operation. The costs asociated with exchange service and directory advertising are also assigned to the intrastate jurisdiction. The costs in the TWX category are apportioned on the

[1] Account 645 reflects the costs of telephone company local commercial operations not related to promotional or directory services. Telephone company commercial offices are responsible for service order processing, billing inquiry, and certain billing and collection functions for end users and interexchange carriers, as well as for the collection of coins from pay telephones.

[2] *See* footnote 30, *infra*.

[3] *Recommended Interim Order and Request for Comments (Recommended Interim Order), 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, 50 FR 14729 (April 15, 1985); *Interim Order*, CC Docket Nos. 78-72 and 80-288, 50 FR 26204 (June 25, 1985).

[4] *See* footnote 8, *infra*.

[5] The Commission issued a Public Notice requesting comments on the Petition. "The Commission Seeks Comments on Petition for Rulemaking on and an Interim Freeze of Billing Inquiry Contact Provisions of Part 67," released on November 30, 1984. Comments were filed on December 10, 1984 and reply comments were filed on December 14, 1984.

[6] This was part of AT&T's overall plan to phase-in the provision of its own billing inquiry service. In its comments, AT&T stated that it planned to implement its own billing inquiry service for the areas served by the Bell Operating Companies by the end of 1985. However, AT&T stated that it had no current plans to terminate its use of the billing inquiry service offered by the independent telephone companies. *See Recommended Interim Order*, at para. 4.

[7] A number of parties estimated that this shift in cost allocations would increase annual intrastate revenue requirements by approximately $1 billion on a nationwide basis. While AT&T did not endorse this estimate, it agreed that the shift in costs would be "substantial." *Id.* at para. 6 and footnote 11.

[8] Pursuant to § 67.365(a)(1)(i) of the Commission's rules, the portion of Account 645 expenses categorized as message toll is apportioned between the state and interstate jurisdictions on the basis of the "the relative number of business office contacts relating to state toll and interstate toll messages." 47 CFR 67.365(a)(1)(i)(1984). This is referred to herein as the customer contact factor.

basis of billed TWX connections. Private line expenses are allocated between the jurisdictions based on the relative number of private line service accounts.

6. As a result, the interstate assignment of Account 645 is a product of the customer contact factor, except for TWX and private line expenses. Responding to customer billing inquiries, however, involves a very small portion of local business office work time. When AT&T announced that ti intended to phase-in its own billing inquiry centers, thereby reducing the number of interstate contacts, the BOCs faced a major drop in their interstate cost assignment without a countervailing reduction in local commercial expenses. The jurisdictional effect of AT&T's decision was magnified by the allocation of costs in other accounts based on factors which reflect the allocation of Account 645.[9]

7. In response to the New York State Petition, the Joint Board adopted a *Recommended Interim Order and Request for Comments* (*Recommended Interim Order*) on March 21, 1985, proposing interim separations procedures for Account 645 designed to prevent a sudden and substantial reassignment of costs to the state jurisdiction. The Joint Board recommended that the relative number of business office contacts relating to state and interstate toll messages be frozen at the average level for the twelve months preceding the date on which AT&T begins to perform its own billing inquiry service in a particular study area. The frozen factor would remain in effect through May 31, 1985 in the case of study areas for which AT&T began to handle its own billing inquiries before that date. Beginning on June 1, 1985, the frozen factor would be reduced by 1/24th each month for twelve consecutive months or until adoption of permanent allocation procedures, whichever came first. In the case of study areas for which AT&T began to handle its own billing inquiries after June 1, 1985, the phase-down would begin immediately. In the *Recommended Interiom Order*, the Joint Board also requested comments and data concerning permanent procedures for the allocation and recovery of Account 645 costs.[10] The Commission adopted the Joint Board's recommendation to freeze and phase-down the interstate allocation of Account 645 costs on May 28, 1985.[11]

2. Recovery of the Interstate Cost Allocation

8. The decision to phase-down the interstate allocation of Account 645 expenses necessitated an adjustment in the affected exchange carriers' access charge tariffs to properly reflect the reduction in interstate costs. At that time, the BOC access charge tariffs were designed to recover the majority of the interstate Account 645 costs through charges for billing and collection services. Most of the BOC tariffs contained a separate rate element to recover the costs for billing inquiry service. However, several of the BOC tariffs recovered billing and collection costs through bundled charges which did not contain a separate rate element for billing inquiry service. The remainder of the interstate Account 645 costs were recovered through a number of different access charge rate elements.[12] As indicated previously, the allocation of Account 645 costs also affects the allocation of a number of other accounts, many of which involve overhead expenses. Since overhead costs are reflected in the rates for all of the access charge elements, the interstate allocation of Account 645 affects the rate levels for all access services.

9. In order to eliminate the need for a complete refilling of the access charge tariffs to reflect the interim separations procedures for Account 645, the Commission, in its *Interim Order*, directed the affected BOCs to file revised billing and collection rates and establish a new traffic sensitive rate element. The interim revenue recovery mechanism adopted by the Commission required the filing of: (1) New billing and collection rates which excluded Account 645 costs associated with message toll billing inquiry; and (2) a new traffic sensitive rate element applicable to AT&T[13] to recover the revenue requirements removed from the billing and collection rate elements minus the total reduction in the interstate revenue requirement due to the phase-down.[14] The total reduction in interstate costs includes the reduced interstate allocation of Account 645 costs as well as the effect of the change in the allocation of Account 645 on the allocation of all other affected accounts. The Commission provided that these interim measures for the recovery of Account 645 costs were to remain in effect until permanent provisions for the recovery of these costs are adopted.[15]

[9] The accounts affected are primarily general expense or overhead accounts, including Account 640, General Commercial Expenses, Account 261, Furniture and Office Equipment, Account 672, Relief and Pensions, Account 307, Social Security Taxes, and the wage portion of Accounts 661 through 667, General Expenses.

[10] The Joint Board's *Recommended Interim Order* also requested comments and data concerning the definition and allocation of equal access and network reconfiguration costs as well as the need for changes in the allocation and recovery of Account 662, Accounting Department, costs in light of the possible detariffing of billing and collection services. The Joint Board adopted recommendations concerning the separations treatment of equal access and network reconfiguration costs on July 12, 1985. *Recommended Decision and Order*, CC Docket Nos. 78-72 and 80-286, FCC Mimeo No. 0138, released October 8, 1985. The Joint Board will consider issues related to Account 662 at a later date.

[11] *Interim Order*, CC Docket Nos. 78-72 and 80-286, 50 FR 26204 (June 25, 1985). Mountain States Telephone and Telegraph Company, Northwestern Bell Telephone Company and Pacific Northwest Bell Telephone Company (US West), Bell South Corporation and the Ameritech Operating Companies sought clarification and/or waiver of the *Interim Order*. These companies stated that they had entered into contractual arrangements with AT&T for billing services which required that AT&T pay for all billing and collection services, including billing inquiry service, for a specified period of time whether or not AT&T actually used these services. US West requested that the Commission clarify the *Interim Order* to specify that the interim separations procedures phasing down the interstate assignment of billing inquiry costs do not apply until expiration of the local telephone company's billing and collection compensation agreement with AT&T. In the alternative, US West requested a waiver of the provisions requiring application of the interim separations changes as of the date A&TH begins to provide it own billing inquiry service. BellSouth also requested that application of these provisions be deferred until termination of the billing and collection service agreements. Ameritech sought relief similar to that requested by US West and BellSouth. The Bureau denied the requests for relief filed by US West, BellSouth and Ameritech. *Order Petitions for Waiver of US West and Bell South FCC Memo No. 5365, released June 25, 1985; Order, Petitions for Waiver of US West, Bell South and Ameritech, FCC Mimeo No. 6228, released August 7, 1985.*

AT&T and the New York State Department of Public Service have sought reconsideration of the *Interim Order*. AT&T has also appealed the Commission decision. *AT&T* v. *FCC*, No. 85-1470 (D.C. Cir., filed July 26, 1985).

[12] The rate elements involved include common line, line termination, local switching, intercept, information, local transport, and special access, among others.

[13] The *Interim Order* limited the application of the new traffic sensitive rate element to AT&T during the period of the phase-down, since AT&T was the only interexchange carrier that had regularly used BOC billing and collection services including billing inquiry service.

[14] Reflecting the total reduction in the interstate revenue requirement in the new rate element to be paid by AT&T means that other interexchange carriers which pay access charge rate elements affected by this change in separations do not benefit from the phase-down during the interim period. The *Interim Order* stated that this approach is appropriate in light of the fact that AT&T is required to bear most of the burden of maintaining the higher interstate allocation of Account 645 during the interim period, even when AT&T, like the other interexchange carriers, performs its own billing inquiry service.

[15] The tariff provisions reflecting the new interim rate element contain a different rate for each month to reflect the monthly reduction in the interstate cost allocation. Since the interim rate element reflects the full reduction in the interstate allocation

Continued

3. Request for Comments on Permanent Separations Procedures

10. The Joint Board's *Recommended Interim Order* proposing interim separations changes and requesting comments concerning permanent measures for the allocation and recovery of Account 645 costs presented two alternative separations plans in order to facilitate analysis of this matter. In general, Plans A and B categorized Account 645 expenses in a similar fashion, allocating costs to the following five categories based on an analysis of work functions: (1) Coin collection and administration; (2) end user service order processing (referred to as "other commercial" in Plan A); (3) billing inquiry; (4) payment and collection; and (5) interexchange carrier service. The most significant difference between the two plans involved their treatment of end user service order processing. Plan A assigned a substantial portion of local service order processing costs to the interstate jurisdiction, while Plan B assigned these costs directly to the state jurisdiction.

11. Under Plan A, end user service order processing costs were broken into five subcategories based on an analysis of work functions: (1) Local service; (2) directory advertising; (3) TWX; (4) private line; and (5) toll. The local service subcategory was further subdivided into basic service and "other local" service based on the relative number of users. Plan A defined basic service costs to include costs involved in the provision of access to the public switched network. These costs were allocated to the interstate jurisdiction on the same basis as local loop plant in Outside Plant (OSP) Category 1.33. Local loop costs are presently assigned to the interstate jurisdiction on the basis of the Subscriber Plant Factor (SPF) which is approximately 28 percent on a nationwide average basis.[16] Under Plan A, the costs in the "other local" service subcategory, which included costs associated with the provision of local services that are not essential for customer access to the public switched network, were directly assigned to the state jurisdiction,[17] as were service order processing expenses in the directory advertising subcategory. Costs associated with TWX were allocated between the state and interstate jurisdictions based on relative billed TWX connections. Private line service order processing expenses were allocated in proportion to billed private line revenues, excluding billings for interexchange access. Costs in the toll subcategory, including expenses associated with customer selection of an interexchange carrier, were allocated in proportion to the use of equal access facilities.

12. Plan B segregated end user service order processing expenses into the following four subcategories based on the relative number of user contacts: (1) Directory advertising; (2) intrastate private line; (3) interstate private line; and (4) all other, consisting largely of local service order expenses. In contrast to Plan A, which allocated a portion of local service order processing costs to the interstate jurisdiction through the application of SPF, Plan B directly assigned these costs to the state jurisdiction. Under Plan B, directory advertising and intrastate private line costs were directly assigned to the intrastate jurisdiction. Interstate private line costs were directly assigned to the interstate jurisdiction.

13. Based on the comments received in response to the *Recommended Interim Order*,[18] The Joint Board adopted an *Order Inviting Further Comments*[19] (*Order*) in which it proposed modications to the treatment of end user service order processing costs set out in Plans A and B. The *Order* proposed further disaggregating and user service order processing costs into separate subcategories for local order processing, presubscription, and other costs associated with subscription to interstate services. The previously proposed subcategories for directory advertising, TWX, and private line would remain unaffected. Under this approach, local service order processing would include the expenses associated with processing requests for local exchange service and responding to inquiries concerning the provision of local service. The presubscription subcategory (already provided for in the original Plan A), would include expenses associated with ongoing presubscription to interexchange carriers.[20] Any other costs associated with subscription to interstate services would also be segregated from the cost of local service order processing and allocated separately. The *Order* stated that, as a general principle, the cost of local service order processing for end users should be directly assigned to the intrastate jurisdiction, with presubscription expenses allocated between the federal and state jurisdictions based on relative minutes of use for the toll traffic categories to which presubscription applies. Any other costs associated with subscription to interstate services would be assigned to the interstate jurisdiction.[21]

II. Comments and Replies

14. The comments generally support allocating Account 645 costs to separate functional categories based on an analysis of the work functions underlying the costs included in this account. The functions identified by the parties include coin collection and administration as well as three functions associated with both end users and interexchange carriers: service order processing; payment and collection; and billing inquiry. The majority of the commenting parties agree that Account 645 should include a distinct category for coin collection and administration expenses. They also stongly support creation of a separate category for the expenses associated with providing service order processing, payment and collection, and billing inquiry for the interexchange carriers. The costs of performing these functions for end users would be treated separately, with the parties proposing a number of different approaches.

15. For example, the Ameritech Operating Companies (Ameritech) recommend allocating the costs in Account 645 to categories for: (1) Carrier services; (2) business and residence services; and (3) coin collection and administration. Within the carrier services category, Ameritech proposes

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of Account 645 as well as other affected accounts, the *Interim Order* directed the BOCs not to reflect the reduced interstate cost allocation in their charges for other access charge rate elements until permanent provisions for the recovery of these costs become effective.

[16] The transition to a new basic interstate allocation factor of 25 percent for most non-traffic sensitive (NTS) costs, including local loop costs, with an additional assignment for high cost areas will begin January 1, 1986. Section 67.124 of the Commission's Rules, 47 CFR 67.124 (1984), as amended in 50 FR 939 (January 8, 1985).

[17] Plan A also allocated customer payment and collection expenses attributable to local service charges to the interstate jurisdiction in proportion to the interstate assignment of local service order processing costs.

[18] Comments were filed in response to the Joint Board's *Recommended Interim Order* on Apirl 29, 1985. Replies were filed May 20, 1985.

[19] CC Docket Nos. 78–72 and 80–286, 50 FR 31749 (August 6, 1985).

[20] This category included only presubscription costs incurred by the local exchange carrier subsequent to the initial conversion of an end of office to equal access. Initial presubscription costs associated with end office conversion would be included in a separate equal access cost category under the Joint Board's recommendation concerning the allocation of equal access and network reconfiguration costs. *See Recommended Decision and Order*, CC Docket Nos. 78–72 and 80–286, FCC Mimeo No. 0138, released October 8, 1985.

[21] Comments in response to the Joint Board *Order* were filed Auguest 16, 1985. Replies were filed August 30, 1985

subcategories for interexchange carrier service order processing, billing inquiry, payment and collection, and "other." Ameritech would create the same subcategories, deleting the "other" subcategory, however, within the business and residence services category. Ameritech, like most of the commenting parties, generally supports the futher subdivision of these functional end user and interexchange carrier cost categories into service related subcategories[22] to permit the direct assignment of costs to the appropriate access charge rate element. In contrast to Ameritech's proposal, Continental Telecom, Inc. (Contel) recommends allocating the costs in Account 645 to separate categories for: (1) Coin collection and administration; (2) end user payment and collection; (3) end user billing inquiry; (4) carrier interexchange access—switched; (5) carrier interexchange access—special; (6) end user service order processing; and (7) other commercial functions. Despite some difference, as illustrated above, among the commenting parties concerning the number and type of functions categories necessary for Account 645, almost all of the parties support this basic approach.

16. The comments reflect two different approaches to the separation of end user service order processing costs. The majority of the commenting parties support the basic provisions of Plan B as modified in the *Order Inviting Further Comments* to further subdivide the end user service order processing category to include subcategories for local service order processing, presubscription and other costs associated with subscription to interstate services. In general, the interexchange carriers and the large users, most of the BOCs, and the larger independent telephone companies, with the exception of Contel, support the assignment of local service order processing costs to the state jurisdiction. Bell Atlantic and Bell South Corporation, Contel and the small independent telephone companies, as well as the state commissions and the Rural Electrification Administration (REA) believe that the interstate jurisdiction should bear some portion of end user local service order processing costs because subscription to local exchange service is normally a prerequiste to accessing the interstate telephone network.

17. AT&T, the BOCs, and the larger independent telephone companies support different allocation factors for the separation of payment and collection costs. Pacific and Nevada Bell (Pacific), BellSouth, the NYNEX Telephone Companies (NYNEX), and AT&T recommend utilization of billed revenues or current billings to allocate payment and collection expenses. Southern New England Telephone Company (SNET) proposes that we create separate categories for payment and collection activities in recognition of the differences in these work functions. SNET recommends assigning payment expenses based on billed revenues, but proposes assigning collection expenses based on the work activities actually performed. SNET, Central Telephone Company (Centel), NYNEX, Ameritech, and AT&T propose separating payment and collection expenses without creating service related subcategories, in contrast to the other carriers commenting on this issue.

18. The small independent telephone companies, REA, Contel, and the state commissions support the allocation of a portion of the payment and collection expenses associated with local service charges to the interstate jurisdiction, using a subscriber line usage (SLU) or a SPF based allocator. They propose a variety of allocation factors for other payment and collection expenses, including the relative number of users, and various revenue measurements. Contel supports the use of relative users and opposes use of current billings, arguing that there is no relationship between the dollar value of a check and the cost of depositing that check. The Rural Telephone Coalition (RTC) opposes the use of collected revenues for the same reason.

19. Most of the commenting parties support the use of customer contacts in allocating billing inquiry expenses to the various service subcategories and dividing them between the jurisdictions. AT&T states that contacts would be a theoretically sound basis for allocating billing inquiry costs, assuming that actual customer inquiries can be monitored. AT&T notes that the strong support shown by the local exchange companies, other than RTC, for the use of contacts as an allocator suggests that these carriers are capable of monitoring actual inquiries without incurring excessive administrative cost. If this is not the case, AT&T suggests the use of a surrogate allocation factor such as an updated version of the Bell System conversion table, which relates inquiries per message to average revenues per message. While the GTE Telephone Companies (GTE) recommend utilizing revenues as the basis for separating billing inquiry expenses, most of the BOCs, Contel, Centel, SNET and United Telephone System, Inc. (United) recommend relying on contacts to separate these expenses.[23] In order to improve the accuracy of customer contacts as an allocation factor, SNET proposes utilizing an "analysis of contacts," which would reflect the duration and complexity as well as the number of contacts in the allocation factor. Pacific, however, recommends utilizing contacts solely to allocate costs to service related subcategories for local, private line and message toll services. To simplify the separations process, Pacific recommends separating private line and message toll costs based on the billings for each service. Pacific would assign local service billing inquiry costs directly to the state jurisdiction. In contrast, BellSouth proposes utilizing a work function analysis to segregate billing inquiry costs into subcategories for directory advertising, message toll, interstate private line, state private line, and "all other." BellSouth would assign costs for directory advertising and state private line directly to the state jurisdiction, and assign interstate private line costs directly to the interstate jurisdiction. BellSouth recommends allocating "all other" billing inquiry costs based on SLU, utilizing customer contacts only for the purpose of separating message toll billing inquiry costs. RTC emphasizes the need to use readily available measurements for separations purposes. It also views a portion of billing inquiry expenses as common costs and recommends assigning a portion of them to the interstate jurisdiction.

20. The comments strongly support the creation of an interexchange carrier service category to include all Account 645 expenses associated with providing service to the interexchange carriers. Ameritech and Pacific point out that the costs incurred in serving these carriers are significantly different from those involved in serving the typical residential or business customer. The parties do not agree, however, on the factors which should be used in allocating these costs to the relevant service subcategories, if any, and separating them between the jurisdictions. Pacific, NYNEX, and the Michigan Public Service Commission Staff (Michigan), for example, oppose creation of service subcategories and

[22] Ameritech does not propose the further subdivision of payment and collection expenses.

[23] Each of these carriers, with the exception of Contel, would use its proposed allocation factor for both allocating costs to service subcategories and assigning costs to the appropriate jurisdiction. Contel would separate billing inquiry costs between the jurisdictions based on contacts without first allocating the costs to service related subcategories.

recommend allocating interexchange carrier service costs between the jurisdictions based on access billings. Ameritech and SNET propose utilizing a work function analysis to allocate expenses to the relevant service subcategories and separate them between the jurisdictions. The United States Telephone Association (USTA) proposes an approach based on a work function analysis and relative access minutes of use, while United proposes relying on billings and user counts. Contel would create two categories of costs—switched and special. Contel recommends allocating switched access expenses based on switched access minutes, with the allocation of special access expenses based on the number of special access circuit users. AT&T states that further data is needed with regard to the various allocation proposals set out by the parties. GTE suggests that presubscription costs incurred by local exchange carriers subsequent to the conversion of an end office to equal access be included in the interexchange carrier service category.

21. AT&T and GTE recommend assigning all coin collection and administration expenses to the state jurisdiction due to the increasing use of credit cards for toll calls. However, most of the commenting parties support the use of sent paid coin revenues as the basis for allocating coin collection and administration expenses between the jurisdictions. Pacific specifically urges the exclusion of revenues for collect, third party and credit card calls, arguing that these revenues do not generate coin collection expenses. In contrast to this position, Michigan urges that we include all public telephone revenues in this category. A more detailed summary of the comments is set out in Attachment A.

III. Discussion

A. Summary

22. The Joint Board recommends that, where possible, the Commission allocate the costs in Account 645 based on an analysis of the work functions involved in order to ensure separations results which reflect cost causation principles. We conclude that such an approach provides a fair and equitable allocation of local commercial operation expenses, and will facilitate the assignment of these costs to the appropriate access charge rate elements. However, we are also aware of the administrative difficulties which may be involved in categorizing and allocating these costs on the basis of cost causation. The proposal presented herein reflects a carefully considered balance between the need for an accurate identification of state and interstate costs and the administrative constraints involved in making that identification.

23. Accordingly, we recommend that Account 645 expenses for each study area be allocated to the following categories on the basis of an analysis of job functions designed to reflect the costs involved in performing each of these services: (1) End user service order processing; (2) end user payment and collection; (3) end user billing inquiry; (4) interexchange carrier service; and (5) coin collection and administration. While this approach will require periodic studies, it will ensure that the costs involved in performing each of these functions are allocated to the appropriate category, and avoid the existing mismatch between the costs assigned to the Account 645 separations categories and the actual costs involved in performing these functions. This general approach to the initial categorization of Account 645 costs was supported by most of the commenting parties. An explanation of the functions included in each category as well as the subcategorization and jurisdictional allocation of the costs involved are discussed below.

B. End User Service Order Processing

24. We recommend that the end user service order processing category include expenses related to the receipt and processing of end users' orders for telephone service and inquiries concerning service. This category should not include any service order processing expenses for services provided to the interexchange carriers. Since these expenses are incurred due to customer initiated contacts, we recommend the allocation of these costs to the following service related subcategories based on the relative number of actual contacts, with the contacts weighted, if appropriate, to reflect variations in the average work time associated with different types of service contacts: (1) Local service order processing; (2) presubscription; (3) directory advertising; (4) state private line and special access; [24] (5) interstate private line and special access; (6) other state message toll including WATS; (7) other interstate message toll including WATS; and (8) TWX.

25. We recommend using customer contacts to allocate service order processing costs to the service related subcategories rather than worktime studies as proposed by certain of the commenting parties. This approach should reduce the administrative burdens on the local exchange carriers, while the provision for weighting the contacts when appropriate to reflect differences in work times will ensure the increased accuracy produced by work time studies. We recommend that the carriers update their studies concerning customer contacts periodically to ensure that they reflect the actual number of contacts and work times involved. We do not recommend a prohibition on the use of surrogate allocation factors in lieu of monitoring actual contacts. [25] However, we believe that any surrogate factors or conversion tables must produce results which reflect the actual level of contacts. The use of surrogates which do not produce accurate results is not acceptable in our view. While GTE, USTA and certain other parties suggest that the relative number of users is an appropriate allocation factor for service order processing costs, we cannot support this approach because, as US West and Bell Atlantic point out, there does not appear to be a clear relationship between the number of service order contacts and the number of users.

26. We turn now to a discussion of the end user service order processing subcategories. The first of these subcategories reflects the costs associated with end user local service order processing and inquiries concerning local service. We continue to believe, as stated in our *Order Inviting Further Comments*, that the cost of local service order processing for end users should be directly assigned to the intrastate jurisdiction. Presubscription costs, interstate private line and special access costs, and costs associated with other interstate message toll services, including WATS, are the only service order processing expenses incurred by the local exchange carriers in relation to the provision of interstate services, and they are allocated to seperate subcategories. The parties supporting an interstate allocation of local service order processing costs have not identified any common or joint costs that are material and not properly attributed to a specific service subcategory.

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[24] The access charge tariffs allow end users to order special access service directly from the local exchange carrier. *See Memorandum Opinion and Order, Investigation of Access and Divestiture Related Tariffs*, CC Docket No. 83-1145, Phase I and II, Part I, 49 Fed. Reg. 50457, 50471 (December 28, 1984).

[25] Under the present Account 645 allocation procedures, the toll contacts used to separate billing inquiry expenses are derived from a Bell System conversion table that relates inquiries per message to average revenues per message.

27. As previously stated, we conclude that costs should be allocated in a manner consistent with causation principles whenever possible. We recognize that customers must subscribe to local telephone service before they can obtain access to interstate services. Thus, local service order processing can be argued to provide some benefits to the interstate jurisdiction, but the ability to access interstate services over the local network also increases the attractiveness of local service. Under these circumstances, we believe that a more accurate separation of service order processing costs will result from separately identifying local service order processing and ongoing presubscription costs and allocation them directly to the appropriate jurisdiction. This situation is very different from that involved in the use of the local network by both state and interstate services because it is not possible to separately identify costs caused by interstate use of local non-traffic sensitive (NTS) facilities.

28. We recommend the direct assignment of presubscription costs [26] to the interstate jurisdiction even though presubscription orders will apply to state toll as well as interstate toll services when state toll competition exists. The record in this proceeding indicates that presubscription costs will not be substantial enough to justify the administrative burdens involved in calculating and recovering a separate intrastate assignment. We also recommend that service order processing expenses associated with interstate private line and special access service [27] be directly assigned to the interstate jurisdiction. Expenses associated with directory advertising, and state private line and special access should be directly assigned to the intrastate jurisdiction, with TWX expenses allocated based on relative state and interstate billed TWX revenues. We recommend the creation of separate subcategories for service order processing for other state and interstate message toll service including WATS. These subcatgories will primarily include service order processing costs associated with state and interstate WATS service. The costs in each subcategory would be directly assigned to the appropriate jurisdiction.[28]

C. End User Payment and Collection

29. We recommended that the end user payment and collection category include those expenses in Account 645 related to the payment and collection of amounts billed to end users. This category should also include commissions paid to collection agencies and to payment agencies which receive payment on customer accounts. This category is not intended to include payment or collection expenses for services provided to interexchange carriers. We propose allocating the expenses in this category to the following subcategories based on the relative total state and interstate revenues billed by the carrier involved (excluding revenues billed to interexchange carriers and/or deposited in coin boxes) for services for which end user payment and collection is provided: (1) State private line and special access; (2) interstate private line and special access; (3) state message toll including WATS; (4) interstate message toll including WATS, and interstate subscriber line charge; (5) local, including directory advertising; and (6) TWX. We recommend direct assignment of state private line and special access, state message toll including WATS, and local expenses to the intrastate jurisdication. Interstate private line and special access, and interstate message toll including WATS, and interstate subscriber line charge expenses should be directly assigned to the interstate jurisdiction, with TWX expenses assigned based on relative state and interstate billed TWX revenues for service for which end user payment and collection is provided.

30. We do not agree with AT&T's contention that the segregation of costs into service subcategories is of little utility. The comments filed by the exchange carriers generally support the development of service related subcategories. As United and Pacific point out, use of these subcategories will be helpful in coordinating the recovery of costs under Part 69 of the Commission's rules with the separations procedures. Although allocating costs based on billed revenues will not produce cost based separations results, we conclude that this approach is superior to the use of a more precisely cost based allocation methodology under the present circumstances. For example, we have considered and rejected a more cost based formula which would have divided the costs in this category between payment and collection in recognition of the different nature of these functions. Payment expenses would then have been allocated to each subcategory based on the revenues received at the local business office for the underlying services, with collection expenses allocated based on the revenues subject to collection procedures. These is no evidence, however, that the relative amount of state and interstate revenues received in the local business offices differs significantly from the jurisdictional division of all revenues received by the company, including those received through the mail. Whatever differences exist do not appear to warrant the expense which would be involved in obtaining the necessary information, which is not currently available, on the jurisdicational nature of the revenues received in the local office. The same consideration apply to the allocation of collection expenses because information on the jurisdictional nature of amounts subject to collection efforts is not readily available. In light of the fact that more cost based allocation procedures appear to involve undue administrative burdens, we conclude that billed revenues associated with the various services is a reasonable basis for allocation.

D. End User Billing Inquiry

31. We recommend that the billing inquiry category include expenses related to handling end users' inquiries concerning their bills. This category should not include expenses related to interexchange carrier inquiries concerning their bills. We propose that the costs in this category be segregated into the following subcategories based on the relative number of actual contacts, weighted if appropriate to reflect differences in the average work time per contact: (1) State private line and special access; (2) interstate private line and special access; (3) state message toll including WATS; (4) interstate message toll including WATS,

[26] *See* footnote 20, *supra*.

[27] WATS closed end access lines are currently included in the switched access category pursuant to Part 69 of the Commission's rules. It may be appropriate to include these access lines in the special access category if the Commission adopts the Joint Board's recommendation for direct assignment of WATS closed end access lines for separations purposes. *See Recommended Decision and Order* in CC Docket Nos. 78-72 and 80-286, FCC Mimeo No. 139, released October 8, 1985. At present, end users may order special access service directly from the local carrier if they wish. *See* footnote 24, *supra*.

[28] Since message toll service is defined by Part 67 of the rules to include WATS, any Account 645 expenses related to WATS service will be included in the subcategories for state and interstate message toll. Expenses related to WATS access, however, will not be included in these particular subcategories. *See* footnote 27, *supra*. WATS access is presently included in the switched access category, but we anticipate that the Commission will consider revisions in the treatment of WATS closed end access service under Part 69 of the rules if it adopts the Joint Board recommendation for direct assignment of WATS closed end access lines under Part 67. *Id.*

and interstate subscriber line charge; (5) TWX; and (6) other (primarily related to local service bills, but also including directory advertising). As discussed in connection with service order processing, this approach will produce cost based separations results with a minimum of administrative burdens. The comments also expressed general support for the use of contacts in allocating these costs, and the provision for weighting where appropriate assures accuracy. In addition, this method of cost categorization will permit direct assignment of these costs to the appropriate jurisdiction, with TWX costs separated based on relative billed TWX revenues for service for which end user billing inquiry is provided. Except for TWX billing inquiry expense, which should be minimal, we do not believe that billed revenues are an appropriate basis for allocating billing inquiry expenses. As AT&T points out, relative billed revenues bear little relationship to the relative state and interstate billing inquiry costs.

E. Interexchange Carrier Service

32. We recommend that the interexchange carrier service category include the expenses related to receiving and processing interexchange carriers' orders for service and their inquiries concerning service, payment and collection of interexchange carrier bills, including commissions paid to payment and collection agents, and the handling of interexchange carrier billing inquiries. As suggested by most of the exchange carriers, we recommend treating all functions related to interexchange carriers in a category separate from the categories established for end user functions. As noted by Ameritech and Pacific, end user services should be distinguished from interexchange carrier services due to the dissimilar nature of the activities performed for these two classes of customers. This approach should also be relatively easy to implement since many of the carriers maintain separate organizations for dealing with the interexchange carriers.

33. We propose that the three distinct functions performed for the interexchange carriers be recognized by segregating interexchange carrier service costs, based on an analysis of job functions, into the following subsidiary categories: (1) Service order processing; (2) payment and collection; and (3) billing inquiry. The expenses in each subsidiary category should be further divided into the following subcategories: (1) State special access and private line; (2) interstate special access and private line; (3) state switched access and message toll including WATS; and (4) interstate switched access and message toll including WATS. In the case of service order processing and billing inquiry expenses, we recommend basing the subcategorization on the relative number of actual contacts weighted if approrpiate to reflect differences in the average work time per contact. As explained in conjunction with end user service order processing, this approach will produce cost based separation results with minimum administrative burdens. For payment and collection expenses, we recommend basing this subcategorization on the relative total state and interstate revenues billed to the interexchange carriers. This should produce relatively accurate separations results without imposing substantial additional administrative burdens. While more precisely cost based allocation procedures exist, as discussed in relation to end user payment and collection expenses, they appear to involve unwarranted administrative burdens.

F. Coin Collection and Administration

34. We recommend that the coin collection and administration category include expenses for the collection and counting of money deposited in public or semi-public telephones. It should also include expenses incurred for required travel, coin security, checking the serviceability of public or semi-public telephones and related functions. We recommend that these expenses be allocated between the state and interstate jurisdictions in proporation to the relative state and interstate revenues deposited in the coin boxes. We consider this approach appropriate because the costs in this category relate primarily to the expenses involved in physically retrieving and counting coins deposited in public or semi-public telephones. An allocation based on all public and semi-public telephone revenues, including amounts for credit card calls, collect calls, and calls billed to third parties, would produce distorted results because these calls do not generate coin collection work. While the work involved in checking the serviceability of public and semi-public telephones does ensure that they are available for long distance credit card calls, and other non-coin toll calls, these expenses are not sufficient to justify allocation of coin collection expenses on the basis of total pay telephone revenues.

G. Miscellaneous

1. Cost Recovery

35. The permanent measures which we are recommending for the separation of costs in Account 645 will require adjustments in the local exchange carriers' access charge tariffs. As we stated previously, the modifications proposed herein should facilitate the assignment of these costs to the appropriate access charge rate elements. We have received comments concerning the recovery of Account 645 costs in response to our *Recommended Interim Order* in this proceeding, and anticipate that the question of cost recovery will be dealt with by the Commission.

2. Transition

36. We recommend that the new permanent separations procedures for Account 645 become effective June 1, 1986 for AT&T and study areas with more than 50,000 working loops, [29] excluding WATS, wideband and private line loops.[30] This date coincides with the date proposed for direct assignment of closed end WATS access lines as well as implementation of the increase in subscriber line charges, and should allow implementation of the necessary access charge tariff revisions in a single filing.[31] This will also allow the larger

[29] We recognize that delaying the implementation of the revised separations procedures for Account 645 may require adjustments in the Commission's interim cost recovery plan, discussed at paras. 8–9, *supra*. As noted previously, the interim traffic sensitive rate element applied to AT&T by the *Interim Order* recovers the pre-existing revenue requirement for Account 645 costs associated with message toll inquiry originally assigned to billing and collection services minus the total reduction in the interstate revenue requirement produced by the interim separations changes. Since the interim procedures reduce the interstate revenue requirement for other accounts in addition to Account 645, the total reduction in the interstate revenue requirement may at some point exceed the pre-existing interstate billing and collection revenue requirement for Account 645 costs associated with message toll inquiry. At that point, the exchange carrier's relevant Account 645 costs would be less than the reductions in the interstate cost allocation produced by the interim procedures. We expect that the Commission will address the need for any adjustments in the interim cost recovery plan.

[30] The Joint Board recommended and the Commission adopted use of this loop count methodology for purposes of identifying those local exchange carriers which were small enough to require an increased level of high cost assistance. *Decision and Order*, CC Docket Nos. 78–72 and 80–286, 50 FR 939 (January 8, 1985). While this demarcation point is somewhat arbitrary, we continue to believe that the larger local exchange carriers can absorb a greater degree of change than the smaller carriers without adverse effects on local subscribers. The use of a single standard for distinguishing between the smaller and larger carriers should help to prevent confusion.

[31] *See* footnote 27, *supra*.

carriers ample time to prepare for implementation of the new separations procedures. The interim phase-down procedures previously recommended by the Joint Board and adopted by the Commission would apply to study areas with more than 50,000 working loops, excluding WATS, wideband and private line loops, for which AT&T begins to provide its own billing inquiry service prior to the effective date of the new permanent procedures.

37. We recommend an effective date of January 1, 1987, for study areas with 50,000 or fewer working loops, excluding WATS, wideband, and private line loops, to ensure that these companies have adequate time to prepare for the revenue shifts which will occur as a result of the new separations procedures. Should AT&T begin to provide its own billing inquiry service for study areas with 50,000 or fewer loops prior to January 1, 1987, we recommend freezing the customer contact factor for these areas pending implementation of the new procedures, rather than initiating the phase-down. We recommend a delay in the effective date of the new procedures as applied to these companies rather than gradual implementation of these changes for the sake of administrative simplicity. Allowing the smaller companies to retain the higher interstate allocation for this extended period of time will produce essentially the same benefits as a phase-down, but will be somewhat simpler to implement. Exempting these companies from the interim phase-down procedures, should AT&T begin to perform its own billing inquiry service in areas served by small telephone companies, will ensure that they have the full period until January 1, 1987 in which to adjust to these changes. This approach will also reduce administrative burdens by avoiding the need for interim revisions in the access charges for small companies where the effect of a phase-down on interstate revenue requirements would be minor.

3. Small Companies

38. We do not recommend adopting different permanent separations procedures for small telephone companies at this time. We believe that our proposed treatment of Account 645 costs will not impose excessive administrative burdens on small telephone companies, and, as discussed above, we have recommended delaying the implementation of the new procedures for study areas with 50,000 or fewer working loops until January 1, 1987. While several carriers suggested simplified procedures for smaller telephone companies, the existing record does not provide an adequate basis for the development of simplified procedures for these companies.[32]

IV. Ordering Clauses

39. Accordingly, the Joint Board recommends, That the Commission adopt the recommendations presented herein and the proposed revisions to Part 67 of the Commission's rules contained in Attachment B.[33]

Federal Communications Commission.

William J. Tricarico,

Secretary.

Attachment A—Comment Summaries

I. Interexchange Carriers and Large Users

A. AT&T

1. *General:* The American Telephone and Telegraph Company (AT&T), like almost all of the other commenting parties, supports allocating Account 645 costs to functional categories based on an analysis of the work functions performed.

2. *Service Order Processing:* AT&T states that end user service order processing costs should be divided into two categories based on periodic work time studies—interstate private line and all other. It recommends assigning the costs in the first subcategory to the interstate jurisdiction. All other costs would be assigned to the intrastate jurisdiction. AT&T states that any further subdivision of service order processing costs would involve unnecessary complications without improvements in accuracy. According to AT&T, the work functions associated with the proposed directory advertising, local service order processing, and state private line subcategories are purely intrastate in nature. AT&T points out that only Pacific and Nevada Bell identified and potential costs, *i.e.*, WATS service orders, to be included in the subcategory proposed by the Joint Board for other interstate subscription costs, adding that end users generally do not order interstate WATS from local exchange carriers. AT&T also points to data submitted by US West indicating the *de minimis* nature of ongoing presubscription costs. AT&T recommends assigning only those costs associated with interstate private line service to the interstate jurisdiction. AT&T opposes any assignment of end user service order processing costs to the interstate jurisdiction based on the characterization of a portion of these costs as common to the provision of both state and interstate services. AT&T states that such an allocation would violate the principle of cost causation and argues that no party to this proceeding which actually provides customer service order processing has claimed that there are any material costs which are common and cannot be identified with specific service order processing functions.[1]

3. *Customer Payment and Collection:* AT&T argues that any attribution of customer payment and collection costs to individual service subcategories is problematical and of little use since customers usually make a single payment. AT&T supports the allocation of payment and collection costs based on billed revenues.

4. *Billing Inquiry:* AT&T states that customer contacts could be an appropriate basis for allocating billing inquiry costs, assuming that actual customer inquiries can be monitored. If this cannot be done, AT&T suggests use of a surrogate allocator such as an updated conversion table which relates inquiries per message to average revenues per message. AT&T strongly opposes the use of billed revenues for allocating billing inquiry costs between the jurisdictions. It argues that billed revenues bear little relation to the relative number of state and interstate inquiries, and would be very unlikely to produce a cost-based jurisdictional allocation of billing inquiry costs.

5. *Interexchange Carrier Service:* AT&T states that further data is required with regard to the various allocation factors (loops, messages, work functions, or customer accounts) which could be used for categorizing and separating these costs.

6. *Coin Collection and Administration:* AT&T recommends that all costs in the coin collection and administration category be assigned to the intrastate jurisdiction. It argues that the growth in the use of credit cards and coinless telephones for interstate calling will eliminate the justification for an interstate assignment of the costs

[32] Any procedures which prove to be burdensome for small telephone companies to implement would be subject to requrests for waiver pursuant to the Commission's rules. 47 CFR § 1.3 (1984).

[33] This recommendation is adpted pursuant to sections 4 (i) and (j), 201, 202, 203, 205, 218, 221, 403 and 410 of the Communications Act, as amended. 47 U.S.C. §§ 154(i) and (j), 201, 202, 203, 205, 218, 221, 403 and 410.

[1] AT&T states that there is general recognition that one-time charges to the customer are the economically rational means of recovering end user service order processing costs, and notes that many state commissions have already moved toward full recovery of service ordering costs from end users through intrastate rates. AT&T argues that an artifical allocation of these costs to the interstate jurisdiction would allow double recovery of these costs, and introduce unnecessary complications by requiring an interstate local service order charge.

involved in collecting money from the coin boxes.

B. MCI and ICA

7. *General:* Both MCI Telecommunications Corporations (MCI) and the International Communications Association (ICA) argue that the record is not sufficiently complete to allow adoption of final rules for the allocation of Account 645 costs. MCI argues that a work function analysis of Account 645 costs showing how these costs relate to the various service functions is a necessary predicate for developing revised separations procedures. MCI expresses concern that the cost information submitted by the BOCs concerning Plans A and B does not include supporting data allowing a determination of whether the allocation of costs between the service categories is correct. ICA notes that none of the commenting parties advocating use of work function studies to categorize Account 645 costs explained how these analyses would be done. ICA argues that unless the Joint Board defines the precise basis for such studies, it cannot be assured that all exchange carriers will utilize common analytical techniques or that the resulting primary cost distribution will be comparable for all local carriers.

C. The Joint Parties

8. *General:* The Competitive Telecommunications Association, ITT Communications Services, Inc., and Satellite Business Systems (the Joint Parties) oppose expansion of the Account 645 separations categories to include functions not related to billing and collection, stating that this will result in the reassignment of a significant portion of Account 645 expenses from the billing and collection rate elements to switched and special access elements paid by the other common carriers as well as AT&T. According to the Joint Parties, it is far from clear that the BOCs perform significant functions, other than billing and collection services, which justify an expansion of the Account 645 separations categories into which the BOCs and "dump" costs. The Joint Parties argue that if direct costing is used for billing and collection functions, it should be applied to all functions, with any difference between direct and book costs removed from the interstate revenue requirement. The Joint Parties also contend that certain of the proposed allocation formulas, including the use of DPF to allocate a portion of local service order processing costs, are inconsistent with the manner in which costs are incurred.

II. Bell Operating Companies

A. Ameritech

9. *General:* The Ameritech Operating Companies (Ameritech) state that both Plans A and B, as modified to assign end user local service order processing costs to the state jurisdiction and provide for additional cost subcategories, would be consistent with the Joint Board's underlying goal of allocating the costs contained in Account 645 fairly. Despite its support for the modified Joint Board proposals, Ameritech urges a more fundamental reform which it believes will simplify the separation of Account 645 costs while providing a closer connection between allocation factors and cost causation. Ameritech proposes segregating commercial work functions as they relate to interexchange carriers from those functions as they relate to end users in light of the dissimilar nature of the activities performed for these two classes of customers.[2] Ameritech recommends allocating the costs in Account 645, based on an analysis of job functions, to three basic categories for activities involving: (1) Carrier services; (2) business and residence services; and (3) coin collection and administration. Under carrier services, Ameritech proposes subcategories for service provisioning, interexchange carrier inquiries, payment and collection, and "other." Ameritech proposes the same basic subcategories for business and residence service, excluding the catchall "other" subcategory, however. Ameritech would also create service subcategories for the service provisioning and billing inquiry functions to permit the direct assignment of costs to the appropriate access charge rate elements. Under Ameritech's proposal, all expenses would be assigned to the state or interstate jurisdiction based on a functional analysis of the work performed. The costs of responding to customer inquiries about service would be apportioned based on whether the customer contact pertained to a state or interstate service. Payment and collection expenses would be assigned to the interstate jurisdiction based on whether the revenues involved were generated by state or interstate services. Service order processing costs would be allocated on the basis of the activities performed to process the order. Coin collection and administration expenses would be allocated based on the jurisdictional assignment of the funds collected from the coin boxes.

10. *Service Order Processing:* Ameritech supports the proposed modification of the service order processing category and utilization of an initial work time study to determine the interstate allocation. However, Ameritech states that if, as its data suggests, the interstate allocation proves to be insignificant, the initial study results or surrogate factors should be used until sufficient change has taken place to merit a new study. Ameritech supports the jurisdictional assignment of presubscription costs based on access minutes.

B. NYNEX

11. *General:* The NYNEX Telephone Companies (NYNEX) believe that the fundamental objective in revising the separations treatment of Account 645 should be to allocate costs based on the job functions involved, with the interstate assignment limited to costs which are identifiably interstate in nature. NYNEX states, however, that the fully distributed cost methodology reflected in the Commission's separations rules must ultimately be relaced with a direct costing approach.

12. *Service Order Processing:* NYNEX supports Plan A as modified to eliminate the use of SPF in allocating local service order processing costs. NYNEX recommends assigning costs to the local service order processing, presubscription and other interstate subscription subcategories through a detailed annual analysis of service order activity. NYNEX recommends allocating presubscription costs based on access minutes of use.

13. *Customer Payment and Collection:* NYNEX support Plan A as modified to eliminate the use of SPF in allocating certain payment and collection costs.[3] It contends that Plan B does not adequately define the costs to be included in the customer payment and collection and the interexchange carrier service order categories. NYNEX recommends allocating customer payment and collection costs based on billed revenues, but argues that it is not necessary to divide customer payment and collection costs into service related subcategories.

14. *Billing Inquiry:* NYNEX support the use of customer contacts to allocate billing inquiry expenses to service

[2] Ameritech states that most local exchange carriers have separate work groups for dealing with end users and carriers—business and residence service centers for end users and carrier relations departments for carriers.

[3] Under the original Plan A, local service customer payment and collection cost would be allocated between the jurisdictions in proportion to the assignment of local service order processing costs. *See* para. 11 and footnote 17 of the *Recommended Order, supra.*

related subcategories, with private line and message toll costs directly assigned to the relevant jurisdiction. All other costs would be assigned to the state jurisdiction.

15. *Interexchange Carrier Service:* NYNEX argues that this category should include all local business office functions performed for interexchange carriers, including service order processing, payment and collection and billing inquiry. NYNEX recommends allocating these costs based on access billings, excluding amounts billed for end user access.

16. *Coin Collection and Administration:* NYNEX recommends allocating these expenses based on sent paid coin revenues.

C. Southwestern Bell

17. *General:* Southwestern Bell Telephone Company (Southwestern) states that it could support either Plan B, or Plan A as modified to eliminate the use of SPF in allocating certain cost. Southwestern states that both Plan A and Plan B as modified appear to produce jurisdictional revenue requirements which reasonably reflect the respective work functions involved. Southwestern recommends implementation of permanent procedures for the allocations of Account 645 costs at the end of its phase-down period, June 1, 1986, since its data indicates that both plans would produce an interstate revenue requirement that is nearly equivalent to that produced by the phase-down as of June 1, 1984.[4]

18. *Service Order Processing:* Southwestern argues that local service order processing costs are exclusively local in character and contends that cost causation principles require that they be assigned to the intrastate jurisdiction. Southwestern maintains that the use of SPF to allocate a portion of local service order processing costs to the interstate jurisdiction will result in the retention of artificial of subsidies and cause AT&T to discontinue the use of other BOC services. Southwestern states that it has been unable to identify any interstate costs, other than presubscription, associated with service order processing which should be included in the proposed other interstate subscription subscategory. Southwestern suggests eliminating this subcatagory or merging it with the presubscription subcategory. Southwestern argues that an even division of presubscription costs between the jurisdictions is appropriate since this reflects the relative work time spent on state and interstate presubscription service order processing. However, Southwestern agrees with a number of other commenting parties that ongoing presubscription costs will probably be minimal, and therefore does not oppose an allocation based on relative usage, or elimination of the subcategory. Southwestern emphasizes that the level of ongoing presubsription costs does not warrant costly allocation procedures.

D. Pacific and Nevada Bell

19. *General:* Pacific and Nevada Bell (Pacific) strongly recommend use of reasonable surrogate factors instead of detained studies whenever possible. Pacific recommends allocations Account 645 costs to categories for service order processing, payment and collection, and billing inquiry based on work function analysis, with service related subcategories to facilitate assignment of costs to the proper access charge rate elements. Pacific also recommends that consideration be given to development of simplified separations procedures for small telephone companies. For example, Pacific suggests that small companies might be required to allocate Account 645 expenses to the major functional categories, but allowed to forego the additional analysis needed to allocate costs to service related subcategories. Instead, an allocation process based on surrogate factors could be used.

20. *Service Order Processing:* Pacific opposes any assignment of basic local service order processing costs to the interstate jurisdiction. Pacific states that these costs are caused by the and user and should be assigned to the intrastate jurisdiction to promote efficiency and customer understanding. Pacific indicates that this approach should not create difficulties since many local companies already base their service order processing rates on unseparated costs, recovering them through non-recurring charges. Pacific supports the Joint Board's proposal for an "other interstate subsription" subscategory, however, as an appropriate means of recognizing the service order processing assoicated with interstate WATS service. Pacific does not support the additional presubscription subcategory because it expects these costs will be minimal. In the event that a presubscription category is used, Pacific advocates assigning the costs involved to the state jurisdiction because the states will be in the best position to evaluate appropriate rate structures for recovering presubscription costs. Thus, Pacific recommends treatment of service order processing expenses in a manner similar to that proposed in Plan B without a separate presubscription subcategory.[5]

21. *Customer Payment and Collection:* Pacific proposes dividing customer payment and collection expenses into subcategories for local service, directory advertising, TWX, private line and message toll with the allocation of these costs based on current billings for the services for which customer payment and collection activities are performed.[6]

22. *Billing Inquiry:* Pacific recommends allocating billing inquiry expenses to separate subcategories for local service, private line and message toll based on relative contacts as proposed in Plan B. Local service costs would be assigned directly to intrastate. Private line and message toll billing inquiry costs would be allocated based on private line and message toll billings for which inquiry service is provided. Pacific believes that relative state and interstate billings is a simpler basis for allocating inquiry expenses than relative contacts.

23. *Interexchange Carrier Service:* Pacific recommends allocating these costs between the jurisdictions in proportion to access service billings, excluding carrier common line charges, the special access surcharge, subscriber line charges, and billing and collection charges. Pacific notes that it is unclear whether the interexchange carrier service order category in Plan B includes the billing inquiry and customer payment activities associated with interexchange carriers. It recommends including all costs related to interexchange carrier service in this category, stating that interexchange carriers impose costs on the local carriers that are significantly different from those incurred for the typical residence and business customer. Pacific also states that most major exchange carriers have separate

[4] Southwestern Bell submitted date for Texas which indicates a $28,331,700 interstate revenue requirement under Plan A as modified and a $32,046,069 interstate revenue requirement under the modified Plan B. Southwestern projects an interstate revenue requirement of $36,749,999 as of June 1, 1986 under the interim procedures. Southwestern attributes the variation produced under Plan A and B to the difference in their initial cost categorization.

[5] Unlike Plan B Pacific's proposal contains only one subcategory for priv.ate line service and allocates these expenses in proportion to the number of private line working loops. Pacific recommends allocating service order processing costs associated with WATS service in the same mammer.

[6] Pacific opposes the original Plan A proposal to tie the assignment of local customer payment and collection costs to SPF. *See* para. 11 and footnote 17 of the *Recommended Order, supra.*

organizations to handle interexchange carrier service.

24. *Coin Collection and Administration:* Pacific recommends allocating these expenses between the jurisdictions based on sent paid coin revenues. Pacific believes that revenues for collect, credit card, and third party calls should be excluded as unrelated to coin collection activities.

E. US West

25. *Service Order Processing:* Mountain States Telephone and Telegraph Company, Northwestern Bell Telephone Company and Pacific Northwest Bell Telephone Company (US West) support Plan B. However, it does not believe that a further division of the costs in the "all other" subcategory set out in Plan B (which consists primarily of local service order processing costs) to include additional subcategories for presubscription and other interstate subscription costs is necessary. It therefore recommends assigning all costs in this category to the intrastate jurisdiction. US West states that it expects presubscription costs to be minimal, especially in light of the active role played by the interexchange carriers in signing up end users and reporting the results to the exchange carriers, thereby reducing the need for the exchange carriers to take presubscription service orders. US West states that other interstate subscription subcategory is also unnecessary. It points out that, aside from interstate private line and interstate access services, both of which are dealt with elsewhere under Plan B, US West does not provide interstate services for which a service order is required.[7] If the "all other" subcategory set out in Plan B is further subcategorized as proposed by the Joint Board, US West recommends use of work time studies to segregate costs. US West opposes the allocation of service order processing costs based on user counts, arguing that user counts is a less accurate allocation factor than customer contacts, as proposed under Plan B, since some users make more contacts than others. Should the Joint Board recommend a separate subcategory for presubscription costs, US West states that it would support use of the fifty/fifty jurisdictional split suggested by Southwestern Bell. US West states that, if a separate subcategory is created for other interstate subscription costs, it would agree with the Joint Board proposal for a direct assignment of these costs to the interstate jurisdiction.

F. Bell Atlantic

26. *General:* Bell Atlantic Corporation (Bell Atlantic) contends that Plans A and B would improve significant administrative burdens on the exchange carriers without a concomitant improvement in the accuracy of jurisdictional cost allocations. Bell Atlantic states that any new allocation method must be easy to administer, use readily available data, and allocate costs based on cost causation, *i.e.*, the allocation should reflect the jurdictional nature of the services for whose benefit the costs are incurred.[8]

27. *Service Order Processing:* Bell Atlantic recommends the allocation of all end user local service order processing costs through the use of a surrogate allocation factor such as subscriber line usage (SLU), arguing that this is a relatively accurate allocation factor for these costs and will eliminate the need for additional categorization and costly separations studies.

G. BellSouth

28. *General:* BellSouth Corporation (BellSouth), like most of the commenting parties, supports a functional allocation of Account 645 costs into categories for customer service order processing, customer payment and collection, customer billing inquiry, and interexchange carrier services, with the final category including all service order processing, payment and collection, and billing inquiry activities associated with the interexchange carriers.

29. *Service Order Processing:* BellSouth recommends dividing service order processing costs for end users into subcategories for directory assistance, state private line, interstate private line and all other expenses on the basis of work function studies. BellSouth does not believe the separate identification of ongoing presubscription costs is cost justified, and suggests including them in the "all other" subcategory. BellSouth recommends allocating the costs in this subcategory based on SLU, arguing that this approach is cost effective, simple, and reasonable since local service order processing is an essential predicate for the provision of interstate service.

30. *Customer Payment and Collection:* BellSouth recommends separating payment and collection expenses on the basis of billed revenues, excluding revenues billed for services provided to interexchange carriers.

31. *Billing Inquiry:* BellSouth supports allocating billing inquiry costs to subcategories for directory advertising, message toll, interstate private line, intrastate private line and all other based on a work function analysis. BellSouth proposes assigning directory advertising and intrastate private line costs to the state jurisdiction. Message toll costs would be allocated based on relative contacts and interstate private line costs would be assigned to the interstate jurisdiction. It recommends allocating costs in the all other subcategory based on SLU.

32. *Interexchange Carrier Service:* BellSouth recommends including all costs for interexchange carrier service order processing, payment and collection, and billing inquiry in this category. These expenses would be further allocated between interstate private line, state private line, and message line, with the direct assignment of private line expenses to the relevant jurisdiction. BellSouth would allocate message toll related expenses based on study area switched access minutes.

33. *Coin Collection and Administration:* BellSouth supports allocation of these costs based on sent paid coin revenues.

III. Independent Telephone Companies

A. GTE

34. *General:* The GTE Telephone Companies (GTE) urge the Joint Board to reject MCI's proposal to collect further data regarding the costs in Account 645. According to GTE, the parties have been given adequate opportunity to submit comments and further delay would only frustrate the public interest in resolving these matters. GTE supports a modified version of Plan B and recommends use of periodic work function studies to allocate Account 645 costs to the initial functional categories. GTE believes that its plan for separating Account 645 costs produces a jurisdictional assignment which reflects costs as closely as possible. However, it also recommends an overall re-evaluation of costing and pricing mechanisms to allow pricing on a basis which is more competitive and realistic than the current fully allocated approach.

35. *Service Order Processing:* Under the GTE proposal, service order processing costs would be divided, based on user counts, into subcategories for TWX, private line, and all other service order processing costs, consisting primarily of local service order processing and directory

[7] US West states that the minor amount of work involved in answering end user inquiries concerning interstate access does not warrant recognition in the separations process.

[8] For example, Bell Atlantic opposes utilization of user counts as the basis for cost allocations, arguing that users differ considerably from one another with respect to usage and the costs which they cause.

advertising. The GTE plan would assign private line expenses between the jurisdictions based on users and allocate TWX costs based on the relative number of sent paid and received collect TWX connections billed. GTE would assign all other costs to the state jurisdiction. Like Southwestern Bell and USTA, GTE indicates that it cannot identify any costs to be included in the other interstate subscription cost category proposed by the Joint Board. GTE, however, would create an additional Account 645 category for initial presubscription costs based on a work function study. Under GTE's proposal, the initial costs associated with presubscription in a new equal access office would be separately identified in Account 645 based upon this work function study. GTE states that while the BOCs propose to identify initial presubscription costs through an internal accounting system known as a "keep cost" system, prior to undertaking the work function study to classify Account 645 costs, other local exchange carriers do not have a similar capabilities. GTE proposes that other local exchange carriers be permitted to categorize initial presubscription costs separately through work function studies, and allocate these costs between the jurisdictions based on billed access revenues.[9] GTE recommends including ongoing presubscription costs in the interexchange carrier service category.[10]

36. *Customer Payment and Collection*: GTE recommends allocating customer payment and collection expenses to service related subcategories for message toll and private line based on revenues, excluding interexchange carrier revenues. GTE would then separate message toll and private line expenses between the jurisdiction based on revenue for these services.

37. *Billing Inquiry*: GTE supports dividing billing inquiry costs into subcategories for TWX, message toll, private line and other based on non-access charge toll revenues. GTE would allocate TWX expenses between the jurisdictions based on the relative number of sent paid and received collect TWX connections billed. It recommends allocating message toll and private line expenses based on the revenues for those services. GTE proposes direct assignment of all other expenses to the state jurisdiction.

38. *Interexchange Carrier Service*: GTE recommends including all expenses associated with interexchange carrier service in this category. Under the GTE approach, ongoing presubscription costs would also be allocated to the interexchange carrier service category based on work function studies to facilitate recovery of these costs from the interexchange carriers. GTE recommends assigning expenses related to private line and message toll services based on relative billed access revenues. According to GTE, its proposal will produce accurate separations results due to the high degree of correlation between billed revenues and the amount of work preformed, while being easire to administer than other approaches.

39. *Coin Collection and Administration:* GTE recommends assigning all coin collection and administration expenses to the state jurisdiction because of the increasing use of credit cards to pay for long distance calls from public telephones.

B. United

40. *General:* United Telephone System, Inc. (United) generally supports Plan B as modified, suggesting that this approach more closely reflects principles of cost causation.

41. *Service Order Processing:* United proposes allocating service order processing costs among service related subcategories based on an analysis of the work times associated with each type of contact. To simplify the allocation process, United recommends use of periodic studies to determine a cost of service value for each type of contact and to determine the frequency of contacts. It supports assigning local service order processing and directory advertising costs to the state jurisdiction. United also proposes allocating presubscription costs based on Feature Group D access usage. United would separate TWX service order processing costs based on the relative number of connections. It suggests allocating private line costs between the jurisdictions based on user counts.

42. *Customer Payment and Collection:* United recommends excluding payment and collection functions for interexchange carriers from this category. United would separate customer payment and collection expenses between the jurisdictions based on revenues (excluding interexchange carrier revenue). Under United's proposal, this expense is further segregated between interstate private line, intrastate private line, interstate message and intrastate message to facilitate recovery of interstate costs through access charges.

43. *Billing Inquiry:* United proposes excluding billing inquiry functions for interexchange carriers from this category. United proposes creating service related subcategories for message toll, private line, TWX and other expenses based on relative contacts. United would directly assign other expenses to the state jurisdiction and separate message toll and private line expenses based on contacts. United would assign TWX billing inquiry costs based on the relative number of TWX connections.

44. *Interexchange Carrier Service:* United recommends including interexchange carrier payment and collection and billing inquiry functions in this category along with service order processing. United proposes allocating costs between private line and message line subcategories based on billed revenues and separating private line expenses based on user counts. United concurs in the Plan B proposal for assignment of message line expenses based on study area access minutes for message services.

C. SNET

45. *General:* The Southern New England Telephone Company (SNET) generally supports Plan B as modified to further disaggregate service order processing costs. SNET recommends that any changes in the procedures for the allocation of billing and collection expenses apply to independent telephone companies as well as the BOCs. SNET urges a two year transition for implementation of the revised separations rules to moderate the effect of the increase in the intrastate cost allocation. SNET also argues that separations procedures based on a fully distributed cost methodology should not continue to be used in allocating Account 645 costs if billing and collection services are detariffed.[11]

46. *Service Order Processing:* SNET generally supports Plan B as modified, and endorses the Joint Board's proposal to further disaggregate service order processing costs to identify presubscription and other interstate

[9] GTE also states that it would not oppose allocating these equal access presubscription costs based on relative access minutes.

[10] GTE originally presented its proposal for the treatment of initial presubscription costs in comments filed prior to the July 12, 1985 adoption of the Joint Board's recommendations concerning the separation treatment of equal access costs. *Recommended Decision and Order* in CC Docket Nos. 78-72 and 80-286, FCC Mimeo No. 0138, released October 8, 1985. GTE, however, continues to urge adoption of its alternative proposal.

[11] *See Notice of Proposed Rulemaking, Detariffing of Billing and Collection Services*, CC Docket No. 85-88, 50 Fed. Reg. 15191 (April 17, 1985)

subscription costs. SNET states that these work functions are interstate in nature and that the associated costs should be allocated to the interstate jurisdiction. However, SNET recommends utilizing work time studies, not surrogate factors, to separate service order processing costs.

47. *Customer Payment and Collection:* SNET recommends modifying Plan B to treat the customer payment and collection functions separately. Under SNET's proposal, customer payment costs would continue to be allocated based on billed revenues, but collection costs would be allocated based upon an analysis of the work functions actually performed.

48. *Billing Inquiry:* SNET proposed use of an analysis of contacts, rather than the relative number of contacts, to allocate billing inquiry costs to service subcategories and directly assign costs to the relevant jurisdiction. This approach would reflect cost factors such as the duration and complexity of the contacts in the allocation factor.

49 *Interexchange Carrier Service:* SNET appears to recommend treatment of all interexchange carrier service expenses in this category, with costs allocated to state private line, interstate private line and switched access service subcategories based on a work function analysis. Private line costs would be directly assigned to the relevant jurisdiction and switched service expense would be assigned based on relative access minutes of use.

50. *Coin Collection and Administration:* SNET recommends allocating these costs based on sent paid coin revenues.

D. Central Telephone Company

51. *General:* Central Telephone Company (Centel) commented only on the original versions of Plans A and B. Centel stated that it supports Plan B because the proposal more closely reflects cost causation principles and the actual services provided, although further refinements may be warranted to reduce uneconomic pricing.

E. Contel

52. *General:* In general, Continental Telecom, Inc. (Contel) supports procedures which would allow the exchange companies to utilize time and motion studies or direct assignment to categorize Account 645 costs. In addition to the categories discussed below, Contel recommends establishing an "other commercial service" category for costs attributable to unique functions which would be separated based on factors related to the type of function involved.

53. *Service Order Processing:* Contel contends that a blanket assignment of local service order processing costs to the intrastate jurisdiction fails to recognize that exchange customers use local service facilities to access interexchange service. Contel therefore proposes a plan which would allocate a portion of basic local exchange service order processing costs and payment and collection costs to the interstate jurisdiction based on SLU. Contel proposed dividing service order processing costs into the following subcategories based on time and motion studies or direct assignment: (1) Exchange services (basis and other local); (2) directory advertising; (3) TWX; (4) private line/special access; and (5) message toll. Contel proposes separating basic local exchange service order processing costs based on SLU, and directly assigning other local exchange and directory advertising service order expenses to the intrastate jurisdiction. contel recommends assigning TWX expenses based on connections. The private line/special access service order processing subcategory would include intraLATA special services and special access services provided to end users. Contel recommends separating private line/special access service order processing costs based on the relative number of users. It proposes using the same method to separate message toll expenses.

54. *Customer Payment and Collection:* Contel recommends allocating customer payment and collection costs to subcategories for exchange service (basic and other local), directory advertising, TWX, private line/special access, and message toll based on the number of users. Contel recommends separating the payment and collection expenses for basic exchange service on the basis of SLU and assigning the costs for other local exchange services directly to the intrastate jurisdiction. The Contel plan separates the costs in the private line and message toll subcategories based on relative users. Contel generally opposes current billings as a basis for the separation of customer payment and collection costs, arguing that there is no relationship between the dollar value of a check and the cost of depositing the check. Contel would assign directory advertising costs directly to the intrastate jurisdiction and separate TWX costs on the basis of sent paid and received collect billed TWK connections.

55. *Billing Inquiry:* Contel recommends separating these costs based on the relative number of toll related inquiries.

56. *Interexchange Carrier Service:* Contel recommends separate categories for interexchange carrier costs associated with switched and special access. These categories would include service order and all other commercial service activities associated with interexchange carrier access services. Contel recommends separating switched access costs based on switched access minutes of use and separating special access costs based on relative special access circuit users.

57. *Coin Collection and Administration:* Contel supports the allocation of these costs based on sent paid coin revenues.

F. Anchorage

58. *General:* Anchorage Telephone Utility (ATU) supports the disaggregation of Account 645 costs by function to allow a more accurate matching of these costs with the access charge rate elements. However, it believes that a substantial period of study is necessary before permanent allocation procedures can be developed. In the interim, it suggests that the exchange carriers affected by AT&T's termination of billing inquiry services be permitted to adjust their rate structures to more accurately reflect the functions which they perform. ATU states that it cannot support the Joint Board's proposals for separating Account 645 costs because the proposed subcategorization of costs presupposes a separability and identifiability that does not exist. ATU also argues that the cost of implementing Plan A or B would far exceed any benefits. ATU urges the Joint Board to recognize the unity of the costs within the functional categories and separate these costs fairly between the jurisdictions. ATU contends that the interstate jurisdiction should bear a portion of the costs incurred by the local exchange companies in processing local service orders and responding to local and long distance inquiries, noting that billing inquiries often begin with a call to the local carrier whether or not the long distance carrier provides its own inquiry service. ATU argues that overhead costs should be allocated to all services using common facilities, stating that local telephone companies offer quality services which require sufficient price support.

59. However, ATU opposes the use of SLU in allocating these costs on the ground that it is totally arbitrary and unrelated to the nature of commercial costs. Instead, ATU suggests the following functional categories and allocation methods for Account 645 costs: (1) New service orders—to be

separated based on plant in service; (2) billing inquiry—to be separated based on gross revenues; (3) service trouble reporting—to be separated based on plant in service; (4) service disconnection—to be separated based on plant in service; (5) coin box collection—to be separated based on pay station revenues; (6) bank deposits—to be separated based on gross revenues; (7) customer account updates—to be separated based on gross revenues; (8) bill rendering—to be separated based on number of bills rendered; (9) postage—to be separated based on bills rendered; (10) customer information advertising—to be separated based on gross revenues; and (11) receipt of payment—to be separated based on gross revenues.

IV. Telephone Company Associations

A. USTA

60. *General:* The United States Telephone Association (USTA) supports Plan B as modified to further disaggregate service order processing costs, with certain further refinements. It states that Plan B tracks the work functions associated with Account 645 while achieving the expected reduction in the interstate allocation.

61. *Service Order processing:* USTA argues that the relative number of users for the various services is an appropriate basis for allocating service order processing costs to subcategories. USTA supports the separate identification of presubscription costs and recommends separating these costs based on access minutes of use, although it states that it has been unable to identify any expenses which should be included in the other interstate subscription subcategory.

62. *Customer Payment and Collection:* USTA suggests excluding interexchange carrier payment and collection costs from this category. USTA recommends segregating payment and collection expenses into subcategories for message toll and private line based on revenues for these services (excluding interexchange carrier revenues). USTA also proposes separating message toll and private line payment and collection expenses based on relative revenues.

63. *Billing Inquiry:* USTA also recommends excluding interexchange carrier billing inquiry costs from this category. USTA suggests allocating billing inquiry expenses to subcategories for TWX, message toll, private line and all other based on relative contacts. USTA recommends separating message toll and private line billing inquiry expenses based on an analysis of the relative number of contacts, and assigning all other billing inquiry expenses to the intrastate jurisdiction. USTA recommends separating TWX expenses based on relative sent paid and received collect TWX connection.

64. *Interexchange Carrier Services:* USTA recommends that this category include expenses for all interexchange carrier services, including payment and collection and billing inquiry, as well as service order processing. USTA recommends allocating these costs to message toll and private line subcategories based on analysis of work functions, with message toll expense separated based on relative access minutes. USTA recommends apportioning private line expenses based on an analysis of work functions.

B. RTC

65. *General:* The Rural Telephone Coalition (RTC) argues that, as a general principle, costs which are common to all services should be distributed equally to all service categories. RTC argues that very few costs are solely local in nature since "local" costs must be incurred to provide access to interstate services. RTC believes that the separations procedures for Account 645 should indentify direct costs and separate them based on logical and easily obtainable measurements such as messages or minutes, in lieu of strict worktime studies so as not to be burdensome for small exchange carriers. RTC argues that the remaining joint costs should be allocated equally to all services which benefit from them. For example, RTC opposes separating all customer payment and collection expenses based on collected revenues, arguing that the revenue obtained bears no relation to the time spent collecting the payment. RTC also maintains that even if the exchange carrier is not performing billing and collection services for interexchange carriers, those carriers benefit from the fact that the exchange carrier has such information available if needed. RTC contends that a direct allocation to the state jurisdiction of recordkeeping costs associated with the provision of basic telephone service may lead ultimately to unnecessary and costly duplication of these work functions at the interstate level leading to higher costs for all users.

66. *Service Order Processing:* RTC states that while it supports the further disaggregation of these expenses into subcategories for local service order processing, presubscription, and other interstate subscription services, it cannot support the direct assignment of local service order processing costs to the state jurisdiction because, as argued above, these costs are not exclusively applicable to local service.

V. States and REA

A. California

67. The People of the State of California and the Public Utilities Commission of the State of California state that costs incurred by the local telephone companies in directing inquiries to an interexchange carrier should be subject to recovery from the interstate jurisdiction.

B. New York

68. *General:* Comments filed by the New York State Department of Public Service (New York) support the initial Plan A approach. In response to the Joint Board's proposal to modify Plan A to eliminate the use of SPF in allocating certain costs, New York proposes an alternative approach to allocating local service order processing costs.

69. *Service Order Processing:* New York maintains that local service order processing expenditures benefit interstate as well as intrastate services, and that this contribution should be recognized through an interstate allocation of these costs. New York therefore recommends that the Joint Board further divide local service order processing and common service order processing costs. The local service order processing subcategory would consist of incremental costs directly associated with the processing of local service orders. New York recommends that the presubscription subcategory proposed by the Joint Board include incremental costs directly associated with the presubscription function. The common service order processing subcategory would include those costs which are not directly related to local service order, presubscription service order or other interstate service order processing. New York cites as examples of these common costs the time spent analyzing logistics for service connection and compiling general customer information. New York recommends separating local service order, presubscription service order and other interstate service order processing costs as provided by the Joint Board. It proposes separating common service order processing costs based on the

[12] Pacific also had recommended a TWX subcategory for its customer payment and collection and service order processing categories but stated that it appeared reasonable to drop these subcategories given the insignificant amount of expense involved. AT&T commented that separate identification of TWX costs is unnecessary because local exchange carriers no longer provide TWX service.

assignment of the costs in the first three subcategories.

C. Vermont

70. *Service Order Processing:* The Vermont Public Service Board supports the New York proposal.

D. Michigan

71. *General:* The Michigan Public Service Commission Staff (Michigan) commented only on the original versions of Plans A and B. It supports Plan A as initially proposed, arguing that it allocates costs more accurately than Plan B. Michigan recommends that companies that continue to provide billing inquiry services for AT&T should use the current separations procedures for Account 645 costs with a twelve month transition to the new procedures upon termination of billing inquiry by AT&T.

72. *Service Order Processing:* Michigan supports the treatment of service order processing costs originally contained in Plan A, including the use of SPF to allocate certain local service order processing costs.

73. *Customer Payment and Collection:* Michigan recommends subdividing customer payment and collection costs based on current billings, as proposed in Plan A. It also supports the allocations methodology initially proposed in Plan A.

74. *Interexchange Carrier Service:* Michigan supports the treatment of interexchange carrier service costs set out in Plan A, arguing that segregating costs based on billed revenues for access service, rather than access usage, is more representative.

75. *Coin Collection and Administration:* Michigan argues that the allocation procedures set out in Plan A more accurately reflect the work functions involved than the proposal in Plan B.

E. New Jersey

76. *Service Order Processing:* The New Jersey Board of Public Utilities supports the separation of local service order processing costs based on SLU.

F. REA

77. *General:* The Rural Electrification Administration (REA) argues that any permanent separations approach should reflect frozen SPF or the 25 percent basic allocation factor and high cost assistance which apply to local loop plant in Outside Plant (OSP) Category 1.33. REA therefore recommends adoption of the original Plan A or another plan which incorporates SPF or the basic allocation factor/high cost assistance plan. Under REA's proposal, independent telephone companies that still perform billing inquiry services for AT&T would be grandfathered under the present procedures. REA recommends that these companies be subject to the interim freeze and phase-down upon termination of billing inquiry service by AT&T. It opposes the reduced interstate assignment that would result from implementation of Plan B and states that the cost accounting information which Plan B requires is not generally available to small telephone companies.

G. Ohio Consumers' Counsel

78. The Office of Consumers' Counsel, State of Ohio expresses concern that measures be taken to ensure that excessive costs are not shifted to the intrastate jurisdiction.

Attachment B—Recommended Changes to Part 67

1. Amend § 67.365(a) by inserting the following material before the existing text:

The procedures set out in this subsection shall apply to AT&T and study areas with more than 50,000 working loops, calculated as provided in § 67.611(a)(8), through May 31, 1986. Effective June 1, 1986, the procedures set out in subsection (c) of this Section shall apply to AT&T and these study areas.

2. Amend § 67.365(a)(1)(i) to delete the phrase "adoption of permanent allocation procedures for Account 645," each time it appears and substitute the phrase "June 1, 1986,".

3. Add new § 67.365 (b) and (c) which read as follows:

(b) The procedures set out in subsection (a) shall apply to study areas with 50,000 or fewer working loops, calculated as provided in § 67.611(a)(8), through December 31, 1986, except that the provisions set out in subsection (b)(1) below shall apply to these companies in place of subsection (a)(1)(i). Effective January 1, 1987, the procedures set out in subsection (c) shall apply to these study areas.

(1) In the case of study areas for which the American Telephone and Telegraph Co. (AT&T) subscribes to the billing inquiry service offered by the local exchange company, message toll expense is apportioned between state toll and interstate toll operations on the basis of the relative number of business office contacts relating to state toll and interstate toll messages. In the case of study areas for which AT&T begins to handle its own billing inquiries, the relative number of business office contacts relating to state toll and interstate toll messages is to be frozen at the average level for the twelve months preceding the date on which AT&T began to perform its own billing inquiry service.

(c) The procedures set out in this subsection shall apply to AT&T and study areas with more than 50,000 working loops, calculated as provided in § 67.611(a)(8), effective June 1, 1986. These procedures shall apply to study areas with 50,000 or fewer working loops, calculated as provided in § 67.611(a)(8), effective January 1, 1987. The expense in this account for the area under study is first segregated on the basis of an analysis of job functions into the following categories: end user service order processing; end user payment and collection; end user billing inquiry; interexchange carrier service; and coin collection and administration.

(1) *End user service order processing* includes expenses related to the receipt and processing of end users' orders for service and inquiries concerning service. This category does not include any service order processing expenses for services provided to the interexchange carriers. End user service order processing expenses are first segregated into the following subcategories based on the relative number of actual contacts, weighted if appropriate, to reflect differences in the average work time per contact: local service order processing; presubscription; directory advertising; state private line and special access; interstate private line and special access; other state message toll including WATS; other interstate message toll including WATS; and TWX.

(i) *Local* service order processing expense (primarily local telephone service orders) is assigned to the state jurisdiction.

(ii) *Presubscription* service order processing expense is assigned to the interstate jurisdiction.

(iii) *Directory advertising* service order processing expense is assigned to the state jurisdiction.

(iv) *State private line and special access* service order processing expense is assigned to the state jurisdiction.

(v) *Interstate private line and special access* service order processing expense is assigned to the interstate jurisdiction.

(vi) *Other state message toll including WATS* service order processing expense is assigned to the state jurisdiction.

(vii) *Other interstate message toll including WATS* sevice order processing expense is assigned to the interstate jurisdiction.

(viii) *TWX* service order processing expense is allocated between the jurisdictions based on relative state and interstate billed TWX revenues.

(2) *End user payment and collection* includes expenses incurred in relation to the payment and collection of amounts billed to end users. It also includes commissions paid to payment agencies (which receive payment on customer accounts) and collection agencies. This category does not include any payment or collection expenses for services privided to interexchange carriers. End user payment and collection expenses are first segregated into the following subcategories based on relative total state and interstate billed revenues (excluding revenues billed to interexchange carriers and/or revenues deposited in coin boxes) for services for which end user payment and collection is provided: state private line and special access; interstate private line and special access; state message toll including WATS; interstate message toll including WATS, and interstate subscriber line charge; local, including directory advertising; and TWX.

(i) *State private line and special access* payment and collection expense is assigned to the state jurisdiction.

(ii) *Interstate private line and special access* payment and collection expense is assigned to the interstate jurisdiction.

(iii) *State message toll including WATS* payment and collection expense is assigned to the state jurisdiction.

(iv) *Interstate message toll including WATS, and interstate subscriber line charge* payment and collection expense is assigned to the interstate jurisdiction.

(v) *Local, including directory advertising* payment and collection expense is assigned to the state jurisdiction.

(vi) *TWX* payment and collection expense is allocated between the jurisdictions based on relative state and interstate billed TWX revenues for service for which end user payment and collections provided.

(3) *End user billing inquiry* includes expenses related to handling end users' inquiries concerning their bills. This category does not include expenses related to interexchange carrier inquiries concerning their bills. End user billing inquiry costs are first segregated into the following subcategories based on the relative number of actual contracts, weighted if appropriate, to reflect differences in the average work time per contact: state private line and special access; interstate private line and special access; state message toll including WATS; interstate message toll including WATS, and interstate subscriber line charge; TWX; and other.

(i) *State private line and special access* billing inquiry expense is directly assigned to the state jurisdiction.

(ii) *Interstate private line and special access* billing inquiry expense is directly assigned to the interstate jurisdiction.

(iii) *State message toll including WATS* billing inquiry expense is directly assigned to the state jurisdiction.

(iv) *Interstate message toll including WATS, and interstate subscriber line charge* billing inquiry expense is directly assigned to the interstate jurisdiction.

(v) *TWX* billing inquiry expense is allocated between the jurisdictions based on relative state and interstate billed TWX revenues for service for which end user billing inquiry is provided.

(vi) *Other* billing inquiry expense (primarily related to local bills but also including directory advertising) is directly assigned to the state jurisdiction.

(4) *Interexchange carrier service* includes expenses associated with the receipt and processing of interexchange carrier orders for service and inquiries about service, payment and collection of interexchange carrier bills, including commissions paid to payment and collection agents, and handling of interexchange carrier billing inquiries. Interexchange carrier service expenses are first segregated into the following subcategories based on an analysis of job functions: service order processing, payment and collection, and billing inquiry.

(i) *Interexchange carrier service order processing* expenses are assigned to the following subcategories based on the relative number of actual contacts, weighted if appropriate, to reflect differences in the average work time per contact: state special access and private line; interstate special access and private line; state switched access and message toll including WATS; and interstate switched access and message toll including WATS.

(A) *State special access and private line* service order processing expense is directly assigned to the state jurisdiction.

(B) *Interstate special access and private line* service order processing expense is directly assigned to the interstate jurisdiction.

(C) *State switched access and message toll including WATS* service order processing expense is directly assigned to the state jurisdiction.

(D) *Interstate switched access and message toll including WATS* service order processing expense is directly assigned to the interstate jurisdiction.

(ii) *Interexchange carrier payment and collection* expenses are assigned to the following subcategories based on relative total state and interstate revenues billed to the interexchange carriers: state special access and private line; interstate special access and private line; state switched access and message toll including WATS; and interstate switched access and message toll including WATS.

(A) *State special access and private line* payment and collection expense is directly assigned to the state jurisdiction.

(B) *Interstate special access and private line* payment and collection expense is directly assigned to the interstate jurisdiction.

(C) *State switched access and message toll including WATS* payment and collection expense is directly assigned to the state jurisdiction.

(D) *Interstate switched access and message toll including WATS* payment and collection expense is directly assigned to the interstate jurisdiction.

(iii) *Interexchange carrier billing inquiry* expenses are assigned to the following subcategories based on the relative number of actual contacts, weighted if appropriate, to reflect differences in the average work time per contact: state special access and private line; interstate special access and private line; state switched access and message toll including WATS; and interstate switched access and message toll including WATS.

(A) *State special access and private line* billing inquiry expense is directly assigned to the state jurisdiction.

(B) *Interstate special access and private line* billing inquiry expense is directly assigned to the interstate jurisdiction.

(C) *State switched access and message toll including WATS* billing inquiry expense is directly assigned to the state jurisdiction.

(D) *Interstate switched access and message toll including WATS* billing inquiry expense is directly assigned to the interstate jurisdiction.

(5) *Coin collection and administration* includes expenses for the collection and counting of money deposited in public or semi-public phones. It also includes expenses incurred for required travel, coin security, checking the serviceability of public or semi-public telephones, and related functions. These expenses are apportioned between the state and interstate jurisdictions in proportion of the relative state and interstate revenues deposited in the public and semi-public telephones.

[FR Doc. 86-509, Filed 1-10-86; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 51, No. 8
Monday, January 13, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Cooperative Agreements; University of Maryland

AGENCY: Office of International Cooperation and Development, USDA.

ACTION: Notice of Intent to Award a Cooperative Agreement.

SUMMARY: The Office of International Cooperation and Development intends to amend an existing cooperative agreement with the University of Maryland for further development and implementation of the Egypt Data Collection and Analysis project.

Authority: Section 1458 of The National Agricultural Research Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3291)

The Office of International Cooperation and Development announces the availability of funds for fiscal year 1986 to extend a cooperative agreement with the University of Maryland, College Park, for an additional two (2) years and to provide funding in the amount of an estimated $200,000. The extension is required to enable the University to continue its' role as a coordinator/facilitator of the project, which was developed to generate accurate, timely information and analysis on the agricultural performance of the agricultural sector in Egypt. The University of Maryland is uniquely qualified to cooperate in this activity because of (1) extensive experience in working with Mid-East countries; (2) in-depth expertise in agricultural development, with particular emphasis on Egypt; (3) involvement with the Egyptian Ministry of Agriculture, host country universities and research institutions; (3) knowledge of USDA, AID, and Department of State programs, policies, and procedures. In addition, the University has previously participated in the development and conduct of team planning meetings, which provided orientation and background on this Project, and in other related activities.

Assistance will be provided only to the University which has been collaborating with the Technical Assistance Division, Mid East/Asia Programs, since 1984. Based on the above, this is not a formal request for applications. It is estimated that approximately $200,000 will be available in Fiscal Year 1986–87 to support this work. Yearly amounts will vary and are subject to change. It is anticipated that the cooperative agreement will be funded over a budget period of 24 months.

Information may be obtained from: Mr. Robin Comfort, Asia/Mid-East Programs, Technical Assistance Division, Office of International Cooperation and Development, U.S. Department of Agriculture, (58–319R–6–016).

Charle A. Rooney,

Acting Chief, Management Services.

[FR Doc. 86–642 Filed 1–10–86; 8:45 am]

BILLING CODE 3410–DP–M

Animal and Plant Health Inspection Service

[Docket No. 85–408]

Productivity Improvement Review List and Estimated Dates for Beginning Studies

AGENCY: Animal and Plant Health Inspection Service (APHIS) USDA.

ACTION: Notice of intent to conduct cost comparison studies under the guidelines set forth in OMB Circular No. A–76.

SUMMARY: This notice provides locations and projected dates for starting productivity improvement studies within APHIS during 1986 and 1987.

Location and type of activity	Projected review start
Agency-wide:	
1. Facilities, Grounds and Utilities Maintenance.	Jan. 1986.
2. General Labor, Including Supply and Warehousing.	Jan. 1986.
3. Architectural and Engineering	Apr. 1986.
4. Mail Service	Oct. 1987
5. Motor Pool and Vehicle Maintenance	Oct. 1987.
6. ADP	Oct. 1987.
7. Newburgh, New York, Animal Caretaking	Jan.1986.

FOR FURTHER INFORMATION CONTACT: Burt C. Hawkins, Assistant Deputy Administrator for Management and Budget, Animal and Plant Health Inspection Service, Department of Agriculture, Room 1133–S, Washington, DC 20250.

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. This is notice of intent only and not a request for proposals.

Done at Washington, DC, this 31st day of December.

Larry B. Slagle,

Deputy Administrator for Management and Budget, Animal and Plant Health Inspection Service.

[FR Doc. 86–630 Filed 1–10–86; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF COMMERCE

International Trade Administration

NASA Lewis Research Center et al.; Applications for Duty-Free Entry of Scientific Instruments

Correction

In FR Doc. 85–30453, beginning on page 52820 in the issue of Thursday, December 26, 1985, make the following corrections:

1. On page 52820, second column, in the fourth line from the bottom of the page, the Docket Number should have read "86–044"; and in the third line from the bottom of the page, "NSAS" should have read "NASA".

2. On page 52821:

a. In the first column, in the twenty-fifth and forty-ninth lines, "November 1" should have read "November 15".

b. In the second column, fourteenth line from the bottom of the page, "JOEL" should have read "JEOL".

BILLING CODE 1505–01–M

U.S. Geological Survey; Decision on Application for Duty-Free Entry of Scientific Instrument

Correction

In FR Doc. 85–30449, beginning on page 52821 in the issue of Thursday, December 26, 1985, make the following correction:

On page 52821, Third column, first line of the second paragraph, the Docket No. should have read "Docket No. 85–199".

BILLING CODE 1505-01-M

Minority Business Development Agency

Financial Assistance Application Announcements; Indians

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds The cost of performance for the first twelve (12) months is estimated at $200,000 for the project performance of July 1, 1986 to June 30, 1987. The MBDC will operate in the Indianapolis, Indiana Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $170,000 in Federal funds and a minimum of $30,000 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services). The award number will be 05–10–86009–01.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, Amercian Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDC supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application;' and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geopgraphic region for which they are applying.

The MBDC will operate for a 3 year period with periodic reviews culuminating in annual evaluations to determine if funding for the project should continue. Continue funding will be at the discretion of MBDA based on such factors as a MBDC's satisfactory performance, the availability of funds, and Agency priorities.

DATE: The closing date for applications is *February 14, 1986.* Applications must be postmarked on or before *February 14, 1986.*

ADDRESS: Chicago Regional Office, Minority Business Development Agency, 55 East Monroe Street, Suite 1440, Chicago, Illinois 60603, 312/353–0182.

FOR FURTHER INFORMATION CONTACT: David Vega, Regional Director, Chicago Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development, (Catalog of Federal Domestic Assistance)

David Vega,

Regional Director, Chicago Regional Office.

[FR Doc. 86–644 Filed 1–10–86; 8:45 am]

BILLING CODE 3510-21-M

National Bureau of Standards

[Docket No. 51195–5195]

Proposed Federal Information Processing Standard for BASIC

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of Proposed Federal Information Processing Standard 68–2, BASIC; a revision of FIPS PUB 68–1, Minimal BASIC.

SUMMARY: A revision of the Federal Information Processing Standard for the BASIC programming language is being proposed for Federal use. This revision will adopt the proposed American National Standard for BASIC, ANSI X3.113——, which is a voluntary industry standard developed by X3, an accredited committee of the American National Standards Institute (ANSI). This proposed standard will supersede FIPS PUB 68–1, Minimal BASIC, and will be added to the current family of Federal Information Processing Standard (FIPS) languages, which includes COBOL, FORTRAN, Pascal, and Ada. Major changes, improvements, and additions to the specifications for the BASIC programming language are reflected in this proposed standard.

Prior to the submission of this proposed standard to the Secretary of Commerce for review and approval as a FIPS, it is essential to asure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

This proposed Federal Information Processing Standard (FIPS) contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard, is provided in its entirety in this notice; and (2) a specifications portion which deals with the technical requirements of the standard. Interested parties may obtain a copy of the technical specifications from the American National Standards Institute, 1430 Broadway, New York, New York 10018, (212) 354–3473.

DATE: To be considered, comments on this proposed FIPS must be received on or before April 14, 1986.

ADDRESS: Comments concerning the adoption of BASIC as a FIPS are invited and may be sent to Director, Institute for Computer Sciences and Technology, ATTN: Proposed FIPS for BASIC, National Bureau of Standards, Technology Building, Room B154, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. John Cugini, Center for Programming Science and Technology, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, telephone (301) 921–2431.

Dated: January 7, 1986.

Ernest Ambler,

Director.

Federal Information Processing Standard Publication 68–2

(date)

Announcing the Standard for BASIC

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and

Administrative Services Act of 1949, as amended, Public Law 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

1. *Name of Standard.* BASIC (FIPS PUB 68-2).

2. *Category of Standard.* Software Standard, Programming Language.

3. *Explanation.* This publication announces the adoption of American National Standard for BASIC, ANSI X3.113———, as a Federal Information Processing Standard (FIPS). This FIPS supersedes FIPS PUB 68-1, Minimal BASIC, and reflects major changes, improvements, and additions to the BASIC specifications. The American National Standard for BASIC, ANSI X3.113———, specifies the form and establishes the interpretation of programs expressed in the BASIC programming language. The purpose of the standard is to promote portability of BASIC programs for use on a variety of data processing systems. The standard is for use by implementors as the reference authority in developing compilers, interpreters, or other forms of high level language processors; and by other computer professionals who need to know the precise syntactic and semantic rules, adopted by ANSI.

4. *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

6. *Cross Index.* American national Standard ANSI X3.113———, BASIC.

7. *Related Documents.*

a. Federal Information Resources Management Regulation 201-8.1, Federal ADP and Telecommunications Standards.

b. Federal Information Processing Standards Publication 29 (current version), Interpretation Procedures for Federal Information Processing Standard Programming Languages.

c. NBS Special Publication 500-117, Selection and Use of General-Purpose Programming Languages.

8. *Objectives.* Federal standards for high level programming languages permit Federal departments and agencies to exercise more effective control over the production, management, and use of the Government's information resources. The primary objectives of Federal programming language standards are:

—To encourage more effective utilization and management of programmers by ensuring that programming skills acquired on one job are transportable to other jobs, thereby reducing the cost of programmer re-training;

—To reduce the cost of program development by achieving the increased programmer productivity that is inherent in the use of high level programming languages;

—To reduce the overall software costs by making it easier and less expensive to maintain programs and transfer programs among different computer systems, including replacement systems;

—To protect the existing software assets of the Federal Government by ensuring to the maximum feasible extent that Federal programming language standards are technically sound and that subsequent revisions are compatible with the installed base.

Government-wide attainment of the above objectives depends upon the widespread availability and use of comprehensive and precise standard language specifications.

9. *Applicability.* a. Federal standards for high level programming languages should be used for computer applications and programs that are either developed or acquired for Government use. FIPS BASIC is one of the high level programming language standards provided for use by all Federal departments and agencies. FIPS BASIC is suitable for use in relatively simple applications, especially those with a high degree of user interaction. The features of BASIC support use by non-professional programmers, i.e., those whose primary skill is not programming, but who may need to write their own programs.

b. The use of FIPS high level programming languages is strongly recommended when one or more of the following situtations exists:

—It is anticipated that the life of a program will be longer than the life of the presently utilized equipment.

—The application or program is under constant review for updating of the specifications, and changes may result frequently.

—The application is being designed and programmed centrally for a decentralized system that employs computers of different makes, models, and configurations.

—The program will or might be run on equipment other than that for which the program is initially written.

—The program is to be understood and maintained by programmers other than the original ones.

—The advantages of improved program design, debugging, documentation, and intelligibility can be obtained through the use of this high level language regardless of interchange potential.

—The program is or is likely to be used by organizations outside the Federal Government (i.e., State and local governments, and others).

c. Non-standard language features should be used only when the needed operation or function cannot reasonably be implemented with the standard features alone. Although non-standard language features can be very useful, it should be recognized that their use may make the interchange of programs and future conversion to a revised standard or replacement processor more difficult and costly.

d. It is recognized that programmatic requirements may be more economically and effeciently satisfied through the use of application-oriented software packages. The use of any facility should be considered in the context of system life, system costs, data integrity, and the potential for data sharing.

e. Programmatic requirements may also be more economically and efficiently satisfied by the use of automatic program generators. However, if the final output of a program generator is a BASIC source program, then the resulting program should conform to the conditions and specifications of FIPS BASIC.

10. *Specifications.* FIPS BASIC specifications are the language specifications contained in American National Standard for BASIC, ANSI X3.113———.

The ANSI X3.113——— document defines the syntax and semantics of the BASIC language by specifying requirements for a conforming processor and program, the formats of data (including range and precision of numbers, and length of character strings) which can be manipulated by a BASIC program, and the syntactic errors and run-time exceptions which must be detected by a conforming implementation.

The standard does not specify a minimum for the size of complexity of programs which must be acceptable to an implementation.

11. *Implementation.* The implementation of FIPS BASIC involves three areas of consideration: acquisition of BASIC processors, interpretation of FIPS BASIC, and validation of BASIC processors.

11.1 *Acquisition of BASIC Processors.* This publication is effective (six months after date of publication of final document in the Federal Register). BASIC processors acquired for Federal

government use after this date should implement this standard. Conformance to FIPS BASIC should be considered whether BASIC processors are developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, used under an ADP leasing arrangement, or specified for use in contracts for programming services.

A transition time period provides time for industry to produce BASIC processors conforming to the standard. The transition period begins on the effective date and continues for eighteen (18) months thereafter. The following apply during the transition period:

a. The provisions of FIPS PUB 68–1 apply to processors ordered before the effective date of this publication but delivered subsequent to that date.

b. The provisions of this publication apply to orders placed after the effective date of this publication; however, a processor conforming to FIPS PUB 68–1 may be acquired for interim use until the conforming processor is available.

11.2 *Interpretation of FIPS BASIC.* NBS provides for the resolution of questions regarding FIPS BASIC specifications and requirements, and issues official interpretations as needed. All questions about the interpretation of FIPS BASIC should be addressed to: Director, Institute for Computer Sciences and Technology, Attn: BASIC Interpretation, National Bureau of Standards, Gaithersburg, MD 20899.

11.3 *Validation of BASIC Processors.* The General Services Administration (GSA), through its Federal Software Management Support Center (FSMSC), provides a service for the purpose of validating the conformance of processors to FIPS languages offered for Federal procurement. This service is offered on a reimbusable basis. Further information about the validation service can be obtained from the FSMSC which is located at 5203 Leesburg Pike, Suite 1100, Falls Church, Virginia 22041–3467, (703) 756–6156.

12. *Where to Obtain Copies.* Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. (Sale of the included specifications document is by arrangment with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 68–2 (FIPSPUB68–2), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 86–643 Filed 1–10–86; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Mid-Atlantic Fishery Management Council will convene a public meeting, January 22, 1986, at The Tidewater, Easton, MD, (telephone: 301–822–1300), to discuss Amendment #6 to the Surf Clam and Ocean Quahog Fishery Management Plan, as well as to discuss pending legislation, a task force project and other fishery management matters. For further information contact John C. Bryson, Executive Director, Management Council, Room 2115, Mid-Atlantic Fishery Federal Building, 300 South New Street, Dover, DE 19901; telephone: (302) 674–2331.

Dated: January 7, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management.

[FR Doc. 86–675 Filed 1–10–86; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's Salmon Plan Development Team will convene a public meeting at the Council's office, 2000 SW. First Avenue, Suite 420, Portland, OR, on January 27, 1986, at 1 p.m., and will continue meeting through the remainder of the week. The Salmon Plan Development Team will complete drafting of the annual report to the Council entitiled "Postseason Review of 1985 Ocean Salmon Fisheries", and a special public comment period is scheduled for 3 p.m. on January 28. For further information, contact Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 2000 SW. First Avenue, Portland, OR 97201; telephone: (503) 221–6352.

Dated: January 6, 1986.

Carmen J. Blondin,

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

[FR Doc. 86–676 Filed 1–10–86; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Application for Permit; Dr. Robert Elsner

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Dr. Robert Elsner (P63A).

b. Address: Institute of Marine Science, University of Alaska, Fairbanks, Alaska 99775–1080.

2. Type of Permit: Scientific Research.

3. Name and Number of Marine Mammals:

Harbor seal *(Phoca vitulina)*, 50
Ringed seal *(Phoca hispida)*, 2

4. Type of Take: Harbor seals will be taken by sacrifice for cardiovascular studies, and ringed seals will be taken by captive maintenance for radio and acoustic tagging studies and by sacrifice for cardiovascular studies.

5. Location of Activity: North coast of Alaska.

6. Period of Activity: 5 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, DC; and

Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: January 7, 1986.

Carmen J. Blondin,

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

[FR Doc. 86-730 Filed 1-10-86; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Receipt of Modification Request; Connyland

Notice is hereby given that Connyland, CH-8557 Lipperswil, Switzerland, has requested a modification of Permit No. 524 issued on September 26, 1985 (50 FR 40887), under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407, and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Permit No. 524 authorizes the taking of four (4) Atlantic bottlenose dolphins (*Tursiops truncatus*) not less than 6'6" in length for public display.

The Permit Holder is requesting to take an additional Atlantic bottlenose dolphin as a replacement for an animal which died during capture operations. The animal will be taken by the means, in the area, and for the purposes set forth in the original permit application.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of the modification request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documentation pertaining to the above modification request is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, DC;

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: January 7, 1986.

Carmen J. Blondin,

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

[FR Doc. 86-729 Filed 1-10-86; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of the Special Operations Policy Advisory Group (SOPAG)

Under the provisions of Pub. L. 92-463, the "Federal Advisory Committee Act," notice is hereby given that the Special Operations Policy Advisory Group (SOPAG) has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law.

The SOPAG will serve the public interest by assisting in a Defense revitalization effort that is essential to our national security. No existing DoD staffs or committees now perform these policy advisory functions.

Dated: January 7, 1986.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86-649 Filed 1-10-86; 8:45 am]

BILLING CODE 3810-01-M

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, February 4, 1986; Tuesday, February 11, 1986; Tuesday, February 18, 1986; and Tuesday, February 25, 1986; at 10:00 a.m. in Room 1E801, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency" (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy & Requirements) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b.(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, DC 20301.

Dated: January 8, 1986.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86-648 Filed 1-10-86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Notice of Intent To Prepare a Draft Environmental Impact Statement and To Implement Public Scoping for Proposed Gulf Coast Strategic Homeporting; Correction

A "Notice of Intent to Prepare a Draft Environmental Impact Statement and to Implement Public Scoping for Proposed Gulf Coast Strategic Homeporting" was published in the **Federal Register** on January 7, 1986, at page 674 of Volume 51. The following corrections to that notice are being made:

1. In the third paragraph, the language before the colon is amended to read as follows: "In addition, a Battleship Surface Action Group is proposed to be based at two locations as follows".

2. In the third paragraph, insert a period after "(Galveston, Texas)" and delete everything in the third paragraph following the new period.

3. The fourth paragraph is revised to read as follows:

Other homeporting includes a landing craft repair ship, one salvage ship, and a shore-based ocean surveillance ship support group to be based at existing facilities (Key West, Florida); one minesweeper to be based at existing facilities (Gulfport, Mississippi); and two reserve minesweepers and one reserve oiler (Lake Charles, Louisiana).

4. The last sentence in the fifth paragraph is amended to read as follows: "Comments will be received until close of business February 23, 1986."

5. The sixth paragraph is revised to read as follows:

The primary impacts of the proposed activities would be the development of major Naval installations in Corpus Christi (Ingleside), Galveston, Pascagoula, and Mobile. A minor installation is proposed for Lake Charles. New land and water facilities including buildings, wharfs, and piers are proposed for the new sites. Existing facilities at Pensacola, Key West, and Gulfport will be modified as required.

6. The seventh paragraph is amended by inserting "Galveston," between "Lake Charles," and "and" in the last sentence of the paragraph.

7. In all other respects the notice as published on January 7, 1986, is correct.

Dated: January 9, 1986.

William F. Roos, Jr.,

Lieutenant, JAGC, USNR, Federal Register Liaison Officer.

[FR Doc. 86-808 Filed 1-10-86; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Information Resources Management Service invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before February 12, 1986.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Management Service publishes this notice containing proposed information collection requests prior to the submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of the collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: January 8, 1986.

George P. Sotos,

Director, Information Resources Management Service.

OFFICE OF POSTSECONDARY EDUCATION

Type of Review Requested:
EXTENSION
Title: The Performance Report and the Financial Status Report for the Supplemental Funds Program for Cooperative Education (Title IV-C)
Agency Form Number: ED 686-1, 686-2
Frequency: Annually
Affected Public: Non-profit institutions
Reporting Burden
Responses: 509
Burden Hours: 509
Recordkeeping Burden
Recordkeepers: 0
Burden Hours: 0

ABSTRACT: These reports are submitted to the Department of Education by all program grantees and are used for monitoring grantee performance and closing out grants.

[FR Doc. 86-716 Filed 1-10-86; 8:45 am]

BILLING CODE 4000-01-M

Office of Elementary and Secondary Education

[ACN: 04-30001]

Chapter 1, Education Consolidation and Improvement Act of 1981; Intent to Repay to the Mississippi State Department of Education Funds Recovered as a Result of Final Audit Determinations

AGENCY: Department of Education.

ACTION: Notice of Intent to Award Grantback Funds.

SUMMARY: Notice is given that, under Section 456 of the General Education Provisions Act (GEPA), the U.S. Secretary of Education (Secretary) intends to repay under a grantback arrangement to the Mississippi State Department of Education (SEA) an amount equal to approximately 75 percent of the funds recovered by the U.S. Department of Education (Department) as a result of final audit determinations issued by the Assistant Secretary for Elementary and Secondary Education on September 29, 1983. This notice describes the SEA's plan, submitted on behalf of Holmes County School District (LEA), for the use of the repaid funds and the terms and conditions under which the Secretary intends to make these funds available.

DATE: All written comments must be received on or before February 12, 1986.

ADDRESS: All written comments should be submitted to Dr. James Spillane, Director, Division of Program Support, Compensatory Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 5616, ROB-3), Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Dr. James Spillane. Telephone: (202) 245-9846.

SUPPLEMENTARY INFORMATION:

A. Background

The Office of Inspector General conducted an audit of programs under Title I of the Elementary and Secondary Education Act of 1965 (Title I) (20 U.S.C. 2701 *et seq.*), as administered by the Mississippi State Department of Education (SEA) and as implemented by selected local educational agencies (LEAs) during the period from July 1980 through February 1982.

Under Title I, Federal funds were provided to LEAs, through SEAs such as the Mississippi State Department of Education, for programs "which contribute[d] particularly to meeting the special educational needs of educationally deprived children" in areas with high concentrations of children from low-income families (20 U.S.C. 2701). Title I funds could be used only to provide supplemental educational services to children who were both educationally deprived and resided in specified low-income areas. SEAs had the responsibility for administering the Title I program. In order to participate in Title I, an SEA had to provide assurances that Title I funds would be used only for projects that met all the Title I requirements and that has been approved by the SEA.

The auditors found that one LEA, Holmes County, had charged to its Title I project the costs of services that benefited other programs and cost objectives. For example, the auditors found that the LEA charged a greater percentage of its central office administrative costs to the Title I project than was warranted by the number of Title I personnel comprising the central office staff. Likewise, the LEA charged the total salaries of a central office receptionist and a printer to the Title I project even though they provided services that benefited all central office programs and operations. The auditors also found that the LEA paid an excessive cost for newspapers used in Title I reading classes and that the LEA charged the Title I project for consultant services that primarily benefited the LEA as a whole.

Based on those findings, the Assistant Secretary for Elementary and Secondary Education issued a final audit determination letter on September 29, 1983 requiring the SEA to repay $44,433 for the misexpenditure of Title I funds by the Holmes County LEA.

In partial resolution of the audit determinations, the LEA used local funds to restore $27,144 to its fiscal year 1982 Title I project, thereby satisfying all but $17,289 of the $44,433. The SEA filed a petition for review of the remaining claims to the Education Appeal Board (EAB). On May 30, 1985, while the claims were pending before the EAB, an agreement between the SEA and the Department was reached. As provided in the agreement, the SEA repaid $10,664 to the Department to settle in full the claims involved in the appeal that was pending before the EAB.

B. Authority for Awarding a Grantback

Section 456(a) of GEPA (20 U.S.C. 1234e(a)) provides that whenever the Secretary has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available to that program and may arrange to repay to the SEA or LEA affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this "grantback" arrangement if the Secretary determines that—

(1) The practices and procedures of the SEA or LEA that resulted in the audit determinations have been corrected, and that the SEA or LEA is in all other respects in compliance with the requirements of the applicable program;

(2) The SEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement which meets the requirements of the applicable program and, to the extent possible, benefits the population that was affected by the misexpenditures that resulted in the audit exceptions; and

(3) The funds to be awarded under the grantback arrangement, if used in accordance with the SEA's plan, would serve to achieve the purposes of the program under which the funds were originally granted.

C. Request for Repayment of Funds Awarded Under a Grantback Arrangement

On August 6, 1985, the SEA formally requested in writing repayment of $7,950 (approximately 75 percent of the $10,664 returned to the Department as a result of the final audit determinations) under a grantback arrangement. With its request, the SEA provided assurances that the practices and procedures of the LEA that resulted in the final audit determinations have been corrected and that the LEA is in all other respects in compliance with the requirements of the program. Also included with the SEA's request was a detailed budget prepared by the LEA for the expenditure of the funds to be awarded under the grantback arrangement.

D. Plan for Use of Funds Awarded Under a Grantback Arrangement

In accordance with section 456(a)(2) of GEPA, the SEA submitted a plan on behalf of the LEA outlining the LEA's intent to use the grantback funds to meet the special educational needs of educationally deprived children in programs administered under Chapter 1 of the Education Consolidation and Improvement Act of 1981 (Chapter 1) (20 U.S.C. 3801 *et seq.*). The final audit determinations against the LEA resulted from improper expenditures of Title I funds. However, since Chapter I has superseded Title I, the SEA's proposal reflects the requirements in Chapter 1—a program, similar to Title I, designed to serve educationally deprived children in low-income areas.

The LEA is currently conducting a Chapter 1 program to provide remedial instruction in reading, mathematics, and language arts for eligible students in grades K–9. According to the SEA's plan, the LEA will use the grantback funds to purchase video cassette recorders and monitors to improve the quality and scope of instruction in the ongoing Chapter 1 program.

In specific areas of weakness identified by a needs assessment, the purchase of the video cassette recorders and monitors will enable the Chapter 1 instructional staff to have access to educational television (ETV) where a number of quality instructional resource programs are transmitted daily. These programs are designed specifically to help motivate and teach children from low socio-economic backgrounds similar to those in the LEA.

The ETV programs will be recorded and forwarded to three public schools, making ETV accessible to all Chapter 1 children in the district for the first time. There are no eligible children attending private schools. During school year 1985–86, approximately 1,950 children will benefit from the ETV programs. To the extent possible, children who were affected by the misexpenditure of Title I funds that resulted in the audit exceptions will be included in those benefiting from the grantback funds.

E. The Secretary's Determinations

Based upon a thorough review of the SEA's request for the repayment of funds under section 456 of GEPA, including the SEA's discharge of its payment obligations to the Department in June 1985, the SEA's assurances described in Part C of this notice, and the plan and budget describing the use of funds, the Secretary makes the following determinations:

(1) The LEA has corrected the practices and procedures that resulted in the final audit determinations, and the LEA is in all other respects in compliance with the requirements of the Chapter 1 program;

(2) The SEA has submitted a plan on behalf of the LEA for the use of the funds to be awarded under the grantback arrangement that meets the requirements of the Chapter 1 program and, to the extent possible, benefits the Chapter 1 children who were affected by the misexpenditures that resulted in the audit exceptions; and

(3) The funds to be awarded under the grantback arrangement, if used in accordance with the SEA's plan, would serve to achieve the purposes of the Chapter 1 program.

These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action.

F. Notice of the Secretary's Intent to Enter Into a Grantback Arrangement

Section 456(d) of GEPA requires, at least 30 days prior to entering into an arrangement to award funds under a grantback, that the Secretary publish in the **Federal Register** a notice of his intent to do so, and the terms and conditions under which the payment will be made.

In accordance with this requirement, notice is given that the Secretary intends to make available under a grantback arrangement to the SEA an amount of $7,950, which is approximately 75 percent of the funds the Department has recovered as a result of the final audit determinations. The Secretary bases his intention to enter into a grantback arrangement under Section 456 of GEPA on his determinations outlined in Part E of this notice, and payment by the SEA of the $10,664 returned to the Department as a result of the final audit determinations.

G. Terms and Conditions Under Which Payment Under the Grantback Arrangement Will Be Made

Section 456(b) of GEPA provides that any payments made under a grantback arrangement shall be subject to the terms and conditions that the Secretary deems necessary to accomplish the purposes of the affected program. The SEA and LEA agree to comply with the following terms and conditions under which payment under the grantback arrangement will be made:

(1) Funds awarded under the grantback will be spent in accordance with—

(a) All applicable statutory and regulatory requirements;

(b) The plan that the SEA submitted and any amendments to that plan that are approved by the Secretary; and

(c) The budget that was submitted with the plan and any amendments to the budget that are approved by the Secretary.

(2) In accordance with section 456(c) of GEPA and the SEA's plan, all funds received under the grantback arrangement will be expended by August 31, 1986.

(3) The SEA, on behalf of the LEA, will, not later than January 1, 1987, submit a report to the Secretary which indicates that the funds awarded under the grantback have been spent in accordance with the approved budget.

(4) Separate accounting records will be maintained documenting the expenditures of funds awarded under the grantback arrangement.

Invitation to Comment

The Secretary invites public comments on this notice of intent to award funds under a grantback arrangement to the Mississippi SEA on behalf of the Holmes County LEA. Interested persons may send written comments to Dr. James Spillane at the address at the beginning of this notice. All comments must be received on or before February 12, 1986.

(Catalog of Federal Domestic Assistance No: 84.010, Educationally Deprived Children—Local Educational Agencies)

Dated: February 8, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86-715 Filed 1-10-86; 8:45 am]

BILLING CODE 4000-01-M

National Council on Vocational Education; Public Meeting

AGENCY: National Council on Vocational 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: January 27–28, 1986.

ADDRESS: J.W. Marriott, 14th and Pennsylvania Avenue NW., Washington, DC.

SUPPLEMENTARY INFORMATION: The National Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968, Pub. L. 90-576. The Council is established to:

(A) Advise the President, the Congress, and the Secretary of Education concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

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 9:00 am to 5:00 pm, 2000 L Street NW., Suite 580, Washington, DC 20036.

For further information contact: Carolyn J. Edwards, NCVE Staff at above address. Telephone (202) 634-6110.

Signed at Washington, DC, on January 6, 1986.

Carolyn J. Edwards,

Executive Assistant.

James W. Griffith,

Executive Director.

[FR Doc. 86-694 Filed 1-10-86; 8:45 am]

BILLING CODE 4000-01-M

Education Intergovernmental Advisory Council; Meeting

Correction

In FR Doc. 85-30876 appearing on page 53374 in the issue of Tuesday, December 31, 1985, make the following correction: In the third column, in the first line, "200 L Street" should read "2000 L Street".

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-FC-85-007; OFP Case No. 61053-9271-20, 21-24]

Extension of Decision Period on Petition for Exemption; American Cogen Technology, Inc.

AGENCY: Economic Regulatory Administration; Energy.

ACTION: Notice of Extension of Decision Period on Petition for Exemption by American Cogen Technology, Inc., for a Proposed Facility in Spreckels, California.

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby extends by ninety (90) days to March 17, 1986, the Decision Period within which to either grant or deny the request for a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) filed by American Cogen Technology, Inc. for its proposed electric powerplant in Speckels, California.

Section 501.68(a)(2) of 10 CFR Part 501—Administrative Procedures and Sanctions, Subpart F—allows for the extension of the decision period on an exemption petition to a date certain by publishing such notice in the **Federal Register** and stating the reasons for such extension.

This extension by ERA of the decision to grant or deny the petition is necessary because of uncertainties which have arisen regarding the control technology which will be required for the electric powerplant in order to meet California emission standards. American Cogen Technology, Inc. will attempt to resolve these issues during the extension period.

Issued in Washington, DC, on December 30, 1985.

Robert L. Davies,

Director, Office of Fuels Program, Economic Regulatory Administration.

[FR Doc. 86-652 Filed 1-10-86; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-85-030; OFP Case No. 66018-9290-01-12]

Acceptance of Petition Availability Certification; Ponderay Newsprint Co.

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of Acceptance of Petition for Exemption and Availability Certification by Ponderay Newsprint Company.

SUMMARY: On August 12, 1985, Ponderay Newsprint Company (Ponderay) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption due to a lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum, for a proposed newsprint mill between State Highway 20 and the Pend Oreille River, about a mile south of Usk, Washington from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits the use of petroleum and natural gas as a primary energy source in any new major fuel-burning installation (MFBI) consisting of a boiler. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules governing the exemption based on lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum are found at 10 CFR 503.32.

On September 11, 1985, a 90-day extension letter was sent to the company, requesting additional information as required by § 503.32 (a) and (b). Subsequent to that date the additional information necessary to process this petition was received.

The proposed MFBI for which the petition was filed consists of a boiler of a packaged watertube design rated for 150,000 lb/hr of steam generation. The boiler will be equipped with a forced-draft fan, combination propane/oil burner, economizer, stack flame safeguard control system, combustion control system, feedwater control system, NO_x emission control system and auxiliary supporting systems. Propane is to be used as the primary fuel with No. 1 diesel fuel as the secondary or backup fuel. A major portion of Ponderay's process steam and heating steam demands will be supplied from a reboiler incorporated into a heat recovery system in the mill's thermo-mechanical pulping plant. The packaged boiler is required to supply that remaining portion of steam which cannot be supplied through the thermomechanical heat recovery system. The boiler is scheduled to be available to operate 24 hours a day, 350 days of the year. The Btu input the boiler is expected to be 260 million Btu/hr, causing this facility to be classified as an MFBI under FUA.

ERA has determined that the petition includes sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the Supplementary Information section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding are available upon request at: Department of Energy, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before February 27, 1986. A request for public hearing must also be made within this 45-day public comment period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-045, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Docket No. ERA-FC-85-030 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

John Boyd Coal & Electricity Division, Office of Fuels Programs, Department of Energy, Forrestal Bldg., Rm. GA-045, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 252-4523;

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 252-6947.

SUPPLEMENTARY INFORMATION: Section 212(a)(1)(A)(ii) of the Act and 10 CFR 503.32 provide for a permanent exemption due to a lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. In accordance with the requirements of § 503.32(b). Ponderay's petition includes the following evidence in order to make the demonstrations required by this section:

(1) Duly executed certifications required under paragraph (a) of this section;

(2) Exhibits containing the basis for certifications required under paragraph (a) of this section;

(3) Environmental impact analysis, as required under § 503.13;

(4) Fuels search, as required under § 503.14; and

(5) All data required by § 503.6 (cost calculation).

In processing this exemption, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR 1500 *et seq.*; and DOE's guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action wil be taken on the exemption petition until ERA's NEPA compliance has been completed.

Pursuant to 10 CFR 501.3, ERA hereby accepts Ponderay's petition for a permanent exemption for lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum for its packaged watertube design boiler. ERA retains the right, however, to request additional relevant information at any time during the pendency of these proceedings. As provided in 10 CFR 501.3(b)(4), acceptance of this petition for exemption by ERA does not constitute a determination that the petitioner is entitled to the exemption requested. That determination will be based on the entire record of these proceedings, including any comments received during the public comment period provided for in this notice.

Issued in Washington, DC, on December 31, 1985.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-653 Filed 1-10-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER86-221-000 et al.]

Arizona Public Service Co. et al.; Electric Rate and Corporate Regulation Filings

January 2, 1986.

Take notice that the following filings have been made with the Commission.

1. Arizona Public Service Company

[Docket No. ER86-221-000]

Take Notice that Arizona Public Service Company ("APS"), on December 27, 1985, tendered for filing a Letter Agreement between APS and Electrical District No. 7 ("ED-7") executed December 20, 1985. This Agreement provides for a continuation of the present wheeling, administrative and banking services provided by APS for ED-7 for an interim period of six months or upon execution of a comprehensive agreement, whichever date is shorter.

APS, with the concurrence of ED-7, requests waiver of 18 CFR 35.11 so that the Agreement will become effective upon the expiration of the existing Agreements, December 21, 1985.

The interim charges for the six-months' period (or less if changed by a subsequent filing) were a result of arms-length negotiations and, therefore, APS, with the concurrence of ED-7, request waiver of the filing requirements of 18 CFR 35.13.

Copies of this filing have been served upon the Arizona Corporation Commission and ED-7.

Comment date: January 13, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Electric Energy, Inc.

[Docket ER86-222-000]

Take notice that on December 26, 1985, Electric Energy, Inc. ("EEInc.") tendered for filing Eighth Revised Service Schedule B, Supplemental Power, dated November 14, 1985, to the Interim, Supplemental and Surplus Power Agreement, Amendment No. 5, FERC Rate Schedule No. 8 between EEInc. and its Sponsoring Companies: Central Illinois Public Service Company ("CIPS"), Illinois Power Company ("IP"), Kentucky Utilities Company ("KU"), and Union Electric Company ("UE"). The Sponsoring Companies concurred in the filing. EEInc. states that Eighth Revised Service Schedule B provides for a change in the pricing of supplemental power by the Sponsoring Companies to EEInc. for sale to the United States Department of Energy ("DOE").

EEInc. requests an effective date on September 1, 1985 and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been sent to the Sponsoring Companies, the Illinois Commerce Commission, the Kentucky Public Service Commission, the Missouri Public Service Commission, and the United States Department of Energy.

Comment date: January 13, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Idaho Power Company

[Docket No. ER86-220-000]

Take notice that on December 23, 1985, the Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during October, 1985, along with cost justification for the rate charged. This filing includes that the following supplements:

Utah Power & Light Company—Supplement 48
Sierra Pacific Power Company—Supplement 44
Montana Power Company—Supplement 38
Portland General Electric Company—Supplement 40
Southern California Edison Company—Supplement 34
San Diego Gas & Electric Company—Supplement 29
Washington Water Power Company—Supplement 33
Los Angeles Water & Power Company—Supplement 29
Puget Sound Power & Light Company—Supplement 19
Pacific Gas & Electric Company—Supplement 15
Western Area Power Administration—Supplement 8
City of Burbank—Supplement 25
City of Glendale—Supplement 27
City of Pasadena—Supplement 25

Comment date: January 13, 1986, in accordance with Standard Paragraph H at the end of this notice.

4. The Kansas Power and Light Company

[Docket No. ER86-223-000]

Take notice that on December 26, 1985, The Kansas Power and Light Company (KPL) tendered for filing a newly executed renewal contract dated November 26, 1985, with the City of DeSoto, DeSoto, Kansas for wholesale service to that community. KPL states that this contract permits the City of DeSoto to receive service under rate schedule WSM-12/83 designated Supplement No. 9 to R. S. FERC No. 179. The proposed effective date is December 1, 1985. The proposed contract change provides essentially for the ten year extension of the original terms of the presently approved contract. In addition, KPL states that copies of the contact have been mailed to the City of DeSoto and the State Corporation Commission.

Comment date: January 13, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin), and Lake Superior District Power Company

[Docket No. ER86-219-000]

Take notice that on December 23, 1985, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) and Lake Superior District Power Company jointly tendered for filing revised Exhibits VIII and IX to the agreement to coordinate planning and Operations and Interchange Power and Energy Among Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) and Lake Superior District Power Company.

Exhibit VIII sets forth the specification of average monthly coincident peak demands for calendar year 1986 for each of the Companies. A statement of the impacts of these coincident peak demands on each Company has been filed. These coincident peak demands are determined in substantially the same fashion as the coincident peak demands for calendar year 1985 which were determined in FERC Docket ER84-690-000.

Exhibit IX sets forth a specification of depreciation rates certified by the Wisconsin Public Service Commission for NSP (Wisconsin) and LSDP. These depreciation rates were certified in dockets 4220-DU-2 and 3020-DU-1 for NSP (Wisconsin) and LSDP respectively. The depreciation rates are effective January 1, 1986.

The Companies request an effective date of January 1, 1986, for the exhibits. Copies of the filing letter and revised Exhibits VIII and IX have been served upon the wholesale customers of the three affiliates. Copies of the filing have been mailed to the state commissions of Michigan, Minnesota, North Dakota, South Dakota, and Wisconsin.

Comment date: January 13, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. Public Service Company of New Hampshire

[Docket No. ER85-655-000]

Take notice that December 24, 1985, Public Service Company of New Hampshire (PSNH) tendered for filing a request that the Commission extend a previously granted waiver of the fuel adjustment clause regulations. PSNH said the relief sought and the basis for that relief are as follows:

On July 30, 1985, PSNH tendered for filing revisions to its fuel adjustment clause to defer the pass-through of fuel cost savings from generation of test power by treating such savings as a reduction in plant investment rather than as a reduction in current fuel costs, in accordance with Commission policy. The PSNH requested waiver of the fuel clause regulations to permit the deferral. The filing was unopposed and was accepted to become finally effective by letter order of September 27, 1985 in Docket No. ER85-655-000.

The revisions to the fuel adjustment clause are cast in broad enough terms to permit deferral of fuel cost savings from any test generation regardless of source. However, the request for waiver was related to test generation at PSNH's Schiller Station upon conversion of three oil-burning units to coal.

PSNH is a joint owner of the Millstone No. 3 and Seabrook No. 1 nuclear units which are expected to commence generating test power in January and June of 1986, respectively. PSNH wishes to continue to defer fuel cost savings from test generation at those units under the same revisions to its fuel adjustment clause which are already in effect. It is here requesting the Commission to extend the waiver of the regulations allowed in Docket No. ER85-655-000 to permit PSNH to calculate its fuel adjustment according to those revisions.

Comment date: January 13, 1986, in accordance with Standard Paragraph E at the end of this notice.

7. Virginia Electric and Power Company

[Docket No. EC 86-10-000]

Take notice that on December 24, 1985, Virginia Electric and Power Company (Applicant) filed an application pursuant to § 203 of the Federal Power Act with the Federal Energy Regulatory Commission for authorization to enter into a Bill of Sale with The Town of Tarboro, North Carolina (Tarboro) by which Applicant will sell and Tarboro will pursuant substation facilities within Tarboro, North Carolina. The purchase price is $145,787.

Applicant is incorporated under the laws of the State of Virginia with its principal business office at Richmond, Virginia and is qualified to transact business in the states of Virginia, North Carolina and West Virginia. Applicant is engaged, among other things, in the business of generation, distribution and sale of electric energy in substantial portions of the State of Virginia.

Applicant represents that the proposed sale of these facilities will facilitate the efficiency and economy of operation and service to the public by allowing Tarboro to utilize the substation facilities, now owned by Applicant, to provide electric service to Tarboro's retail customers.

Comment date: January 13, 1986, in accordance with Standard Paragraph E at the end of this notice.

8. Illinois Power Company

[Docket No. ES84-23-000]

Take notice that on December 27, 1985 Illinois Power Company (Applicant) filed a Fourteenth Supplement to its application in Docket No. ES84-23-000 seeking a supplemental order pursuant to Section 204 of the Federal Power Act authorizing the extension of the final maturity date on the short-term notes that may be issued by Applicant to December 31, 1987 from that previously authorized by the supplemental order of the Commission issued February 9, 1984 in Docket No. ES84-23-000.

Applicant is incorporated under the laws of the State of Illinois and operates as an electric and gas public utility therein. The notes proposed to be issued pursuant to this Fourteenth Supplemental Application will be unsecured promissory notes with maturity dates not more than 365/6 days after their respective dates of issue, and in any event will be payable on or before December 31, 1987. The notes will be issued in an aggregate principal amount of not to exceed $500,000,000 outstanding at any one time, either to (1) commercial banks under the provisions of revolving credit agreements, or otherwise, (2) commercial paper dealers, or (3) regular purchasers of commercial paper for their own account. With respect to such of the notes as are issued to commercial banks, the interest rate applicable to the notes shall not exceed the greater of: (i) the prime rate, (ii) some margin above LIBOR (such rate not to exceed one half of one percent), or (iii) some other interest rate base not to exceed the other two options, such rates prevailing periodically during the term thereof as fully set forth in the terms of this application, and with respect to such notes as are issued to commercial paper dealers or to regular purchasers of commercial paper for their own account, the interest rate applicable to the notes will be the market rate (or discount rate) on the date of issuance for commercial paper of comparable quality and of the particular maturity sold.

The net proceeds from the issuance of the notes will be added to working capital for ultimate application toward the cost of gross additions to utility properties.

Comment date: January 13, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. 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.

H. Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before the comment date. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-657 Filed 1-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER86-228-000 et al.]

Consumers Power Co. et al., Electric Rate and Corporate Regulation Filings

January 7, 1986.

Take notice that the following filings have been made with the Commission:

1. Consumers Power Company

[Docket No. ER86-228-000]

Take notice that Consumers Power Company ("Consumers") on December 30, 1985 tendered for filing Consumers' Transmission Service Agreement ("Transmission Agreement") with Michigan Public Power Agency ("MPPA"), dated as of December 20, 1985.

The Transmission Agreement provides for transmission of electric capacity and energy sold by MPPA to the municipalities of Charlevoix, Harbor Springs, Petoskey and Chelsea. Delivery to Petoskey will be at 46,000 volts, while delivery to Charlevoix, Harbor Springs and Chelsea will be at primary voltage levels below 46,000 volts.

Copies of the filing were served on MPPA and on the Michigan Public Service Commission.

Comment date: January 17, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Gulf Power Company

[Docket No. ER86-229-000]

Take notice that on December 30, 1985, Gulf Power Company (Gulf) filed herein revised sheets to its FERC Electric Tariffs providing for a change that allows the Company to adjust base rate bills to reflect the shift in responsibility for Florida Gross Receipts Tax payment pursuant to Chapter 203, Florida Statutes and Department of Revenue Rule 12B-6.04(2) effective January 1, 1985. The change also reflects an increase in the Florida State Tax rate pursuant to Chapter 212, Florida Statutes. These tariff revisions are proposed to be effective for service on January 1, 1985; and Gulf, therefore, request waiver of the Commission's notice requirements to allow such effective dates.

Each of the affected wholesale customers has consented to the proposed tariff change and the proposed refund credit as evidenced by the executed letters of consent submitted with the filing.

Comment date: January 17, 1986, in acordance with Standard Paragraph E at the end of this notice.

3. Iowa-Illinios Gas and Electric Company

[Docket No. ER86-224-000]

Take notice that Iowa-Illinois Gas and Electric Company (Iowa-Illinois), 206 East Second Street, P.O. Box 4350, Davenport, Iowa 52808, on December 27, 1985, tendered for filing pursuant to §§ 35.15 and 35.13 of the Regulations under the Federal Power Act, a Notice of Cancellation of wholesale electric service in respect of Sherrard Power System (Sherrard), Orion, Illinios, the only Rate Schedule WES purchaser under Iowa-Illinois' FPC Wholesale Electric Tariff Original Volume No. 1, proposed effective on filing Articles of Merger of Sherrard with Iowa-Illinois with the Secretary of State of Illinois. The effective date of cancellation, contingent upon the effectuation of a Plan of Merger between the parties dated October 7, 1985, is stated to be both a consequence of, and coincident with, the effectuation of a corporate merger under which Iowa-Illinois is the surviving constituent corporation. Accordingly, waiver of the notice requirements is requested.

Also tendered for filing, to become effective concurrently, are the following revised sheets to Iowa-Illinois' Wholesale Electric Tariff, Original Volume No. 1 to reflect the consequences of the merger necessitating the Notice of Cancellation and which includes the cancellation of Rate Schedule WES, heretofore predicated on service to Sherrard:

1st Revised Sheet Nos. 4, 16, 17, 20, and 23
2nd Revised Sheet Nos. 1 and 6
3rd Revised Sheet Nos. 2 and 22
5th Revised Sheet No. 5

Company states the revisions proposed do not affect the contract provisions, services, rates, or billings as to any other purchase under the Wholesale Electric Tariff, but maintain continuity of pagination for the convenience of the recipients, reserving for future use the basis sheet number designations.

Company states an executed copy of the Notice of Cancellation with a complete copy of the filing was mailed to Sherrard, and a complete, copy of the filing was also mailed to the Cities of Buffalo, Callender, Farnhamville, and Eldridge, Iowa; the Iowa State Commerce Commission; and the Illinois Commerce Commission.

Comment date: January 17, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Iowa-Illinois Gas and Electric Company

[Docket No. ER86-226-000]

Take notice that Iowa-Illinois Gas and Electric Company (Iowa-Illinois), 206 East Second Street, P.O. Box 4350, Davenport, Iowa 52808, on December 30, 1985, tendered for filing, pursuant to § 35.13(a)(2)(ii) of the Regulations under the Federal Power Act, a One-Time Billing Adjustment (Adjustment), Original Sheet No. 6.1 of its Rate Schedule WES and Original Sheet No. 9.1 of its Rate Schedule WES-M, FPC Wholesale Electric Tariff, Original Volume No. 1. Iowa-Illinois proposes under this Adjustment to refund to Sherrard Power System (Sherrard) $20,326; to City of Farnhamville, Iowa (Farnhamville) $3,967; to City of Buffalo, Iowa (Buffalo) $1,357; and to City of Callender, Iowa (Callender) $544. Iowa-Illinois states the amounts proposed to be refunded represent the difference between the amounts collected from the respective wholesale customers under Rate Schedules WES and WES-M for spent nuclear fuel disposition costs

(SNFDC) attributable to nuclear fuel burned prior to April 7, 1983 and the allocable amounts paid by Iowa-Illinois on June 28, 1985 to the Department of Energy for SNFDC attributable to nuclear fuel burned prior to April 7, 1983.

Iowa-Illinois states the Adjustment refunds will be made, by check, within 30 days after the acceptance of the filing by the Commission.

Iowa-Illinois states that copies of the filing were served upon Sherrard, Farnhamville, Buffalo, Callender, the Iowa State Commerce Commission and the Illinois Commerce Commission.

Comment date: January 17, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Pacific Power & Light Company, an assumed business name of PacifiCorp.

[Docket No. ER86-227-000]

Take Notice that Pacific Power & Light Company (Pacific), an assumed business name of PacifiCorp, on December 30, 1985, tendered for filing, in accordance with Section 35.30 of the Commission's Regulations, Pacific's Revised Appendix 1 for the state of Montana and Bonneville Power Administration's (Bonneville) Determination of Average System Cost (ASC) for the state of Montana (Bonneville's Docket No. 5-A4-8501)]. The Revised Appendix 1 calculates the ASC for the state of Montana applicable to the exchange of power between Bonneville and Pacific.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective April 22, 1985, which it claims is the date of commencement of service.

Copies of the filing were supplied to Bonneville, the Montana Public Service Commission, and Bonneville's Direct Service Industrial Customers.

Comment date: January 17, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. Utah Power and Light Company

[Docket No. ER84-572-004]

Take notice that on December 9, 1985 Utah Power and Light Company tendered for filing a compliance filing pursuant to Commission order dated November 20, 1985.

Comment date: January 15, 1986, in accordance with Standard Paragraph H at the end of this notice.

7. Wisconsin Power and Light Company

[Docket No. ER84-576-011]

Take notice that on December 20, 1985, Wisconsin Power and Light Company tendered for filing a refund report in compliance with the Commission's settlement approval dated November 6, 1985.

Comment date: January 15, 1986, in accordance with Standard Paragraph H at the end of this notice.

8. Sherrard Power System and Iowa-Illinois Gas and Electric Company

[Docket No. EC86-11-000]

Take notice that on December 27, 1985, Sherrard Power System (Sherrard), an Illinois corporation with its principal office at 1004 Fourth Street, P.O. Box 97, Orion, Illinois 61273, and Iowa-Illinois Gas and Electric Company (Iowa-Illinois), an Illinois corporation with its principal Office at 206 East Second Street, P.O. Box 4350, Davenport, Iowa 52808, filed a Joint Request and Application for Disclaimer of Jurisdiction, or in the Alternative, for Order Authorizing Merger and Associated Acquisition of Securities pursuant to Section 203 of the Federal Power Act and Part 33 of the Commission's Regulations.

Applicants request this Commission to disclaim jurisdiction over the facilities of Sherrard. It is stated that Sherrard's retail system is contiguous to that of Iowa-Illinois, but that Sherrard has no generation of its own, does not sell electric energy at wholesale, and is not connected with the facilities of any person other than Iowa-Illinois, currently its sole and total-requirements electric supplier.

In the alternative, Applicants seeks authorization for a merger and associated acquisition by Iowa-Illinois of securities of Sherrard, and related transactions, under a Merger Related Agreement and an associated Plan of Merger each dated October 7, 1985, to be effected pursuant to the Illinois Business Corporation Act of 1983 as a statutory merger with Iowa-Illinois as the surviving entity, effective upon the filing of Articles of Merger with the Secretary of State of Illinois.

It is stated the negotiated arrangements include the exchange by the debt holders of the Sherrard debt for Iowa-Illinois' First Mortgage Bonds, redemption by Sherrard of all issued and outstanding Sherrard Preferred Stock, from Sherrard's cash on hand, supplemented, if required, from loan sources obtained by Sherrard (the repayment of which will be guaranteed by Iowa-Illinois), and, subject to approval of the Sherrard common shareholders, conversion of Sherrard common shares issued and outstanding at the effective time of merger into common shares of Iowa-Illinois. Applicants state the merger would be accounted for as a pooling-of-interests, from which no acquisition adjustment results, with assets acquired ultimately shown on the books of Iowa-Illinois at original cost less accumulated depreciation.

After the merger, it is stated, the facilities of Sherrard will continue to be used for the distribution of electric energy to serve the areas now served by Sherrard, under rules, regulations, terms and conditions of service, or rates applicable to what will be known as Iowa-Illinois' Sherrard Power System District, pursuant to regulation of the Illinois Commerce Commission.

It is stated the current wholesale electric service now rendered to Sherrard is proposed to be cancelled, and a notice of cancellation and associated revisions, all proposed effective with the merger, to Iowa-Illinois' FPC Wholesale Electric Tariff Original Volume No. 1 are the subject of a related filing pursuant to Part 35 of the Commission's Regulations.

Applicants state a copy of the filing has been retained by each of them and mailed to the Illinois Commerce Commission and the Iowa State Commerce Commission.

Comment date: January 17, 1986, in accordance with Standard Paragraph E at the end of this document.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. 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.

H. Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before the comment date. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-659 Filed 1-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85-1-000 (Parts A-D)]

Regulation of Natural Gas Pipeline After Partial Wellhead Decontrol (Carbonaire Co., Inc.); Order Denying Request for Clarification

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

Issued January 7, 1986.

On December 12, 1985, Carbonaire Co., Inc. filed a request for emergency clarification, or waiver, of the transitional provisions of the regulations adopted in Order No. 436.[1] In July 1985, Carbonaire entered into a written contract with Transcontinental Gas Pipe Line Corporation (Transco) for interruptible transportation of gas to Carbonaire pursuant to Order No. 319. The contract is for a two-year term, renewable on a month-to-month basis for five years. Carbonaire has a high priority end use for the gas as a feed stock. Gas deliveries commenced prior to October 9, 1985.

On December 2, 1985, Transco ceased transporting the gas due to capacity restraints on its main line. Carbonaire anticipates that these capacity restraints on Transco's system will not be alleviated during the current winter heating season.

Carbonaire states that it had a verbal understanding with Transco whereby Transco would receive the gas for Carbonaire from Columbia Gas Transmission Company at a receipt point at Renovo, Pennsylvania, in the event that the gas could not be transported on Transco's main line. Carbonaire states that gas had, in fact, been transported to it by Transco from Renovo as late as April of 1985, pursuant to a prior transportation agreement.[2] Carbonaire states that Transco did not include the Renovo delivery point in the contract signed in July 1985 because of Transco's policy not to list receipt points that had been inactive for more than three weeks, and because Transco believed that the contract could be amended at any time to include that receipt point should capacity constraints make it necessary to do so.

In its petition, Carbonaire states that the curtailment of its gas by Transco has necessitated the purchase of alternative gas at a price so high as to render its operations noncompetitive. Carbonaire states that it will have to shut down its plant if relief is not forthcoming.

The Commission previously clarified that contracts could not be amended after October 9, 1985 to add new receipt or delivery points without invoking the non-discriminatory access provisions of Order No. 436.[3] We have never considered an oral contract alone to be sufficient to allow transitional treatment. We have previously clarified that service commenced prior to October 9, 1985 pursuant to a verbal agreement may continue where there have been actual deliveries under the contract.[4] Here there have been deliveries to the Renovo delivery point, but only under a prior contract which explicitly listed Renovo as a delivery point. There have been no deliveries to Renovo under the existing contract, which would give substance to the oral contract. We find that Carbonaire's verbal understanding with Transco at best merely committed the parties to amend their written agreement at a later date, to add Renovo as a receipt point if it were needed. Such an amendment now, however, would constitute a new agreement that would not qualify for transitional treatment. We recognize the hardship that Carbonaire may experience if Transco cannot transport gas under its existing contract. However, to grant relief here would be to reverse our prior position on oral and modified contracts, which we believe best balances the interests of parties to transitional arrangements for transportation with the goals of Order No. 436. Accordingly, Carbonaire's request for clarification is denied.

We also deny Carbonaire's request for a waiver. The Commission has granted waivers of the restrictions in the transitional provisions when significant facilities were constructed, or substantial funds were expended, in reliance on a transportation contract executed pror to the issuance of Order No. 436.[5] In the case before us, however, Carbonaire did not expend substantial funds or construct new facilities prior to October 9, 1985.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-650 Filed 1-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85-1-000 (Parts A-D)]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Midwestern Gas Transmission Co.); Order Granting Request for Waiver

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

Issued January 7, 1986.

On November 13, 1985, pursuant to Rule 212 of the Commission's Rules of Practice and Procedure, 18 CFR 385.212, Midwestern Gas Transmission Company (Midwestern) filed a request for clarification. Midwestern asks whether it may "elect to perform transportation services under Order No. 436 on its Northern System without subjecting its Southern System to the requirements of Order No. 436." [1] Midwestern explains that its two "systems" are operated independently, with separate gas supplies, separate customers, and separate tariffs and are not physically connected.

From the inception of the pipeline, the Commission has treated Midwestern's Northern and Southern Systems separately. The Commission certificated the Southern System in Opinion No. 320, 21 F.P.C. 653 (1959), and the Northern System in Opinion No. 331, 22 F.P.C. 775 (1959). Those two certificates followed the Commission's rejection of an earlier proposal by Midwestern to build a single, integrated pipeline from Tennessee to the Canadian border, Opinion No. 316, 20 F.P.C. 575, 585, 593 (1958), because "the system was not designed so that the two sources of supply [one Canadian, the other domestic] could be used alternatively for the greater part of the customers at either end." After Order No. 452 (which established the purchased gas adjustment mechanism), the Commission authorized separate PGA clauses for Midwestern's Northern and Southern systems in 1973. 50 F.P.C. 225. Having separate sources of supply is as true for Midwestern's two systems today as it was when the Commission certificated the two pipelines in 1959.

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[1] 33 FERC ¶ 61.007, 50 FR 42408 (October 18, 1985)

[2] Carbonaire has a contract with Columbia to transport the gas to the Renovo receipt point, and gas was in fact so transported pursuant to that contract prior to October 9, 1985.

[3] Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Hadson Gas Systems, Inc.), 33 FERC ¶ 61,142 (October 30, 1985), 50 FR 49369 (December 2, 1985).

[4] Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Pacific Gas and Electric Company) 33 FERC ¶ 61,155 (October 31, 1985), 50 FR 49364 (December 2, 1985).

[5] Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Judel Glassware), 33 FERC ¶ 61,386 (December 17, 1985).

[1] 33 FERC ¶ 61,007, 50 FR 42408 (October 18, 1985).

The regulations adopted in Order No. 436 are framed in terms of pipeline companies, and do not distinguish between divisions of companies. However, in light of Midwestern's historical operation, as described above, we hereby waive the regulations adopted by Order No. 436 to the extent necessary to enable Midwestern to perform transportation services under Order No. 436 on its Northern System without subjecting its Southern System to the requirements of those regulations. We note that this pipeline structure predated the issuance of Order No. 436, and could in no way be construed as an attempt to circumvent the purpose of the Regulations.[2] Midwestern's Northern and Southern Systems have historically operated, in effect, as two separate pipelines.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-651 Filed 1-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP86-235-000 et al.]

Columbia Gas Transmission Corp. et al.; Natural Gas Certificate Filings

January 2, 1986.

Take notice that the following filings have been made with the Commission:

1. Columbia Gas Transmission Corporation

[Docket No. CP86-235-000]

Take notice that on December 12, 1985, Columbia Gas Transmission Corporation (Columbia Gas), 1700 MacCorkle Avenue, S.E., Charleston West Virginia 25314, filed in Docket No. CP86-235-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authority to abandon certain facilities and points of delivery under the blanket authorization issued in Docket No. CP83-76-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia Gas requests authorization for the abandonment of approximately 2.0 miles of pipeline ranging in size from 2 through 6-inch, 29 points of delivery to existing wholesale customers and certain related facilities (see Appendix). It is asserted that the facilities and points of delivery proposed for abandonment are no longer used or useful in Columbia Gas' operations and would not result in the loss of any gas supply or the termination of service to any existing wholesale customer. Columbia Gas states it has been advised by its wholesale customers that the proposed abandonments would not result in the termination of service to any existing retail consumers.

Appendix

(1) Abandonment of one point of delivery to Columbia Gas of Ohio, Inc. (COH), in Morgan County, Ohio, used for service no longer required by COH.

(2) Abandonment of one point of delivery to Mountaineer Gas Company (MGC) in Kanawha County, West Virginia, used for service which can be provided to MGC at another existing point of delivery.

(3) Abandonment of one point of delivery to COH in Vinton County, Ohio, for service to a consumer converted to an alternative fuel.

(4) Abandonment of one point of delivery to COH in Wayne County Ohio, for service to a consumer converted to an alternative fuel.

(5) Abandonment of one point of delivery to COH, 161 feet of 2-inch pipeline and related facilities in Jackson County, Ohio, for service to an industrial plant now closed.

(6) Abandonment of 23 points of delivery to COH, approximately 0.9 mile of 3-inch pipeline by sale to COH, and 1.1 miles of 6-inch pipeline in Columbia County, Ohio, for service to a distribution facility now served at another delivery point.

(7) Abandonment of one point of delivery to COH and related facilities in Perry County, Ohio, for service to an industrial plant now closed.

Comment date: February 18, 1986, in accordance with Standard Paragraph G at the end of this notice.

2. Panhandle Eastern Pipe Line Company

[Docket No. CP86-232-000]

Take notice that on December 12, 1985, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP86-232-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for National Steel Corporation (National) and the construction and operation of two delivery points, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 67,000 Mcf of natural gas per day on an interruptible basis for National from a receipt point in Major County, Oklahoma, to National at two points in Wayne County, Michigan. It is stated that the gas would be delivered by Union Texas Products Corporation to Applicant for National's account at an existing interconnection between Applicant and Union Texas Petroleum Corporation in Major County. Applicant states that it would transport the gas and deliver it at interconnections which it proposes to construct on applicant's 16-inch Ontario line in the Cities of Ecorse and River Rouge in Wayne County, Michigan.

Applicant estimates the cost of the proposed interconnections to be $188,000. It is stated that National would reimburse Applicant for this cost.

Applicant also requests authorization to add or delete receipt points for the transportation. It is stated that Applicant would report changes to the Commission annually.

Applicant proposes to charge National its on-system transportation charge of 39 cents per Mcf and the Gas Research Institute funding fee of 1.25 cents per Mcf.

Comment date: January 23, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. Panhandle Eastern Pipe Line Company

[Docket No. CP86-242-000]

Take notice that on December 12, 1985, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP86-242-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Teepak, Inc. (Teepak) through June 30, 1986, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to implement a transportation agreement among Applicant, Illinois Power Company (Illinois Power), and Teepak dated December 13, 1985. Except for the term, this agreement is said to represent the same terms as the previous § 157.209 transportation authority granted in Docket No. CP85-92-000. Applicant proposes to transport for Teepak up to 3,800 Mcf of natural gas per day from various existing points of receipt in Hansford County, Texas, and Kingfisher, Ellis, Beckham, Woodward, Dewey and Custer Counties, Oklahoma, to the existing point of interconnection between the facilities of Illinois Power

[2] *See* the Preamble to Order No. 436 (50 FR at 42432-42433).

and Applicant at the Danville sales meter, in Vermilion County, Illinois. The seller in this transaction is said to be Consolidated Fuel Supply. Illinois Power is said to be an existing sales customer of Applicant and would deliver the gas to Teepak. Applicant states that it would be compensated at a rate under its Rate Schedule OST, which currently provides for 42.0 cents for contract service and 87.0 cents for excess service plus a 1.24-cent GRI surcharge for each MMBtu redelivered at the point of redelivery.

Applicant also requests authority to add points of receipt and delivery subject to certain reporting requirements, and authority to construct new points of receipt subject to the annual reporting requirements for construction activity pursuant to its blanket certificate in Docket No. CP83–83.

Comment date: January 23, 1986, 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. 86–656 Filed 1–10–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86–136–000]

Champlin Petroleum Co.; Application for Blanket Certificate of Public Convenience and Necessity and for an Order Permitting and Approving Abandonment and Pre-Granted Abandonment

January 7, 1986.

Take notice that on December 23, 1985, Champlin Petroleum Company (Champlin) 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(i) authorizing the sale for resale in interstate commerce of certain natural gas produced by Champlin and its joint interest owners, and (ii) authorizing blanket temporary abandonment and pre-granted permanent abandonment of certain sales as described therein, to effectuate the sale and purchase of gas on the spot market, as more fully described in the Application, which is on file with the Commission and open for public inspection. Champlin also requests that said blanket authorization be made effective on or before January 1, 1986.

Champlin states that industry experience with the spot market to date demonstrates that the blanket authority as requested is consistent with the Commission's rules and regulations, *i.e.*, Parts 154 and 157 requirements, and is necessary to be compatible with the spot market. Further, Champlin states that, absent said blanket authorization, the flexibility and efficiency necessary for successful operation of the spot market would be hindered. Champlin intends to enter into blanket sales agreements in order to improve effective management of these spot market arrangements.

Specifically, Champlin requests that the Commission authorize Champlin effective on or before January 1, 1986:

(1) To make sales for resale in interstate commerce, without supply or market limitations, of NGA gas with an applicable maximum lawful ceiling price higher than the Natural Gas Policy Act (NGPA) Section 109 ceiling price that is produced from various interests owned by Champlin;

(2) To make sales for resale in interstate commerce, without supply or market limitations, of NGA gas with an applicable maximum lawful ceiling price higher than the NGPA section 109 price and produced from various interstate attributable to other owners, having interests in the same wells as Champlin, to the extent that such joint interest owners agree to same;

(3) To abandon, temporarily, sales for resale of NGA gas with an applicable maximum lawful ceiling price higher than the NGPA section 109 price and previously certificated by the Commission, to the extent that such gas is released by interstate pipelines for resale in the spot market to third parties; and (4) To abondon (pursuant to pre-granted abandonment authority) any sale for resale in the spot market authorized pursuant to any blanket certificate issued herein.

Champlin is requesting the authorization described herein only to the extent that any element of such authorization is not granted under the Final Rule.

Sales proposed to be made by Champlin on behalf of itself and its joint interest owners will not involve a dedication of reserves but will be based on periodic nominations, either by purchasers or by Champlin. The sales volumes, prices, purchasers, delivery points, transporter, and supply source will vary. Although sales made by Champlin to end-users would qualify as direct sales, and thus not require a sales certificate, other sales under the blanket authority requested will be for resale and will vary on a periodic basis, depending on the nominations.

Champlin proposes to sell and deliver to various spot gas purchasers all or a portion of the gas Champlin determines is available for sale at the most

favorable terms for Champlin for a particular month. Champlin will not be obligated to sell gas pursuant to any nomination or proposed nomination until the exact volumes, terms and conditions, and prices are agreed to by Champlin and a purchaser. The actual contract between Champlin and the spot gas purchaser may be for all or any portion of the quantity which was set out in the nomination or proposed nomination.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 15, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests 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 in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-645 Filed 1-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-18-002]

Texas Gas Transmission Corp.; Filing of Revised Tariff Sheet

January 7, 1986.

Take notice that on December 31, 1985 Texas Gas Transmission Corporation (Texas Gas) tendered for filing Substitute First Revised Sheet No. 10 and Substitute Second Revised Sheet No. 10 to its FERC Gas Tariff, Original Volume No. 1.

The revised tariff sheets are being filed to reflect rate revisions from Tennessee Gas Pipeline Co. pursuant to Ordering Paragraph (D) of the Commission's Order issued December 20, 1985, in Docket Nos. TA86-1-18-000 and TA86-1-18-001.

Copies of the revised tariff sheet are being mailed to Texas Gas' jurisdictional customers and interested state 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 384.211 and 385.214). All such motions or protests should be filed on or before January 15, 1986. 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. 86-646 Filed 1-10-86; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Energy Research Advisory Board; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting.

Name: Energy Research Advisory Board (ERAB).

Date & Time: February 5, 1986 from 8:45 a.m. to 5:20 p.m. February 6, 1986 from 8:45 a.m. to 12:30 p.m.

Place: Department of Energy, 1000 Independence Avenue, SW, Room 8-E089, Washington, DC 20585.

Contact: Sarah Goldman, Department of Energy, Office of Energy Research, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 252-5444.

Purpose of the Board: To advise the Department of Energy (DOE) on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda: The specific agenda items and times are frequently subject to last minute changes. Visitors planning to attend for a specific topic should confirm the time prior to and during the day of the meeting.

Tentative Agenda

February 5, 1986

8:45 a.m. Informal Discussion
9:00 a.m. Earth Sciences Research
9:30 a.m. Meeting with the Under Secretary Salgado
10:50 a.m. Briefing on the Superconducting Super Collider
11:45 a.m. Lunch
1:00 p.m. Cogeneration Briefing
1:50 p.m. Report on Nuclear Panel
4:30 p.m. Public Comment (10 minute rule)
5:00 p.m. Adjourn

February 6, 1986

8:45 a.m. Informal Discussion
9:00 a.m. Fusion Briefing
10:15 a.m. Chemistry Panel Report
11:15 a.m. Briefing on Electromagnetic Pulse
11:50 a.m. Briefing on National Energy Policy Plan V
12:30 p.m. Public Comment (10 minute rule)
12:40 p.m. Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Sarah Goldman at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC between 9 a.m and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on January 8, 1986.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 86-724 Filed 1-10-86; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

In re Applications of Nancy Sharp et al., Hearing Designation Order MM Docket No. 85-395:

Nancy Sharp	BPCT-850708KG
Meredith Corporation	BPCT-850827KE
Lonny Walter Partnership	BPCT-850828KE
West Florida Television Limited.	BPCT-850828KQ

For Construction Permit, Inverness, Florida.

Adopted: December 23, 1985.

Released: January 7, 1986.

By the Chief, Video Services Division.

1. The Commission, by the Chief, Video Services Division, acting pursuant to delegated authority has before it the

above-captioned mutually exclusive applications of Nancy Sharp (Sharp), Meredith Corporation (Meredith), Lonny Walters Partnership (Walters), and West Florida Television Limited (West) for authority to construct a new commerical television station on Channel 64, Inverness, Florida.

2. Section 73.3555(a)(3) of the Commission's Rules states that no license for a television broadcast station shall be granted to any party if such party directly or indirectly owns, operates, or controls one or more broadcast stations in the same service and the grant of such license will result in any overlap of the Grade B contours of the existing and proposed stations. Sharp's application indicates that her husband H. James Sharp is a limited partner and holds a 49% equity interest in TV–68, an applicant for a new television station in Clermont, Florida. The Grade B contours of the proposed stations in Inverness and Clermont would overlap. There is a rebuttable presumption that the interests of each spouse are attributable to the other. However, Sharp has stated in her application, that her husband would divest himself of all interest in, and connection with TV–68, Clermont, Florida, upon the grant of a construction permit of her proposed television station. Accordingly, any grant of a construction permit to Sharp will be conditioned upon her husband H. James Sharp divestiture of all interest in, and connection with TV–68, Clermont, Florida.

3. Section 73.3555(a)(3) of the Commission's Rules provides that no license for a television broadcast station shall be granted to any party if such party directly or indirectly owns, operates, or controls one or more television broadcast stations and the grant of such license will result in any overlap of the Grade B contours of the existing and proposed stations. Note 5 to § 73.3555 states that "paragraphs (a)–(d) of this Section will not be applied to cases involving television stations which are primarily "satellite" operations, and such cases will be considered on a case-by-case basis in order to determine whether common ownership, operation, or control of the stations in question would be in the public interest." Meredith intends to operate its proposed facility as a satellite of commonly owned station WOFL(TV), Orlando, Florida. The other applicants propose a full-service operation. There would be Grade B overlap of Station WOFL(TV), Orlando, Florida and the proposed station. Accordingly, an appropriate issue will be specified.

4. West is a limited partnership comprised of two general partners and eight limited partners, one of whom, Roberta R. Johnson, holds a 20% equity interest in the applicant and is also 100% owner of Sumter County Radio, and applicant for a new AM broadcast station (BP–850313AB) in Bushnell, Florida. In the event both applications were granted, West's proposed Grade A contour would envelop Bushnell. Section 73.3555(b)(1) of the Commission's Rules provides that no license for a television broadcast station shall be granted to any party if such party directly or indirectly owns, operates, or controls one or more AM broadcast stations and the grant of such license will result in the Grade A contour of the proposed television station encompassing the entire community to which the AM station is licensed. Note 4 to this rule provides, *inter alia*, that applications for UHF television facilities "will be handled on a case-by-case basis in order to determine whether common ownership, operation, or control of the stations in question would be in the public interest." We have recently held, however, that limited partnership interests are nonattributable where the limited partner would not be involved in any material respect in the management or operation of the proposed broadcast station. *Attribution of Ownership Interests*, 97 FCC 2d 997 (1984), *reconsideration granted in part*, 58 RR 2d 604 (1985). In adopting the new attribution standards, the Commission stated that its action did not affect the substantive aspects of the cross-interest policy, which is would continue to administer on a case-by-case basis. West has not indicated that Ms. Johnson will be insulated from the management or operation of the proposed television station. In the absence of this information regarding Ms. Johnson's involvement in the management and operation of the proposed station, we conclude that the interest is attributable. Even if Ms. Johnson were sufficiently insulated so as to avoid attribution, her ownership interests in the radio and television stations raise a cross-interest question. Accordingly, a multiple ownership/cross-interest issue will be designated.

5. No determination has been reached that the tower heights and locations proposed by Meredith, Walters, and West would not each constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.

6. Section II, Item 10, FCC Form 301, inquiries whether documents, instruments, agreements or understandings for the pledge of stock of a corporate applicant, as security for loans or contractual performance, provide that (a) voting rights will remain with the applicant, even in the event of default on the obligation; (b) in the event of defalut, there will be either a private or public sale of the stock; and (c) prior to the exercise of stockholder rights by the purchaser at such a sale, the prior consent of the Commission (pursuant to 47 U.S.C. 310(d) will be obtained. A negative response to this question requires a full explanation. Meredith answered "no" to item 10; however, the applicant did not submit the required explanation. Meredith will be required to submit its explanation to the presiding Administrative Law Judge within 20 days after this Order is released.

7. On June 26, 1985, the Commission issued a Public Notice (Mimeo No. 5421) requiring all applicants for new broadcast stations to certify that they have obtained reasonable assurance that there specified transmitter sites will be available to them. Sharp has not submitted such a certification. Accordingly, Sharp will be given 20 days from the date of release of this Order to file such certification, in the form required by the Commission, with the presiding Administrative Law Judge. If the applicant cannot make the certification, she shall so advise the Administrative Law Judge who shall then specify an appropriate issue.

8. Section 73.685(f) of the Commission's Rules requires an applicant proposing to use a directional antenna to include a tabulation of relative field pattern, oriented so that 0° corresponds to True North and tabulated at least every 10° plus any minima or maxima. Sharp has not supplied this data. Accordingly, the applicant will be required to submit an amendment with the appropriate information, to the presiding Administrative Law Judge and a copy each to the Chief, Television Branch, and the Chief, Hearing Branch, Mass Media Bureau, within 20 days after the date of the release of this Order.

9. Section V–C, Item 10, FCC Form 301, requires that an applicant submit figures for the area and population within its predicted Grade B contour. Walters has not provided these figures. Consequently, we are unable to determine whether there would be a significant difference in the size of the area and population that each applicant proposes to serve. Walters will be required to submit and amendment showing the required information,

within 20 days after this Order is released, to the presiding Administrative Law Judge.

10. Meredith's proposed tower is to be located 3.01 kilometers from a site proposed by Management and Marketing Synergy, Inc., an applicant (BP–850426AC) for a new AM station in Hernando, Florida. In the event of a grant of the AM Application and if it begins operating prior to the start of the erection of the TV station, the television tower could affect the radiation pattern of the AM station. Therefore, any grant of a construction permit to the TV applicant wil be appropriately conditioned.

11. Walters' proposed site is 91.7 kilometers from the reference point of Channel 50, Tampa, Florida, whereas § 73.610(b)(1) of the Commission's Rules requires a minimum separation of 95.7 kilometers between a station operating on Channel 64 and a station or city to which Channel 50 is allocated. Walters would, therefore, be short-spaced 4.0 kilometers to Channel 50, Tampa, Floridia. In addition, the applicant is 93.3 kilometers (out of a required 95.7 kilometers) from the site specified in a pending application for Mary Ann S. Bohi, (BPCT–840412KE) Channel 50, Tampa, Florida, producing a short-spacing of 2.4 kilometers. Accordingly, an issue will be specified to determine whether circumstances exists to warrant a waiver of the rule. Since an applicant proposing a short-spaced site is required to make the threshold showing that no fully spaced site is available, the Administrative Law Judge will, in assessing those circumstances, consider the fact that the other three applicants in this proceeding have specified fully spaced sites.

12. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant would serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

13. Accordingly, it is ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Meredith Corporation whether circumstances exist which would make operation as a "satellite" or "Primarily a satellite" necessary for Inverness, Florida.

2. To determined with respect to West Florida Televison Limited, whether Ms. Roberta R. Johnson's interest in an application for a new AM station (BP–850313AB) in Bushnell, Floridia, and her interest in West Florida Television Limited would violate § 73.3555(b)(1) of the Commssion's Rules or the Commission's cross-interest policy and, if so, whether common ownership, operation or control of the AM station (BP–850313AB), Bushnell, Florida, and the proposed television station would be consistent with the public interest.

3. To determine whether there is a reasonable possibility that the tower height and location proposed each by Meredith Corporation, Lonny Walters Partnership and West Florida Television Limited would each constitute a hazard to air navigation.

4. To determine, with respect to Lonny Walters Partnership, whether its proposed site is consistent with the minimum separation requirements of § 73.610 of the Commission's Rules, and if not, whether circumstances exist which would warrant a waiver of the rule.

5. To determine which of the applications would, on a comparative basis, best serve the public interest.

6. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

14. It is further ordered, that, in the event of a grant of Nancy Sharp's application, the construction permit shall contain the following condition:

Prior to the commencement of operation of the television station authorized herein, H. James Sharp shall certify to the Commission that he has divested himself of all interest in, and connection with, TV–68.

15. It is further ordered, that the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 3.

16. It is further ordered, that Nancy Sharp shall, within 20 days after the release of this Order, file with the presiding Administrative Law Judge, a site availability certification, in the form required by the Commission, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

17. It is further ordered, that Nancy Sharp shall submit an amendment providing the information required by § 73.685(f) of the Commission's Rules, to the presiding Administrative Law Judge and a copy each to the Chief, TV Branch, and the Chief, Hearing Branch, Mass Media Bureau, within 20 days after the date of the release of this Order.

18. It is further ordered, that Lonny Walters Partnership shall submit an amendment providing the information required by Section V–C, Item 10, FCC Form 301, to the presiding Administrative Law Judge within 20 days after this Order is released.

19. It is further ordered, that any grant of a construction permit to Meredith Corporation shall be subject to the following condition:

In the event that the AM station proposed by application (BP–850426AC) (720 kHz, Hernando, Florida), begins operating prior to the start of the tower structure erection authorized herein, the permittee shall notify the AM Station so that, if necessary, the AM station may determine operating power by the indirect method and request temporary authority from the Commission in Washington, DC to operate with parameters at variance in order to maintain monitoring point field strengths within authorized limits. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation pattern of the AM station. Both prior to construction of the tower and subsequent to the installation of all appurtenances thereon, a partial proof of performance, as defined by § 73.154(a) of the Commission's Rules, shall be conducted to establish that the AM array has not been adversely affected and, prior to or simultaneous with the filing of the application for license to cover this permit, the results submitted to the Commission.

20. It is further ordered, that Meredith Corporation shall submit its explanation for answering "no" to Section II, Item 10, FCC Form 301, to the presiding Administrative Law Judge, within 20 days after this Order is released.

21. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

22. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 86–681 Filed 1–10–86; 8:45 am]

BILLING CODE 6712-01-M

Thompson Broadcasting of Battle Creek, Inc., et al.; Hearing Designation Order

In re Applications of MM Docket No. 85-394:

Thompson Broadcasting of Battle Creek, Inc.	BPCT-850416KG
Polaris Television Limited.	BPCT-850607KE
United States Broadcasting Corporation.	BPCT-850607KF
Margaret Miller	BPCT-850607KN

For Construction Permit Battle Creek, Michigan.

Adopted: December 23, 1985.
Released: January 7, 1986.

By the Chief, Video Services Division.

1. The Commission, by the Chief, Video Services Division, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Thompson Broadcasting of Battle Creek, Inc. (Thompson), Polaris Television Limited (Polaris), United States Broadcasting Corporation (USBC), and Margaret Miller (Miller), for authority to construct a new commercial television station on Channel 43, Battle Creek, Michigan; petitions to deny filed by Channel 41, Inc. against all four applications; a petition to deny filed by The University of Michigan against Thompson, USBC, Miller; an informal objection filed by the Association of Maximum Service Telecasters, Inc. (AMST) against Polaris and USBC; and related pleadings; amendments filed by Polaris and USBC; a petition to accept amendment *nunc pro tunc* and a petition for leave to amend filed by Miller.

2. Channel 41, Inc., licensee of station WUHQ-TV, Channel 41, Battle Creek, Michigan, filed petitions to deny each of the applications on the grounds that the proposed transmitter sites are short-spaced to WUHQ-TV. AMST also filed an informal objection to the Polaris and USBC applications. In addition to raising the Channel 41 short-spacing problems, AMST points out that Polaris is also short-spaced to station WSJV, Channel 28, Elkhart, Indiana. Thompson and Margaret Miller subsequently amended their applications to specify fully spaced sites. Polaris amended its application eliminating the short-spacing to Channel 41 in Battle Creek, but remains 8 miles short-spaced out of the required 75 mile separation to Channel 28, Elkhart, Indiana. Likewise, USBC remains 7 miles short-spaced out of the required 20 miles (intermodulation) to Channel 41, Battle Creek.[1] Accordingly, an appropriate waiver issue will be specified. In considering the waiver issue, the presiding Administrative Law Judge may consider the fact that two of the applicants in this proceeding have specified fully spaced sites.[2]

3. The deadline for filing amendments to the above-captioned applications was July 23, 1985. On July 25, 1985, Polaris filed an amendment to make minor engineering and ownership changes. USBC filed an amendment on September 3, 1985, to update its broadcast interests. Although the amendments filed by Polaris and USBC were not accompanied by a petition for leave to amend, good cause exists for accepting the amendments. The amendments will, therefore, be accepted for § 1.65 purposes only. On July 23, 1985, Miller filed an amendment to make minor changes in her engineering. The amendment did not contain an original signature. At the time of filing, the applicant indicated that the signed copy would be delivered the next day. The executed amendment was filed one day later on July 24, 1985, accompanied by a petition to accept the amendment *nunc pro tunc*. In view of the fact that all parties were put on timely notice concerning the contents of the amendment, none were prejudiced. The amendment was timely filed, only the signature was missing and that was filed one day later. Under these circumstances, the unopposed petition to accept the amendment *nunc pro tunc* will be granted. See *Bocanegra/Gerald Broadcasting Group*, Mimeo No. 1470, released December 22, 1982; *Communications Gaithersburg, Inc.*, 60 FCC 2d 237 (1976). In addition, Ms. Miller filed a petition for leave to amend on August 2, 1985. The amendment reports that she has obtained reasonable assurance of the availability of her proposed site. The petition is unopposed and good cause exists for accepting the amendment. The petition will be granted and the amendment accepted for filing.

4. No determination has been made that the tower height and location proposed by each of the applicants would not constitute a hazard to air navigation. Accordingly, an appropriate issue will be specified.

5. Thompson and Miller each proposes to operate from a site located within 250 miles of the Canadian border with maximum visual effective radiated power of more than 1000 kilowatts. The proposals pose no interference threat to United States television stations. However, they contravene an agreement between the United States and Canada which limits the maximum visual ERP of United States television stations located within 250 miles of Canada to 1000 kilowatts. *Agreement Effectuated by Exchange of Notes*, T.I.A.S. 2594 (1952). In the event of a grant of Thompson's application, the construction permit shall contain a condition precluding station operation with maximum ERP in excess of 1000 kilowatts, absent Canadian consent. In the event of a grant of Miller's application, the construction permit shall contain a condition precluding station operation with maximum ERP in excess of 1000 kilowatts after September 1, 1987, absent a further extension of consent by Canada.

6. The effective radiated visual power, antenna height above average terrain and other technical data submitted by each applicant indicate that there would be a significant difference in the size of the area and population that each proposes to serve. Consequently, the areas and populations which would be within the predicted 64 dBu (Grade B) contour, together with the availability of other television service of Grade B or greater intensity, will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accure to any of the applicants.

7. Polaris proposes to top Mount its antenna on an existing tower. However, the Commission's records do not show the existence of a broadcast tower of the proposed height at the coordinates given. Additionally, in Section V-G, question 2, of its application, Polaris states that there are no FCC authorized towers at its proposed site. It is, therefore, unclear whether Polaris is top mounting its antenna on an existing tower or whether Polaris intends to construct a new facility. Accordingly, Polaris will be required to file an amendment, within 20 days after this Order is released, clarifying its proposal with respect to its tower site. Of course, if Polaris does propose construction that is a major environmental action under

[1] See § 73.610 of the Commission's Rules.

[2] Channel 41 and the University of Michigan have both requested the Commission to defer action on these applications pending final resolution of their petitions for reconsideration of the Commission's Order allocating Channel 43 to Battle Creek. Both petitioners contend that the Channel was improperly allocated to Battle Creek. The Commission issued a Memorandum Opinion and Order denying the petitions for reconsideration on November 26, 1985. See *Memorandum Opinion and Order* in MM Docket No. 83-1000, released November 26, 1985. Accordingly, the University of Michigan's petition to deny will be dismissed as moot. The Channel 41 petition, which raises other questions regarding the sufficiency of the applications, will be disposed of consistent with other provisions of this Order.

the Commission's Rule, it would be required to file the appropriate environmental information.

8. On June 26, 1985, the Commission issued a Public Notice (Mimeo No. 5421) requiring all applicants for new broadcast stations to certify that they have obtained reasonable assurance that their specified transmitter sites will be available to them. Polaris has not submitted such a certification. Accordingly, Polaris will be given 20 days from the date of release of this Order to file such a certification, in the form required by the Commission, with the presiding Administrative Law Judge. If the applicant cannot make the certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue.

9. An applicant who proposes to employ five or more full time station employees must establish a program designed to assure equal employment opportunity for women and minority groups. Although Miller states that she will employ more than five full-time persons, she has not included a copy of her equal employment opportunity (EEO) program. Polaris also states that it intends to employ more than five full-time persons. Although Polaris did submit a copy of its EEO program, the submitted program does not address recruitment as required by the Commission's guidelines. Accordingly, both Miller and Polaris will be required to submit the appropriate program/amended program to the presiding Administrative Law Judge, within 20 days after this Order is released.

10. USBC states that grant of its application would be a major action as defined by § 1.1305 of the Commission's Rules. However, its environmental narrative is little more than a conclusory statement that USBC foresees no negative environmental effects from the proposed broadcast facility. USBC will be required to file an amended environmental narrative that is responsive to each of the factors set out in § 1.1305. The amended environmental narrative must be filed with the presiding Administrative Law Judge within 20 days after the release of this Order. In addition, a copy shall be filed with the Chief, Video Services Division, who will then proceed in accordance with the provisions of § 1.1313(b). Accordingly, § 1.1317 of the Rules will be waived to the extent that the comparative phase of the case will be allowed to begin before the environmental phase is completed. See *Golden Station Broadcasting Corp.*, 71 FCC 2d 229 (1979) *recon. denied sub nom. Old Pueblo Broadcasting Corp.*, 83 FCC 2d 337 (1980).

11. Except as indicated that the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

12. Accordingly, it is ordered, that pursuant to section 309(e) of the Comunications Act of 1934, as amended, the applications are designated for hearing in a consolidation proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether the applications of Polaris Television Limited and United States Broadcasting Corporation are consistent with the minimum mileage separation requirements of § 73.610 of the Commission's Rules and, if not, whether circumstances exist which would warrant waiver of the rule.

2. To determine whether there is a reasonable possibility that the tower heights and locations proposed by each of the applicants would each constitute a hazard to air navigation.

3. If a final environmental impact statement is issued with respect to United States Broadcasting Corporation which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment:

(a) To determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301–1319 of the Commission's Rules; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

4. To determine which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

12. It is further ordered, that the petition to deny filed by Channel 41, Inc. (WUHQ–TV) is granted to the extent indicated herein and denied in all other respects.

13. It is further ordered, that the petition to deny filed by the University of Michigan is dismissed as MOOT.

14. It is further ordered, that Channel 41, Inc. (WUHQ–TV) and the Association of Maximum Service Telecasters, Inc. are made parties respondent to this proceeding.

15. It is further ordered, that the amendments filed by Polaris Television Limited and United States Broadcasting Corporation on July 25, 1985 and September 3, 1985, respectively, are accepted for filing for 1.65 purposes only.

16. It is further ordered, that Margaret Miller's July 24, 1985, petition to accept amendment *nunc pro tunc* is granted and the accompanying amendment IS ACCEPTED for filing and her August 2, 1985 Petition for Leave to Amend IS GRANTED and the accompanying amendment is accepted for filing for § 1.65 purposes only.

17. It is further ordered, that Margaret Miller shall file a copy of her equal employment opportunity program with the presiding Administrative Law Judge within 20 days after Order is released.

18. It is further ordered, that the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 2.

19. It is further ordered, that in the event of a grant of Thompson Broadcasting of Battle Creek, Inc.'s application, the construction permit shall contain the following condition:

Subject to the condition that operation with effective radiated power in excess of 1000 kW is subject to the consent of Canada.

20. It is further ordered, that in the event of a grant of Margaret Miller's application, the construction permit shall contain the following condition:

Subject to the condition that operation with effective radiated power in excess of 1000 kW after September 1, 1987 is subject to a further extension of consent by Canada.

21. It is further ordered, that § 1.1317 of the Commission's Rules is waived to the extent indicated herein. Within 20 days of the release of this Order, United States Broadcasting Corporation shall submit an amended environmental narrative statement required by § 1.1311 of the Rules to the presiding Administrative Law Judge with a copy to the Chief, Video Services Division.

22. It is further ordered, that Polaris Television Limited shall, within 20 days after the release of this Order, file with the presiding Administrative Law Judge, a site availability certification, in the form required by the Commission, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

23. It is further ordered, that Polaris Television Limited shall submit an amended EEO proposal to the presiding Administrative Law Judge within 20 days after the release of this Order.

24. It is further ordered, that Polaris Television Limited, shall file an amendment with the presiding Administrative Law Judge within 20 days after the release of this Order,

clarifying its intentions with respect to its proposed tower site as set out in paragraph 7, supra.

25. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants and the parties respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

26. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 86-683 Filed 1-10-86; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

American Fletcher 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 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 January 24, 1986.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *American Fletcher Corporation,* Indianapolis, Indiana; to acquire Morris Plan Financial Services Corporation, Inc., Indianapolis, Indiana, and thereby engage in the operation of a general consumer finance business, pursuant to § 225.25(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, January 7, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc 86-639 Filed 1-10-86; 8:45 am]

BILLING CODE 6210-01-M

Dominion Banshares Corp.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843 (c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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. Intersted persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 3, 1986.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Dominion Banshares Corporation,* Roanoke, Virginia; to engage *de novo* through its subsidiary, Dominion Financial Services, Inc., Roanoke, Virginia, in securities brokerage activities and certain incidental activities, pursuant to section 225.25(b)(15) of Regulation Y.

Board of Governors of the Federal Reserve System, January 7, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-637 Filed 1-10-86; 8:45 am]

BILLING CODE 6210-01-M

Mid-America Bancorp; Application to Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843 (c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

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.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 27, 1986.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Mid-America Bancorp,* Louisville, Kentucky; to engage *de novo* through its subsidiary, Eton Life Insurance Company, Louisville, Kentucky, and thereby engage in acting as underwriter with respect to insurance limited to assuring repayment of the outstanding balance due on a specific extension of credit by Mid-America Bancorp or its subsidiaries in the event of the disability of the debtor(s), pursuant to section 4(c)(8)(A) of the Act. This activity would be conducted in the state of Kentucky.

Board of Governors of the Federal Reserve System, January 7, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-638 Filed 1-10-86; 8:45 am]

BILLING CODE 6210-01-M

PNC Financial Corp. et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than January 31, 1986.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *PNC Financial Corp.,* Pittsburgh, Pennsylvania; to acquire 100 percent of the voting shares of the Hershey Bank, Hershey, Pennsylvania.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. **Mountaineer Bankshares of West Virginia, Inc.,** Martinsburg, West Virginia; to acquire 100 percent of the voting shares of City National Bank of Fairmont, Fairmont, West Virginia.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. **Chrisman Bancorp, Inc.,** Springfield, Illinois; to become a bank holding company by acquiring at least 88 percent of the voting shares of First National Bank of Chrisman, Chrisman, Illinois.

2. **First United Financial Services, Inc.,** Arlington Heights, Illinois; to acquire 100 percent of the voting shares of Acorn Bankshares, Inc., Bloomingdale, Illinois, thereby indirectly acquiring Bloomingdale State Bank, Bloomingdale, Illinois.

3. **Marshall & Ilsley Corporation,** Milwaukee, Wisconsin; to acquire 100 percent of the voting shares of M&I Marytown Corp., Marytown, Wisconsin, thereby indirectly acquiring Farmers & Merchants Bank, Marytown, Wisconsin.

4. **Illini Community Bancorp, Inc.,** Springfield, Illinois; to acquire 80 percent of the voting shares of Auburn Peoples Bank, Auburn, Illinois.

5. **Illini Community Bancorp, Inc.,** Springfield, Illinois; to acquire 100 percent of the voting shares of Sherman Banc Shares, Inc., Sherman, Illinois, thereby indirectly acquiring Sherman Community Bank, Sherman, Illinois.

6. **Ossian Financial Services, Inc.,** Ossian, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Ossian State Bank, Ossian, Indiana.

7. **Pleasantville Bancorporation,** Pleasantville, Iowa; to become a bank holding company by acquiring 51.6 percent of the voting shares of Pleasantville State Bank, Pleasantville, Iowa.

D. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. **Great Northern Bancshares, Inc.,** Kalispell, Montana; to become a bank holding company by acquiring at least 80 percent of the voting shares of First Security Bank of Kalispell, Kalispell, Montana.

Board of Governors of the Federal Reserve System, January 7, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-640 Filed 1-10-86; 8:45 am]

BILLING CODE 6210-01-M

Standard Bancshares, Inc., Correction

This notice corrects a previous **Federal Register** document [FR Doc. No. 85-29883], published at page 51602 of the issue for Wednesday, December 18, 1985.

Applicant has applied to acquire Hickory Insurance Agency, Hickory Hills, Illinois, and thereby engage in acting as agent with respect to insurance limited to assuring repayment of the outstanding balance due on a specific extension of credit by a bank holding company or its subsidiary in the event of the disability of the debtor, pursuant to section 4(c)(8)(A) of the Act. Comments on this application must be received not later than January 22, 1986.

Board of Governors of the Federal Reserve System, January 7, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-641 Filed 1-10-86; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney

General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 86-0367—Universal Health Services, Inc.'s proposed acquisition of assets of McAllen Methodist Hospital, (Methodist Hospitals of Dallas, UPE).	Dec. 16, 1985.
(2) 86-0369—Marvin & Rose Lee Pomerantz's proposed acquisition of assets of Weyerhaeuser Company.	Do
(3) 86-0394—Martin L. Bearer dba North Cambria Fuel Co.'s proposed acquisition of voting securities of The Arcadia Company, Inc., (Pennsylvania Power & Light Company, UPE).	Do
(4) 86-0419—RSR Corporation's, (Howard M. Meyers, UPE) proposed acquisition of voting securities of Bayou Steel Corporation, (Voest-Alpine AG, UPE).	Do
(5) 86-0306—The Toro Company Employee Stock Ownership Plan's proposed acquisition of voting securities of the Toro Company.	Dec. 17 1985.
(6) 86-0332—Beecham Group p.l.c.'s proposed acquisition of voting securities of Norcliff Thayer, Inc., (Pantry Pride, Inc., UPE).	Do.
(7) 86-0340—California Healthcare System's proposed acquisition of voting securities of Care Point Industries, Inc., from Mills-Peninsula Corporation.	Do.
(8) 86-0341—California Healthcare System's proposed acquisition of voting securities of Marin Health Systems, Inc.	Do.
(9) 86-0359—Borg-Warner Corp.'s proposed acquisition of voting securities of Chilton Corporation.	Do.
(10) 86-0376—MFC, Inc.'s proposed acquisition of voting securities of Cox Cable Tucson, Inc., (Cox Enterprises, Inc., UPE).	Do.
(11) 86-0394—Richard G. Fanslow's proposed acquisition of voting securities of United Republic Life Insurance Company, (Monumental Corp., UPE).	Do.
(12) 86-0404—The Broken Hill Proprietary Company's proposed acquisition of assets of Shell Offshore, Inc. and assets of Shell Western E&P, Inc., (Royal Dutch Petroleum Company, UPE).	Do.
(13) 86-0328—Computer Products Inc.'s proposed acquisition of voting securities of Boschert Incorporated and BICC Boschert Limited, (BICC plc, UPE).	Dec. 18, 1985.
(14) 86-0378—adidas Sportschuhfabriken Adi Assler Stiftung & Co. KG's proposed acquisition of voting securities of Vanco International, Inc. and assets of Garrett W. Dietrich.	Do.
(15) 86-0412—Inspiration Resources Corp.'s proposed acquisition of voting securities of High Plains Oil Corp.	Do.
(16) 86-0413—High Plains Oil Corporation's proposed acquisition of voting securities of Inspiration Resources Corp.	Do.
(17) 86-0415—The Lubrizol Corp.'s proposed acquisition of assets of Agrigenetics Research Associates Limited.	Do.
(18) 86-0420—CAP GEMINI Sogeti, S.A.'s (Mr. Serge Kampf, UPE) proposed acquisition of assets of the Computer Consulting Division, (CGA Computer, Inc., UPE).	Do.
(19) 86-0302—American Information Technologies Corporation's proposed acquisition of voting securities of Applied Data Research, Inc.	Dec. 19, 1985.
(20) 86-0327—Greenwood Mills, Inc.'s proposed acquisition of assets of Dan River, Inc., that compose the Liberty Plants located in South Carolina (Dan River Holding Co., UPE).	Do.
(21) 86-0343—The Broken Hill Proprietary Company Limited's proposed acquisition of assets of Rheem Manufacturing Co., (Manufacturing Acquisition Associates, L.P., UPE).	Do.
(22) 86-0344—Meredith Corporation's proposed acquisition of assets of Family Media, Inc., (Robert E. Riordan, UPE).	Do.
(23) 86-0374—Rorer Group, Inc.'s proposed acquisition of voting securities of Armour Pharmaceutical Company; USV Pharmaceutical Corporation; Plasma Alliance, Inc.; Medicamentos York, S.A.; Armour Pharmaceutical Holdings Limited; Revlon Health Care Holdings Limited; Woelm Pharmabeteiligungs G.m.b.H.; and USV Australia Pty. Ltd., (Collectively—"Revlon Pharmaceuticals"), Pantry Pride, Inc., UPE).	Do.
(24) 86-0395—Warburg, Pincus Capital Partners, LP's proposed acquisition of assets of American Global Line, Inc. and its subsidiaries.	Do.
(25) 86-0399—Gateway Foods, Inc.'s, (DeWayne B. Reinhart, UPE) proposed acquisition of voting securities of Reeves, Parvin & Co., (Francis B. Reeves, Jr., Trust, UPE).	Do.
(26) 86-0401—E. Trine Starnes, Jr.'s proposed acquisition of voting securities of Faygo Beverages, Inc.	Do.
(27) 86-0414—J.W. and Josephine S. Wolslager's proposed acquisition of assets of Swire Pacific Limited.	Do.
(28) 86-0428—Southmark Corporation's proposed acquisition of voting securities of Carlsberg Corp.	Do.
(29) 86-0431—American Cyanamid Co.'s proposed acquisition of voting securities of Acufex Microsurgical, Inc., (Frederick R. Adler, UPE).	Do.
(30) 86-0452—Amoco Corporation's proposed acquisition of assets of Nelson Bunker Hunt Trust Estate.	Do.
(31) 86-0296—Centel Corporation's proposed acquisition of asset of Continental Telephone Company of the South, (Continental Telecom, Inc., UPE).	Dec. 20, 1985.
(32) 86-0298—Continental Telecom, Inc.'s proposed acquisition of voting securities of Central Telephone Company of Missouri, (Centel Corporation, UPE).	Do.
(33) 86-0409—LSB Industries, Inc.'s proposed acquisition of voting securities of Hyatt Clark Industries, Inc.	Do.
(34) 86-0416—Erskine Bronson Ingram's proposed acquisition of voting securities of Softeam Inc.	Do.
(35) 86-0417—Southmark Corporation's proposed acquisition of voting securities of HCW, Inc.	Do.
(36) 86-0421—Computer Associates International, Inc.'s proposed acquisition of assets of CGA Computer, Inc.	Do.
(37) 86-0426—Charter Stanley, Inc.'s proposed acquisition of assets of United Globe Corp., a debtor in possession in bankruptcy.	Do.
(38) 86-0436—North Star Universal, Inc.'s proposed acquisition of voting securities of TCW Corporation (Donald A. Traxler, UPE).	Do.
(39) 86-0451—Jack Kent Cooke's proposed acquisition of assets of Tribune Newspapers West, Inc., (Tribune Company, UPE).	Do.

FOR FURTHER INFORMATION CONTRACT: Sandra M. Peay, Legal Technician, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 86-666 Filed 1-10-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Commission on the Evaluation of Pain; Meeting

AGENCY: Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: This notice announces the schedule and proposed agenda of the forthcoming meeting of the Commission on the Evaluation of Pain (the Commission).

DATE AND TIME: January 30, 1986, 8:30 a.m. to 5:00 p.m.; January 31, 1986, 8:30 a.m. to 5:00 p.m.

ADDRESS: National Academy of Sciences, Room 453, 2122 Pennsylvania Avenue NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Nancy Dapper, Executive Director, Commission on the Evaluation of Pain, Room 118, Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 597-1597.

SUPPLEMENTARY INFORMATION: The Commission is established and governed by the provisions of section 3(b) (1) through (6) of the Social Security Disability Benefits Reform Act of 1984 (Pub. L. 98-460). The purpose of the Commission is to conduct a study concerning the evaluation of pain in determining under titles II and XVI of the Social Security Act whether an individual is under a disability.

This notice announces the fifth and final working meeting of the Commission. The Commission is chaired by Kathleen M. Foley, M.D.

The meeting is open to the public.

A transcript of the Commission meeting will be made available to the public on an at-cost-of-duplication basis. The transcript can be ordered from the Executive Director of the Commission.

Agenda

January 30, 1986 and January 31, 1986
8:30 a.m.—Summation of prior meetings and discussion of the final report.
5:00 p.m.—Adjourn the meeting.

Dated: January 07, 1986.

Nancy J. Dapper,

Executive Director, Commission on the Evaluation of Pain.

[FR Doc. 86-700 Filed 1-10-86; 8:45 am]

BILLING CODE 4190-11-M

Food and Drug Administration

[Docket No. 85N-0165]

Chloramphenicol Oral Solution; Withdrawal of Approval of NADA's

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of five new animal drug applications (NADA's) for chloramphenicol oral solution. The NADA's were the subject of a notice of opportunity for hearing proposing the withdrawal of approvals. Four sponsors responded and elected not to avail themselves of a right to hearing. One sponsor did not respond to the notice.

EFFECTIVE DATE: January 23, 1986.

FOR FURTHER INFORMATION CONTACT: Philip J. Frappaolo, Center for Veterinary Medicine (HFV-240), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4940.

SUPPLEMENTARY INFORMATION: FDA is withdrawing approval of five NADA's for chloramphenicol oral solution. The NADA's are:

Sponsor	NADA No.
John D. Copanos & Co., Inc., Baltimore, MD 21225	65-364
Medico Industries, Inc. (a Tech-America Co.), Elkan Estates, P.O. Box 338, Elwood, KS 66024	65-487
Michael Gordon, Inc., P.O. Box 8091, San Francisco, CA 94118	65-484
Pfizer, Inc., 235 East 42nd St., New York, NY 10017	65-464
Boehringer Ingelheim Animal Health, Inc. (formerly Philips Roxanne, Inc.), 2621 North Belt Highway, St. Joseph, MO 64502	65-477

The NADA's provide for use of chloramphenicol oral solution for treating dogs for bacterial pulmonary infections, urinary tract infections, enteritis, and infections associated with canine distemper that are caused by organisms susceptible to chloramphenicol (21 CFR 555.110c).

In the **Federal Register** of July 1, 1985 (50 FR 27059), FDA offered a notice of opportunity for hearing on a proposal to withdraw approval of certain NADA's for chloramphenicol oral solution for animal use. The proposed withdrawal was based on new information establishing that the labeled directions for use have not been followed in practice, and are not likely to be followed in the future. Accordingly, the drugs' approvals are subject to withdrawal under section 512(e)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(e)(1)).

In accordance with section 512(e) of the act and 21 CFR 514.200, the notice of opportunity for hearing required written appearances requesting a hearing by July 31, 1985, and data and analysis by August 30, 1985. Pfizer and Boehringer Ingelheim submitted responses to the notice of opportunity for hearing indicating they elected not to avail themselves of the right to a hearing. Medico Industries (Tech-America) and Michael Gordon initially submitted requests for hearing but subsequently withdrew them. John D. Copanos did not respond to the notice of opportunity for hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA's 65-364, 65-464, 65-477, 65-484, and 65-487 for chloramphenicol oral solution is hereby withdrawn, effective January 23, 1980. On the effective date of this notice, any chloramphenicol oral solution subject to the notice shall be deemed adulterated under section 501(a)(5) of the act and subject to regulatory action if manufactured, distributed, sold, or held for sale. Because of the public health significance the agency places on this particular product, each manufacturer has been requested by registered letter to recall all lots of the product that it has distributed. A final rule published elsewhere in this issue of the **Federal Register** removes the regulation reflecting approval of these NADA's.

Dated: January 8, 1986.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 86-685 Filed 1-10-86; 8:45 am]

BILLING CODE 4160-01-M

Mono-Alkyl (C_8-C_{18}) Trimethyl-Ammonium Oxytetracycline for use in Lobsters; Availability of Data

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of safety, effectiveness, and environmental data to be used in support of a new animal drug application (NADA) for use of mono-alkyl (C_8-C_{18}) trimethyl-ammonium oxytetracycline (oxytetracycline) in feed for lobsters. The data, contained in Public Master File (PMF) 5028, were compiled under Interregional Research Project No. 4 (IR-4), a national agricultural program, for obtaining clearances for use of agricultural products for minor or special uses.

ADDRESS: Submit NADA's to Document Control Section (HFV-16), Center for Veterinary Medicine, Food and Drug Administration, Rm. 6B-45, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles E. Haines, Center for Veterinary Medicine (HFV-133), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: The use of oxytetracycline in feed for lobsters is a new animal drug use under section 201(w) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(w)). As a new animal drug it is subject to section 512 of the act (21 U.S.C. 360b) requiring that its uses be the subject of an approved NADA. Rutgers University, IR-4 Project, Cook College, New Brunswick, NJ 08903, has provided data and information to demonstrate effectiveness and safety to the target animal for use of oxytetracycline in feed for lobsters for control of gaffkemia (red tail) caused by *Aerococcus viridans* susceptible to oxytetracycline. Rutgers also provided an environmental assessment of the proposed use. The data and information are contained in PMF 5028. The PMF also contains data from a tissue residue study in lobsters and a report of chronic toxicity studies supporting a 0.1 part per million tolerance for negligible residues of oxytetracyline in animal tissues. Sponsors of NADA's or supplemental NADA's may reference without further

authorization the PMF to support approval. An NADA or supplemental NADA should include, in addition to a reference to the PMF, drug labeling and other information needed for approval, such as data concerning manufacturing methods, facilities, and controls; and information addressing the potential environmental impacts of the manufacturing process. Persons desiring more information concerning the PMF or requirements for approval of an NADA may contract Charles E. Haines (address above).

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

Dated: January 3, 1986.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 86–686 Filed 1–10–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket Nos. 80P–0349 et al.]

Availability of Approved Variances for Laser Light Shows

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that variances from the performance standard for laser products have been approved by FDA's Center for Devices and Radiological Health (CDRH) for 10 organizations that manufacture and produce laser light shows, light show projectors, or both. The projectors provide a laser light display to produce a variety of special lighting effects. The principal use of these products is to provide entertainment to general audiences.

DATES: The effective dates and terminiation dates of the variances are listed in the table below under "Supplementary Information."

ADDRESS: The applications and all correspondence on the applications have been placed on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, Room 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tracy Donovan, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4874.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4) of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), CDRH has granted each of the 10 organizations listed in the table below a variance from § 1040.11(c) (21 CFR 1040.11(c)) of the performance standard for laser products.

Each variance permits the listed manufacturer to introduce into commerce a demonstration laser product assembled and produced by the manufactuer, which is its particular variety of laser light show, laser light show projector, or both. Each laser product involves levels of accessible laser radiation in excess of Class II levels but not exceeding those required to perform the intended function of the product.

CDRH has determined that suitable means of radiation safety and protection are provided by constraints on the physical and optical design, by warnings in the user manual and on the products, and by procedures for personnel who will operate the products. Therefore, on the effective dates specified in the table below, FDA approved the requested variances by a letter to each manufacturer from the Deputy Director of CDRH.

So that each product may show evidence of the variance approved for the manufacturer of the product, each product shall bear on the certification label required by § 1010.2(a) (21 CFR 1010.2(a)) a variance number, which is the FDA docket number, and the effective date of the variance as specified in the table below.

Docket No.	Organization granted the variance	Demonstration laser product	Effective date termination date
80P–0349 (extension)	Cranbrook Institute of Science, 500 Lone Pine Road, P.O. Box 801, Bloomfield Hills, MI 48013.	Class IV Cranbrook Laser Scanning System Model 3 manufactured by Cranbrook Institute of Science and shows assembled and produced by Cranbrook Institute of Science incorporating that projector.	Nov. 18, 1985–Nov. 18, 1990.
83V–0171 (extension)	L.F. Donnell Ford, 7955 Market Street, Youngstown, OH 44512.	L.F. Donnell Ford showroom light show incorporating a Laser Media LMS Series laser projector.	Nov. 18, 1985–Aug. 5, 1987.
83V–0307 (extension)	Foursight Visual Systems, Inc., d.b.a. Foresight Visuals, Inc., 37521 Larkin Avenue, Palmdale, CA 93550.	Foursight Visual Systems Model 118 and Model 4 laser projection systems and devices and for laser light shows assembled, produced, and performed by the firm.	Oct. 24, 1985–Sept. 15, 1987.
85V–0281	Laserplace Theatre, 425 Parkway, P.O. Box 1130, Gatlinburg, TN 37738.	Laser light shows asembled and produced by Laserplace Theatre incorporating a Model S400 Audio-Visual Imagineering, Inc., Class IIIb laser projector.	Sept. 12, 1985–Sept. 12, 1987.
85V–0340	Peachtree Laser, Inc. 1316 Chaucer, Altanta, GA 30319	Peachtree Laser, Inc., laser light shows incorporating the Laser Media LMS and/or Science Faction SFC–2000 projectors.	Sept. 13, 1985–Sept. 13,1987.
85V–0411	Rockwell International, 6633 Canoga Avenue, Canoga Park, CA 91304.	Rockwell International laser light show and its projection systems assembled and produced by Rockwell International using class IV Spectra-Physics Model 171 argon and Model 165 krypton lasers.	Nov. 1, 1985–Nov. 1, 1987.
85V–0425	InterScience Technology, 23801 Ladrillo Street, Woodland Hills, CA 91367.	Laser light show and the incorporated Class IV argon laser projection system assembled and produced by InterScience Technology.	Sept. 12, 1985–Mar. 12, 1986.
85V–0437	Dungeon Productions, 222 Colony, Kinsley, KA 67547	Dungeon Productions laser light shows incorporating an Image Engineering 4–color scanning optical head with a Class IV argon/krypton laser from the Kansas Cosmosphere.	Sept. 12, 1985–Sept. 12, 1987.
85V–0454	Ralph Mueller Planetarium, 210 Morrill Hall, University of Nebraska, Lincoln, NE 68588.	Laser light shows and the incorporated Class IIIb LASERWORKS projector system produced by the University of Nebraska in the Ralph Mueller Planetarium.	Sept. 23, 1985–Sept. 23, 1987.
85V–0489	Sculptured Light by Fontes, 6532 Knott Avenue, El Cerrito, CA 94530.	Production of laser light shows incorporating the Sculptured Light 4553 projector equipped with Class IIIb helium-neon and argon laser.	Nov. 8, 1985–Nov. 8, 1987.

In accordance with § 1010.4, the application and all correspondence on the application have been placed on public display under the designated docket number in the Dockets Management Branch (address above) and may be seen in that office between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.86).

Dated: January 6, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86–687 Filed 1–10–86; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Application Announcement and Proposed Funding Preferences for Grants for Residency Training and Advanced Education in the General Practice of Dentistry

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for grants for Residency Training and Advanced Education in the General Practice of Dentistry for Fiscal Year 1986 under the authority of section 786(b) of the Public Health Service Act as amended, are now being accepted and invites comments on the proposed funding preferences as set forth below.

The Health Professions Training Assistance Act of 1985, Pub. L. 99–129 enacted on October 22, 1985, extends support under section 786(b) to include approved advanced educational programs in the general practice of dentistry. For purposes of implementing the expansion of section 786(b), an approved advanced educational program in the general practice of dentistry means an advanced educational program in general dentistry which has received approval by the Commission on Dental Accreditation.

Section 786(b) of the Act authorizes the Secretary of Health and Human Services to make grants to any public or nonprofit private school of dentistry or accredited postgraduate dental training institution (e.g., hospitals and medical centers) to plan, develop, and operate an approved residency or advanced educational program in the general practice of dentistry and to provide financial assistance to participants in such a program who are in need of financial assistance and who plan to specialize in the practice of general dentistry.

The Administration's budget request for Fiscal Year 1986 does not include funding for this program. However, should funds become available unexpectedly for this purpose, this contingency action will assure that grants can be awarded in a timely fashion consistent with the needs of the programs as well as to provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in this policy.

To receive support, programs must meet the requirements of final regulations at 42 CFR Part 57, Subpart L.

Grant application materials are being mailed only in response to requests received. Such requests and questions regarding grants policy should be directed to: Grants Management Officer (D–30), Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Rm. 8C–22, Rockville, Maryland 20857, Telephone: (301) 443–6857.

To obtain specific information concerning programmatic aspects of the grant program, contact: Dental Health Branch, Division of Associated and Dental Health Professions, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Rm. 8C–15, Rockville, Maryland 20857, Telephone: (301) 443–6837.

The application deadline date is February 18, 1986. Applications will be considered as meeting the deadline if they are either:

(1) Received on or before the deadline date, or

(2) Postmarked on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Categories of Program Development and Proposed Funding Preferences

Funding preferences were announced in the **Federal Register** of December 23, 1983 (48 FR 56857) for public comment and subsequently established for this grant program in Fiscal Year 1984 in making grant awards. The following proposed funding preferences will be used in making Fiscal Year 1986 grant awards: new programs designed to rectify or ameliorate significant national, regional or local dental health problems (Category 1), followed by expanding programs (Category 2), and then program improvements (Category 3), and within Category 1, first funding will be for approved applications designed to establish programs in States in which no nonfederally supported residency or advanced educational programs in general dentistry are currently in operation. Applicants who demonstrate that the grant will help to increase dental services to underserved and geriatric populations and/or will increase minority resident and trainee participation will receive priority consideration. In addition, applicants who propose to use specified portions of their grant funds for financial assistance will receive priority consideration.

There is no funding preference between residency training programs and advanced educational programs in general dentistry.

In accordance with section 786(b) of the Act, three distinct categories of program development can be supported. Applications must address at least one of these categories.

Category 1: Program Initiation

An applicant may request support for up to one year of program planning and development, followed by two years of program operation. For this purpose an applicant must show, at a minimum, preliminary provisional approval from the Commission on Dental Accreditation before the initial grant award date (grants will be effective July 1 of the current fiscal year). Before a second year grant award will be made, the grantee must show an accreditation classification of accreditation eligible.

Category 2: Program Expansion

An applicant may request support for an existing program which has full approval accreditation classification to fund the cost of a first-year enrollment increase in the program.

Category 3: Program Improvement

An applicant may request support for an existing program which has conditional approval or provisional approval accreditation to correct deficiencies or weaknesses in order to gain full approval status. Support is also available for an existing program which has full approval accreditation for changes or additions in faculty, curriculum and/or facilities to enhance the quality of the program.

This program is listed at 13.897 in the *Catelog of Federal Domestic Assistance.* Applications submitted in response to this announcement are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs or 42 CFR Part 100.

Interested persons are invited to submit written comments to the Acting Director, Division of Associated and Dental Health Professions, Bureau of Health Professions, Health Resources

and Services Administration at the address given below. All comments received on or before (15 days from the date of publication in the Federal Register) will be considered before final funding preferences for Fiscal Year 1986 are established. Due to the need to make awards by June 30, 1986 before residency training periods begin, the comment period is 15 days. After the close of the comment period, the final funding preferences will be published as a notice in the **Federal Register.**

Written comments should be addressed to Acting Director, Division of Associated and Dental Health Professions, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8C-06, Parklawn Building, Rockville, Maryland 20857, Telephone: (301) 443-6837.

All comments received will be available for public inspection and copying at the Division of Associated and Dental Health Professions, Bureau of Health Professions, at the above address weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

Dated: January 9, 1986.

Edward D. Martin, M.D.,

Acting Deputy Administrotor.

[FR Doc. 86-786 Filed 1-10-86; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-86-1581]

Interstate Land Sales Registration; Administrative Proceedings

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proceedings and Opportunity for Hearing.

SUMMARY: The Interstate Land Sales Registration Division gives public notice of its attempt to serve upon certain persons (defined by statute [15 U.S.C. 1701] as individuals, unincorporated organizations, partnerships, associations corporations, trusts, or estates) at their last known addresses, a notice requiring revisions to their Statement of Record. Service of this notice was attempted by mail and was found to be undeliverable. Therefore, in accordance with 44 U.S.C. 1508, the Department is publishing this Notice of Proceedings and Opportunity for Hearing in order to effect constructive notice upon the persons listed in the attached appendix.

DATE: Requests for hearings should be filed on or before January 28, 1986.

ADDRESS: Requests shall be filed with the Docket Clerk for Administrative Proceedings, Room 10251, HUD Building, 451 Seventh Street, SW., Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Roger G. Henderson, Branch Chief, Land Sales Enforcement Branch, Department of HUD, Room 6278, Washington, DC 20410. Telephone: (202) 755-0502. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Notice of Proceedings and Opportunity for Hearing is issued pursuant to the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1706(d)) and related regulations at 24 CFR 1710.45(b)(1) and 24 CFR 1720.215). The Department hereby serves the following Notice of Proceedings and Opportunity for Hearing to the persons listed in the attached Appendix:

Notice of Proceedings and Opportunity for Hearing

I

Docket No. _____
In the matter of: (subdivision) _____
_____
(developer) _____
_____
Representative Respondent _____
OILSR No. _____

The Secretary in administering the Interstate Land Sales Full Disclosure Act of 1968, 15 U.S.C. 1701 et seq., and its Regulations finds his public files disclose that:

A. Respondent is a corporation organized under the laws of the State of _____ and has its principal office in _____.

B. The mailing address of Respondent's last known principal office of place of business is _____.

C. The Respondent filed a Statement of Record and Property Report for the above subdivision, located in _____ County, _____ State, which Statement of Record and Property Report, as amended, if any amendments have been filed, became effective on _____ and is still effective.

D. _____ is Representative of Respondent.

(Information for completing the above format follows. The captioned matters in the appendix are listed alphabetically by subdivision in each State. Paragraph I of the Notice of Proceedings and Opportunity for Hearing includes the captions of the separate matters. Information for the completion of the captions of each of the matters is set out in columns 1 and 2 of the aforementioned Appendix. Information for Lines A, B and C above is set out in columns 3, 4 and 5 respectively of the Appendix. Information for Line D of Paragraph I is contained in the caption of the matter, and the same information is supplied in the last line of Column 1 of the Appendix. The entire Notice is completed by inserting the applicable information from the appendix in the appropriate blanks of paragraph I. In this form it is constructively noticed that the Notice of Proceedings and Opportunity for Hearing is served upon the persons listed in column 1 of the Appendix.)

II

The Interstate Land Sales Registration Division (ILSRD) from its records or from other sources has obtained information which tends to show, and it so alleges, that the Statement of Record and Property Report of the subdivision captioned above include untrue statements of material facts, or omit to state material facts required to be stated therein or necessary to make statements therein not misleading, to wit:

The developer has failed to file amendments to comply with revised regulations of the Office of Interstate Land Sales Registration or, alternatively, to file documentation establishing that no such amendments are necessary by the time required in 24 CFR 1710.23(a) and/or 1710.310 (1984 edition), as amended by 49 FR 31366 (August 6, 1984) (as codified in the 1985 Edition).

III

In view of the allegations contained in Part II above, the Secretary will provide an opportunity for a public hearing to determine:

A. Whether the allegations set forth in Part II are true and in connection therewith to afford Respondent an opportunity to establish any defenses to such allegations; and

B. What, if any, remedial action is appropriate in the public interest and for the protection of purchasers pursuant to the Interstate Land Sales Full Disclosure Act.

IV

If the Respondent desires a hearing, he shall file a request for hearing accompanied by an answer within 15 days after service of this Notice of Proceedings. Respondent is hereby notified that if he fails to file a response pursuant to 24 CFR 1720.240 and 1720.245 within 15 days after service of this Notice of Proceedings, Respondent shall be deemed in default, and the proceedings shall be determined against him, the allegations of which shall be determined to be true, and an order suspending the Statement of Record will be issued. The said order shall remain in effect until the Statement of Record and Property Report have been amended in accordance therewith, and thereupon the order shall cease to be effective.

V

Any request for hearing, answer, motion, amendment to pleadings, offer of settlement or correspondence forwarded during the pendency of this proceedings shall be filed with the Docket Clerk for Administrative Proceedings, Room 10251, HUD Building, 451 Seventh Street SW., Washington, DC 20410. All such papers shall clearly identify the type

of matter and the docket number as set forth in this Notice of Proceedings.

VI

It is hereby ordered, that upon request of the Respondent a public hearing for the purpose of taking evidence on the questions set forth III in Part hereof be held before an Administrative Law Judge, HUD Building, 451 Seventh Street SW., Washington, DC 20410, at 10:00 a.m. on the 30th day after receipt of the answer or at such other time as the Secretary or a designee may fix by further order.

This Notice of Proceedings shall be served upon the Respondent pursuant to 24 CFR 1720.170 and/or 44 U.S.C. 1508.

Dated: January 7, 1986.

Janet Hale,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

In the matter of (subdivision) developer representative and title; respondent (1)	OILSR No. and land sales enforcement branch docket No. (2)	State of organization and location of principal office (3)	Last Known mailing address (4)	Location of subdivision (county, State) and effective date (5)
California:				
Tahoe Donner, Dart Resorts, Justin Dart, Chairman of the Board.	c0-01700-04-330 plus (A-F), and (I-L), M-85-070.	Delaware, Marina Del Rey, CA.	4676 Admiralty Way, Marina Del Rey,CA 90291.	Nevada County, CA June 10, 1971.
Morro Strand Units 1-4, Morro Strand, Inc., Joseph Rizzo, President.	c0-04535-04-0813, M-85-101	Calfiornia, Sherman Oaks, CA.	15433 Ventura Boulevard, Sherman Oaks, CA 91403.	San Luis Obispo County, CA, Apr 6, 1976
Florida:				
St. Johns Riverdale Estates, Highland Continental-Southwest Land Corporation, Robert Kaufman, President.	0-02590-09-774, M-85-020.	Florida, North Miami	1500 NE 131th Street, North Miami, FL 33161.	Putnam County, FL, Nov 24 1972.
Georgia:				
Sea Palm Golf and Country Club, Sea Palm, Incorporated, Charles A. Evans III, President.	0-01393-10-10, M-85-084	Kentucky, St. Simmons Island, GA.	St. Simmons Island, GA 31522	Nov. 10, 1972
Idaho:				
Thunder Mountain Ranch, Thunder Mountain Ranch Joint Venture, Scott W. Bennett, President.	0-05212-12-79 and (A-B), M-85-080	Idaho, Logan UT	P.O. Box H, Logan, UT 84321	Bannock County, ID, Oct 6, 1980.
Hawaii:				
Wailoloa Urban Reserve, Boise Cascade Home and Land Corp., Ann L. Davie, Agent.	0-04064-14-69, M-85-083	Delaware, Palo Alto, Ca	535 University Avenue, Palo Alto, CA 94301.	Jan 10, 1975.
Kentucky				
Beach Dend Estates, Trigg Lands, Inc Fred Beach, President.	0-04939-20-101 and (A), M-85-090.	Kentucky, Cadiz, KY	P.O. Box 743, Cadiz, Ky 42211	Trigg County, KY, July 14, 1977
Michigan:				
Forest Lake, Stanton Properties, Ltd. John M. Stanton, President.	0-05641-26-148, M-85-086	Michigan, Southfield, MI	17520 West 12 Mile Road, Southfield, MI 48075.	Arenac County, MI, Feb. 7 1980.
New Hampshire:				
Gunstock Acres, Steven H. Byrne and Paul Woods, Joint Owners.	0-05583-34-103, M-85-022.	Massachusetts, Arlington, MA	281 Massachusetts Avenue, Arlington, MA 02174.	Belknap County, NH, Oct 17, 1979.
New Mexico:				
Happy Valley, Kaneoke Land Company, Ltd., Morris Moche, President.	0-05874-36-250, M-85-087.	Hawaii, Kaneoke, HI	P.O. Box 222, Kaneoke, HI 96744	Luna County, MN, Feb 3, 1983.
Oregon:				
Newberry Estates, Sun Country Land and Cattle Corp., Wayne Roan, President.	0-052223-43-115 and (A), M-85-088	Oregon, Lapine, OR	P.O. Box 508, Lapine, OR 97739	Deschutes County, OR, Aug 9, 1978.
Vermont:				
Ascutney Mountain Village, Mt. Ascutney Corporation, Robert C. Williams, President.	0-01295-53-24, M-85-078	Vermont, Brownville, VT	General Delivery, Brownville, VT 05037	Windsor County, VT, Nov. 6, 1970.
Virginia:				
Carisbrooke Sections 1, 2 and 3, Tidewater Virginia Properties, Inc., Elmon T. Gray and Horace A Gray, III, Principals.	0-04738-54-233, M-85-015.	Virginia, Carrolton, VA	No. 1 Whippenham Parkway, Carrolton, Virginia 23314.	Isle of Wright County, VA, Oct 29, 1976.
Washington:				
Arthur's Tranquil Acres and Lazy River Farmettes, Arthur's Land Co., Inc., Robert C. Arthur, President.	0-03430-56-90, M-85-045	Washington, Spokane, WA	East 5-39th Avenue, Spokane, Washington 99203	Pend Oreille County, WA, Jan 7, 1974.
Wisconsin:				
Greenwood Arces, Waushara Land Corp., William W. Creamer, Secretary.	0-04089-58-87, M-85-089	Wisconsin, Wild Rose, WI	Route 2, Wild Rose, WI 54964	Waushara County, WI, Mar 28, 1975.

[FR Doc. 86-709 Filed 1-10-86; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Conservation; Notification of Availability of Environmental Assessment Regarding Trapping and Release of California Condors; Addendum To Revise Preferred Alternative

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification, second Addendum.

SUMMARY: On October 28, 1985, the Service published in the **Federal Register** a notification of emergency exemption issuance of an amendment to permit number PRT-682928 to authorize the taking from the wild of three additional California condors (Gymnogyps californianus). In addition, it was noted that the Service had completed an Environmental Assessment (EA), which covered the proposed action, and a Finding of No Significant Impact (FONSI). The EA and FONSI have been provided to persons and agencies requesting copies. Subsequently, an addendum was prepared for the purposes of proposing an action not specifically covered as an alternative in the EA. This notice advises there is a second Addendum to the EA indicating a revised preferred alternative as the proposed action. The second Addendum to the EA is also available to those persons requesting it.

DATE: Effective on January 13, 1986.

FOR FURTHER INFORMATION CONTACT: Jan E. Riffe, Chief, Division of Wildlife Research, Fish and Wildlife Service, Washington, DC 20240 (202/653-8762).

SUPPLEMENTARY INFORMATION: On October 28, 1985, the Service published in the **Federal Register** (50 FR 43612) a notification that the Director, Patuxent Wildlife Research Center, had applied for an amendment to permit number PRT-682928 to authorize the taking from the wild of three additional California condors exclusive of hte "Santa Barbara pair or IC-9" for the enhancement of propagation and survival; the letter also requested an emergency waiver of the

30-day public comment period required by section 10(c) of the Endangered Species Act. Part–682928 was amended to authorize the taking of three wild, adult California condors and the 30-day public comment period was waived on an emergency basis. The October 28, 1985, notification additionally advised that an Environmental Assessment (EA) was available that analyzed the effects of the action in accordance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969. The preferred action of the EA is to "Immediately remove one adult female and two adult male condors (excluding the Santa Barbara pair and IC–9) from the wild population and release three immature female condors (equipped with radio transmitters) into the wild from the captive flock during 1986. (The Santa Barbara pair was selected for retention in the wild because it is more likely to breed in 1986 if left undisturbed and IC–9 is represented in captivity by five siblings)" Subsequently, it was determined that the EA proposed action was not practicable in light of conditions found during an inspection of the captive propagation facilities. Thus, an Addendum to the EA was prepared and approved that revised the preferred alternative to "Immediately remove one adult female and two adult male condors from the wild population and proceed with plans to make a decision to release the three immature birds most suitable for release in April 1986. A release in April was made contingent upon availability of at least three suitable immature birds. [The Santa Barbara pair was selected for retention in the wild because it is more likely to breed in 1986 if left undisturbed and IC–9 is represented in captivity by five siblings.)" However, changed conditions in the wild population have necessitated that the FWS reorder priorities with regard to maintaining a wild California condor population at this time, including a proposed release, and now has selected Alternative 7, "Immediately take all California condors into captivity," from the October 21, 1985, EA as the preferred alternative. The changed conditions that have prompted reevaluation and selection of an alternative action are as follows: (a) AC–8, an adult female that was to have been taken under the earlier permit is exhibiting courtship behavior with IC–9, the immature male that was to have been left in the wild, (b) the probability of having three birds suitable for release in April 1986 appears low, and (c) a blood lead level of 1.8 ppm has been detected in the Santa Barbara female. By memorandum of December 23, 1985, the Acting Deputy Director, Fish and Wildlife Service waived the 30-day public comment period required by section 10(c) of the Endangered Species Act and approved the immediate taking of all California condors from the wild.

Dated: January 6, 1986.

Ronald E. Lambertson,

Acting Deputy Director, U.S. Fish and Wildlife Service.

[FR Doc. 86–615 Filed 1–10–86; 8:45 am]

BILLING CODE 4310–55–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30657; 2 Docket No. AB–252X]

Green Hills Rural Development, Inc., and Chillicothe Southern Railroad Co., Exemption From 49 U.S.C. 10901, 11301, and 11343; and Northern Missouri Railroad Co.; Discontinuance of Service Exemption Between Brunswick and Chillicothe, MO

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requisite statutory requirements the following transactions:

(1) From the prior approval requirements of 49 U.S.C. 10901 (A) the lease and operation by Chillicothe Southern Railroad Company (CRS) of (i) 36.24 miles of rail line between Kelly (milepost 188.56) and Chillicothe (milepost 224.8), MO, to be owned by Green Hills Rural Development, Inc. (GH) formerly leased and operated by the Norfolk and Western Railway Company (N&W) (ii) 1.4 miles of rail line in Chillicothe between milepost 129.6 and 131.0, owned by GH and (B) the acquisition by CSR of incidental trackage rights over 2.86 miles of rail line between Kelly and Brunswick (milepost 185.7), MO, owned by N&W;

(2) From the prior approval requirements of 49 U.S.C. 11301, the issuance by CSR of common stock in connection with its operation of the lines described above;

(3) From the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the discontinuance of operations by Northern Missouri Railroad Company (NMR) over 53.5 miles of rail line between Brunswick (milepost 185.7) and Chillicothe (milepost 236.0), MO, subject to standard employee protection conditions; and

(4) From the prior approval requirements of 49 U.S.C. 11343, *et seq.*, the continuation in control and management of CSR by Richard Wierseman and Malcolm Laughlin, subject to standard employee protective conditions.

DATES: These exemptions will be effective on January 13, 1986. Petitions to reopen must be filed by February 7, 1986.

ADDRESSES: Send pleadings referring to Finance Docket No. 30657 and Docket No. AB–252X to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioners' Representatives:

John D. Heffner, Suite 1100, 1133 15th St. NW., Washington, DC 20005

Thomas O. Pickett, 10th and Main Streets, P.O. Box 70, Trenton, MO 04683.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: December 18, 1985.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Taylor, Sterrett, Andre, Lamboley, and Strenio. Commissioner concurred with a separate expression. Commissioner Taylor dissented in part with a separate expression. Vice Chairman Simmons did not participate in the disposition of this proceeding.

James H. Bayne,

Secretary.

[FR Doc. 86–662 Filed 1–10–86; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 394 (Sub-No. 2)]

Cost Ratio for Recyclables; 1986 Determination

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed determination of maximum rate ceiling for rates on nonferrous recyclable commodities for the year 1986.

SUMMARY: The Commission has calculated the proposed 1986 revenue-to-variable cost (r/vc) ratio for rates on nonferrous recyclables under the statutory standard of 49 U.S.C. 10731(e). The calculation was made in accordance with the procedures outlined

in our decision in Ex Parte No. 394 (Sub-No. 1), *Cost Ratio for Recyclables—1983 Determination*, —— I.C.C.2d —— (June 19, 1985). The proposed r/vc ratio for 1986 is 152.5 percent.

EFFECTIVE DATE: February 3, 1986, unless comments are received, in which case a further decision will issue.

FOR FURTHER INFORMATION CONTACT:

William T. Bond, (202) 275–7354.
Jereal E. Evans, (202) 275–7354.
Joseph A. Heberle, (202) 275–7371.

SUPPLEMENTARY INFORMATION: In Ex Parte No. 394 (Sub-No. 1), *supra*, we outlined the procedures for calculating the r/vc ratio representing the ceiling for rates on nonferrous recyclables under the statutory standard of 49 U.S.C. 10731(e). We decided that the r/vc ratio will be calculated annually, prescribed to an accuracy of 0.1 percent, and that because the recalculation of the ratio is largely a mechanical process, we would not take comments each time we issue a new ratio.

In that decision, Appendices A through C show the calculation of the (1982, 1983 and 1984) r/vc ratios when the source of the input to the procedure was available directly from applied Rail Form A's (RFA). Appendix D shows the calculation of the (1985) r/vc ratio when RFA's are not yet completed using the data underlying the r/vc ratio. The input was drawn from total railroad expenses and cost of capital adjusted by relationships from the prior year's RFA's to simulate, in the aggregate, the results of RFA's applied to the later year's data.

The 1986 r/vc ratio has been calculated in the same manner as that for 1985 with one minor refinement. The source of the embedded cost of capital used in the 1985 calculation was the composite interest rate on outstanding debt applied to the net investment base. The embedded cost of capital used in the 1986 calculation is weighted by applying the interest rates on road property and equipment separately to their respective net investment bases. Thus, the value used in calculating the 1986 ratio more accurately comports with that in RFA inasmuch as it is generated in the same manner. Although this is only a minor substantive change in our calculation procedures, we will allow parties who believe this refinement is improper to submit comments to the Commission within 20 days of the publication of this notice in the **Federal Register**. If no comments are received within that time, this decision will become effective upon the expiration of the 20-day filing deadline.

The proposed calculation of the r/vc ratio for the year 1986 is shown in the Appendix.

The Commission certifies that this decision will not have a significant economic impact on a substantial number of small entities, because it does not change the rules but merely updates the rate ceiling calculated by these rules. Thus, the impact on small business entities remains unchanged. A final regulatory flexibility analysis of these rules is contained in Ex Parte 394 (Sub-No. 1), *supra*.

This action will not significantly affect either the quality of the human environment or energy conservation.

It is ordered:

(1) The proposed r/vc ratio that applies to rates on nonferrous recyclables for the year 1986 will be 152.5 percent.

(2) This decision is effective 20 days after **Federal Register** publication, unless comments are received, in which case a further decision will issue and, if appropriate, revised effective date will be set.

Authority: 49 U.S.C. 10731(e).

Dated: December 31, 1985.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Taylor, Sterrett, Andre, Lamboley and Strenio. Commissioners Taylor and Strenio did not participate.

James H. Bayne,

Secretary.

BILLING CODE 7035-01-M

1986 Cost Ratio For Recyclables
1984 Current Cost of Capital
(All Other Data Estimated)

Line	Item	Source	Amount
1.	Net Investment - Class I Line Haul - Road & Equipment	Total - 1/, Line 7	$36,142,447
2.	Adjusted Net Investment	Total - 1/, Line 8	36,440,278
3.	Embedded Cost of Capital	Total - 1/, Line 15	2,969,206
4.	Current Cost of Capital	Line 2 x 25.515%2/	9,297,737
5.	Freight Operating Expenses	3/, Line 5	26,893,784
6.	Adjustment for S&T Expenses	Line 5 x 101.50%4/	27,297,191
7.	Freight Expenses & Embedded Cost of Capital	Line 3 + Line 6	30,266,397
8.	Freight Expenses & Current Cost of Capital	Line 4 + Line 6	36,594,928
9.	Variable Expenses & Embedded Cost of Capital	Line 7 x 79.3%5/	24,001,253
10.	Ratio to Variable Expenses	Line 8 ÷ Line 9	152.5%

1/ Net investment for Depreciation Accounting was adjusted to Retirement, Replacement, Betterment (RRB) Accounting on the basis of supplemental reports filed with the Bureau of Accounts by all Class I line-haul railroads for 1984. Appendix A references below are to those reports.

Line	Item	Source	Amount		
			East	South	West
1)	Investment in Rd. Prop. & Eq.	Appx. A, L. 3, Col. C	$13,869,550	$9,318,399	$24,362,649
2)	Depreciation Reserve	Appx. A, L. 4, Col. C	(4,640,450)	(2,223,527)	(6,365,092)
3)	Interest During Constrtuction	Appx. A, Ls. 4-8, Col. C	(17,912)	(55,949)	(114,226)
4)	Other Elements of Investment	Appx. A, Ls. 9-12	(101,449)	(560)	(295,248)
5)	Total Net Investment	Sum of Ls. 1 Through 4	9,109,739	7,038,363	17,588,083
6)	Working Capital	Appx. A, L. 2, Col. C	795,556	437,194	1,173,512
7)	Total Net Investment plus Working Capital	Line 5 + Line 6	9,905,295	7,475,557	18,761,595
8)	Net Investment Incl. S&T	Line 7 x a/ ratios	10,063,681	7,511,813	18,864,784
9)	Inv. - Road	Line 8 x b/ percents	6,033,479	4,011,083	10,399,212
10)	Rd. C/C rate 1984	RFA work papers-1984	5.8%	8.4%	7.1%
11)	C/C - Rd. 1984	Line 9 x Line 10	349,942	336,931	738,344
12)	Inv. - Equipment	Line 8 x b/ percents	4,030,202	3,500,730	8,465,572
13)	Eq. C/C rate 1984	RFA work papers-1984	6.7%	11.0%	10.5%
14)	C/C - Eq. 1984	Line 12 x Line 13	270,024	385,080	888,885
15)	Total C/C	Line 11 + line 14	619,966	722,011	1,627,229

a/ Adjustment to include Switching & Terminal investment base. 1983 RFA total investment including S&T divided by Class I line-haul railroad investment.

	B(2472)	+	B(2465)	=	Ratio
East	$ 9,376,874		$ 9,229,298		1.01599
South	7,005,795		6,971,956		1.00485
West	18,159,226		18,059,962		1.00550

NOTE: B( ) refers to core location in Rail Form A computer printout.

b/ Road property and equipment separation based on 1983 RFA.

	Road B(2470)	Rd.%	Equipment B(2471)	EQ.%
East	$ 5,621,681	59.953%	$ 3,755,193	40.047%
South	3,740,877	53.397%	3,264,917	46.603%
West	10,010,240	55.125%	8,148,986	44.875%

2/ Ex Parte No. 458, Railroad Cost of Capital - 1984.

	After Tax		Pre-Tax		Composite
Cost of Debt	12.8%		12.8%	x .339 =	4.339%
Cost of Equity Capital	17.3%	+ .54 =	32.037%	x .661	21.176%
					25.515%

3/ To comply with NERSA, Conrail labor expenses were increased by 5.49% based on data in Ex Parte No. 290 (Sub-No. 2), Railroad Cost Recovery Procedures. Expenses in the 1984 R-1 report were also adjusted from a depreciation accounting basis to RRB Accounting.

Line	Item	Source	Amount
1)	Total Operating Expenses	R-1, Sch. 410, L. 620	$25,576,238
2)	Way & Structure Expenses	R-1, Sch. 410, L. 151	(4,209,973)
3)	Way & Structure Expenses	Supplemental Reports Appx. B, Line 23	5,495,788
4)	Equipment Retirements	Supplemental Reports Appx. B, Line 25	31,731
5)	Net Adjusted Operating Expenses	Line 1 through Line 4	$26,893,784

4/ Adjustment to include Switching & Terminal Operating Expenses.

	1983 RFA Incl. S&T Cos. B(2364)		1983 RFA Excl. S&T Cos. B(2222)		Ratio
East	$ 6,539,469		$ 6,384,032		xxx
South	4,400,515		4,356,709		xxx
West	13,323,113		13,162,698		xxx
U. S.	$24,263,097	÷	$23,903,439	=	101.50%

5/ 1983 Rail Form A Variability Ratio.

	Total Variable Expenses B(3125)		Total Expenses B(3124)		
East	$ 5,484,005		$ 7,075,517		xxx
South	4,047,268		5,038,274		xxx
West	11,779,191		14,752,411		xxx
U. S.	$21,310,464	÷	$26,866,202	=	79.3%

[FR Doc. 86-660 Filed 1-10-86; 8:45 am]
BILLING CODE 7035-01-C

[Docket No. AB-158 (Sub-No. 3X)]

The Pittsburgh and Lake Erie Railroad Co.; Abandonment Exemption in Lawrence County, PA

Applicant has filed a notice of exemption under 49 CFR Part 1152, Subpart F—*Exempt Abandonments* to abandon its 1.35-mile line of railroad between milepost 0.0 and milepost 1.35 in Beaver Township, Lawrence County, PA.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective February 12, 1986 (unless stayed pending reconsideration). Petitions to stay must be filed by January 23, 1986, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by February 3, 1986. Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission must be sent to applicant's representative: Fritz R. Kahn, Suite 1000, 1660 "L" Street, NW., Washington, DC 20036.

If the notice of exmeption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: January 7, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86-661 Filed 1-10-86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30760]

Northeast Wisconsin Railroad Transportation Commission and Escanaba & Lake Superior Railroad Co., Exemption; Acquisition and Operation

Correction

In FR Doc. 86-329 appearing on page 789 in the issue of Wednesday, January 8, 1986, make the following correction: In the second column, the **"DATES"** paragraph should have read as follows:

DATES: This exemption will be effective on January 7, 1986. Petitions to reopen must be filed by January 28, 1986.

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

National Cooperative Research Act of 1984; Software Productivity Consortium, Inc.

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98-462 ("the Act"), Software Productivity Consortium, Inc., has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in the membership of Software Productivity Consortium, Inc., by the addition of Harris Corporation and Science Applications International Corporation. The additional notification was filed for the purpose of extending the protections of 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 Software Productivity Consortium, Inc., and its general areas of planned activities are given below.

Software Productivity Consortium, Inc., with the addition of Harris Corporation and Science Applications International Corporation, consists of the following firms: Allied Corporation; The Boeing Company; Ford Aerospace and Communications Corporation; General Dynamics Corporation; Grumman Aerospace Corporation; Harris Corporation; Lockheed Missile and Space Company, Inc.; McDonnell Douglas Corporation; Northrop Corporation; Science Applications International Corporation; TRW Inc.; United Technologies Corporation; and Vitro Corporation. The purpose of the current effort is to undertake research and development engineering in advanced technologies relating to productivity tools and techniques to be used in the development of complex computer software.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 86-731 Filed 1-10-86; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Correction of Address for Public Meeting To Be Held in Chicago, Illinois, on State Employment Security Agency Administrative Financing

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of correction of address.

SUMMARY: This notice corrects the address previously published in the **Federal Register** December 20, 1985, (50 FR 51955) for a public meeting to be held in Chicago, Illinois, on January 15, 1986, on State Employment Security Agency administrative financing. There are no changes in address for the public meetings in Dallas, Texas, Washington, D.C., and San Francisco, California. The address for the Chicago meeting is: Palmer House, 17 East Monroe Street, Chicago, Illinois.

The date and times for the meeting remain unchanged: January 15, 1986, 8:30 a.m. to 5:00 p.m.

Dated: January 8, 1986.

Roger D. Semerad,

Assistant Secretary of Labor.

[FR Doc. 86-795 Filed 1-10-86; 8:45 am]

BILLING CODE 7510-30-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted on or before February 12, 1986.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Wshington, DC 20506 (202–786–0233) or Mr. Joseph Lackey, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, DC 20503 (202–395–7316).

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506 (202–786–0233) from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category: New Collection

1. Title: Division of State Programs: Guidelines for Exemplary Award Proposals
Form Number: None
Frequency of Collection: Annually
Respondents: State humanities councils applying for funding.
Use: Application for benefits by State humanities councils to be used to produce humanities projects of an imaginative, exemplary nature which could serve as models to other state councils. Information will be used by reviewers, panelists and the Endowment's chairman to determine eligibility for funding.
Estimated Number of Respondents: 23
Estimated Hours for Respondents to Provide Information: 120 hours per respondent or 3220 total hours for all respondents.

Susan Metts,

Acting Director of Administration.

[FR Doc. 86–713 Filed 1–10–86; 8:45 am]

BILLING CODE 7536–01–M

Agency Information Collection Activities Under OMB Reveiw

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted on or before February 12, 1986.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202–786–0233) or Mr. Joseph Lackey, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, DC 20503 (202–395–7316).

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202–786–0233) from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Revisions

Title: Applications and Instruction Forms for the Translations Category
Form Number: Not applicable
Frequency of Collection: Annual
Respondents: Humanities researchers and institutions
Use: Application for funding
Estimated Number of Respondents: 163
Estimated Hours for Respondents to Provide Information: 60 per respondent

Susan Metts,

Acting Director of Administration.

[FR Doc. 86–714 Filed 1–10–86; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Pacific Gas and Electric Co.; Consideration of Issuance of Amendments to Facility Operating Licenses DPR–80 and DPR–82 for Diablo Canyon Nuclear Power Plant, Units 1 and 2, Respectively, and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

[Docket Nos. 50–275 and 50–323]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–80 and DPR–82, issued to Pacific Gas and Electric Company (PG&E or the licensee), for operation of the Diablo Canyon Nuclear Power Plant, Units 1 and 2 respectively, located in San Luis Obispo County, California.

The licensee requested the amendments, including associated changes in the combined Technical Specifications for Units 1 and 2, in License Amendment Request LAR 85–13, dated October 30, 1985. The licensee's evaluation of proposed plant modifications and operations in support of the amendment requests are contained in the Reracking Report submitted to the NRC by letter dated September 19, 1985.

The amendments would authorize the licensee to increase the Unit 1 and Unit 2 spent fuel pool storage capacity from 270 to 1324 storage locations for each unit. The proposed expansion is to be achieved by reracking the spent fuel pools with a combination of poisoned racks and nonpoisoned racks in a two-region arrangement.

Region 1 consists of three rack modules containing 290 poisoned storage locations which are designed to accommodate 1.5 reactor cores of high enrichment nuclear spent fuel. The racks are designed to store Westinghouse 17 X 17 fuel arrays with an initial enrichment of 4.5 weight percent U–235. The region consists of fuel racks with a nominal center-to-center cell spacing of 10.93 inches. The spent fuel rack design for Region 1 is based upon the commonly accepted physics principle of a "neutron flux trap" with the use of neutron absorber materials. The poison material to be used is Boraflex.

Region 2 consists of 13 modules of nonpoisoned spent fuel racks with a nominal center-to-center cell spacing of 10.93 inches. These modules consist of 1034 storage locations and 10 miscellaneous cells. Region 2 is designed for fuel with an initial enrichment of 4.5

weight percent U–235 with a minimum burnup of 34.5 MWd/kgU. The spent fuel rack design is based on the critically acceptance criteria specified in Revision 2 of Regulatory Guide 1.13, which allows credit for reactivity depletion in spent fuel. (Previously, the physics criteria for fuel stored in the spent fuel pool were defined by the maximum unirradiated initial enrichment of the fuel.)

The spent fuel racks in both regions are fabricated from 304L stainless steel that is 0.08 and 0.09 inches think in Regions 1 and 2, respectively. Each rack module is a free-standing module that satisfies the seismic design requirements without mechanical dependence on neighboring modules or fuel pool walls for support. The rack modules are classified as Seismic Category I equipment. Racks of similar design have been licensed for other nuclear facilities. The use of two diverse regions is not unique, and two region spent fuel pools have been previously approved by the Commission.

Both regions of the spent fuel pool have been designed to store fuel assemblies in a safe, coolable, subcritical configuration with the effective neutron multiplication factor, k_{eff}, less than or equal to 0.95.

The racks have been designed and will be provided by the Joseph Oat Corporation (Oat), Camden, New Jersey. The licensee has transmitted the supporting report (the "Reracking Report") on the design and analysis for the reracking of the spent fuel pools for the Diablo Canyon Nuclear Power Plant, Units 1 and 2, to the NRC by letter DCL–85–306, dated September 19, 1985. Oat racks of this type have been licensed most recently by the NRC for use at the V.C. Summer Plant of South Carolina Electric and Gas Company.

The amendments for Unit 1 and Unit 2 would include the following specific changes to the combined Technical Specifications for Units 1 and 2.

(1) Specification 3/4.9.13 and associated Bases (restrictions on location of spent fuel prior to shipping cask operations near the spent fuel pool) would be revised to establish an exclusion zone in the vicinity of the cask pit in each spent fuel pool that prohibits movement of the shipping cask near the spent fuel pool with spent fuel in the exclusion zone. The present requirement prohibits shipping cask movement near the spent fuel pool unless spent fuel located in existing Racks 5 and 6 has decayed for at least 1000 hours since shutdown.

(2) Specification 3/4.9.14 and associated Bases (a new specification limiting Region 2 storage and establishing boron concentration requirements) would include (1) restrictions on the combination of initial enrichment and cumulative burnup for spent fuel assemblies stored in Region 2, and (2) a requirement to maintain the boron concentration of the spent fuel pool greater than or equal to 2000 ppm.

(3) Design Feature 5.6.1.1 (spent fuel storage rack design requirements to prevent criticality) would be revised to allow use of borated water to maintain k_{eff} less than or equal to 0.95, delete the quantitative measure of uncertainty allowance, and reduce the allowable center-to-center distance between fuel assemblies to a nominal 10.93 inches. The present requirements specify use of unborated water to maintain k_{eff} less than or equal to 0.95, include a 2.6% k/k uncertainty allowance, and specify a nominal 21-inch center-to-center distance between fuel assemblies.

(4) Design Feature 5.6.3 (capacity of spent fuel storage pool) would be revised to limit the storage capacity to no more than 1324 fuel assemblies, compared with the present limit of 270 fuel assemblies.

The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples of amendments that are considered likely, and not likely, to involve significant hazards considerations. These examples were published in the **Federal Register** on April 6, 1983 (48 FR 14870). Spent fuel pool reracking was specifically excluded from the list of examples considered likely to involve a significant hazards consideration. Pending further study of this matter, the Commission is making a finding on the question of no significant hazards consideration such as this on a case-by-case basis, giving full consideration to the technical circumstances of the case using the standards of 10 CFR 50.92 (48 FR 14869).

The technical evaluation of whether or not an increased spent fuel pool storage capacity involves significant hazards considerations is centered on three standards: (1) Does increasing the spent fuel pool capacity significantly increase the probability or consequences of accidents previously evaluated? Reracking to allow closer spacing of fuel assemblies does not significantly increase the probability or consequences of accidents previously analyzed. (2) Does increasing the spent fuel storage capacity create the possibility of a new of different kind of accident from any accident previously analyzed? With respect to the Diablo Canyon Nuclear Power Plant, Units 1 and 2, the staff has not identified any new categories or types of accidents as a result of reracking to allow closer spacing for the fuel assemblies. The proposed reracking does not create the possibility of a new or different kind of accident previously evaluated for the spent fuel pool. In all reracking reviews completed to date, all credible accidents postulated have been found to be conservatively bounded by the evaluations cited in the safety evaluation reports supporting each amendment. (3) Does increasing the spent fuel pool storage capacity significantly reduce a margin of safety? The staff has not identified significant reductions in safety margins due to increasing the storage capacity of spent fuel pools. The expansion may result in a minor increase in pool temperature, but this heat load increase is generally well within the design limitations of the installed cooling systems. In some cases it may be necessary to increase the heat removal capacity by relatively minor changes in the cooling system, e.g. by increasing a pump capacity. But in all cases the temperature of the pool will remain below design values. The small increase in the total amount of fission products in the pool is not a significant factor in accident considerations. The increased storage capacity may result in an increase in the pool reactivity as measured by the neutron multiplication factor (k_{eff}). However, after extensive study, the staff determined in 1976 that as long as the maximum neutron multiplication factor was less than or equal to 0.95, then any change in the pool reactivity would not significantly reduce a margin of safety regardless of the storage capacity of the pool. The techniques utilized to calculate k_{eff} have been bench-marked against experimental data and are considered very reliable. Reracking to allow a closer spacing between fuel assemblies can be done by proven technologies.

In summary, replacing existing racks with a design which allows closer spacing between stored spent fuel assemblies is considered not likely to involve significant hazards considerations if several conditions are met. First, no unproven technology is utilized in either the construction process or in the analytical techniques necessary to justify the expansion. Second, the k_{eff} of the pool is maintained less than or equal to 0.95. Reracking to allow closer spacing satisfies these criteria.

The licensee's submittal of October 30, 1985 included a discussion of the proposed action with respect to the issue of no significant hazards consideration. This discussion has been reviewed and the Commission finds it

acceptable. Pertinent portions of the licensee's discussion, addressing each of the three standards, is provided herein.

The licensee's evaluation references specific sections of the reracking report included in the submittal dated September 19, 1985. The analysis of the proposed reracking was accomplished using applicable portions of currently acceptable codes and standards as specified in Section 3.2 of the reracking report. The results of the licensee's analysis in relation to the three significant hazards consideration standards are described below:

A. First Standard—Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The licensee's safety analysis of the proposed reracking (LAR 85-13, October 30, 1985) has been accomplished using current NRC Staff accepted Codes and Standards applicable to the Diablo Canyon Power Plant. The results of the safety analysis demonstrate that the proposal meets the accepted criteria set forth in these standards. In addition, the licensee has reviewed NRC Staff safety evaluations for prior spent fuel pool rerackings involving spent fuel pool rack replacements to ensure that there are no identified concerns not fully addressed. The licensee has identified no such concerns.

As part of its evaluation, the licensee identified the following potential abnormal conditions and accident scenarios:

(1) Spent fuel assembly drop in spent fuel pool.
(2) Loss of spent fuel cooling.
(3) Seismic event.
(4) Tornado-generated missiles.
(5) Spent fuel shipping cask drop.
(6) Criticality accident.
(7) Installation accident.

The first five cases are initiated either by external event, such as a seismic event, or by failure of an engineered system, such as dropping a fuel assemby. The probability of occurrence of any of the first five abnormal considerations and accidents is not affected by the racks themselves; thus reracking cannot increase the probability of these conditions and accidents.

Spent Fuel Assembly Drop—Reracking does not affect the probability of this event. The consequences of a spent fuel assembly drop in the spent fuel pool are discussed in Section 4.0 of the Reracking Report. It is conservatively assumed that, because of the energy associated with an asembly drop, the equivalent number of rods in one fuel assembly would be ruptured, regardless of whether they are in the dropped assembly or in one or more impacted assemblies. Therefore, the fission product inventory available for release due to this accident will be unchanged as a result of reracking. For this accident condition, the maximum effective neutron multiplication factor, k_{eff}, is less than 0.95. The conclusions on the radiological consequences of a spent fuel assembly drop as presented in the Diablo Canyon FSAR (Chapter 15) remain valid, and offsite radiological dose consequences are well within 10 CFR 100 limits. Thus, the consequences of this type of accident will not be increased from those previously by evaluated in the FSAR.

Loss of Spent Fuel Pool Cooling—Reracking does not affect the probability of this event. The consequences of a loss of spent fuel pool cooling have been evaluated and are described in Section 5.0 of the Reracking Report. Because of the radioactive decay of the bulk of the stored spent fuel, there will be a negligible increase in heat load in the pool as a result of reracking. Also because of this decay, there will be only a negligible increase in offsite doses which would continue to be well within 10 CFR 100 limits. In addition, if the loss of pool cooling occurred, there woud be sufficient time to restore the cooling system or establish makeup water flow. A conservative analysis was performed to determine offsite radiological doses associated with a postulated spent fuel pool boiling event. The assumptions used to calculate the heat generation and evaporation rates and the offsite doses for loss of cooling to the spent fuel pool are discussed in Section 7.0 of the Reracking Report. For the foregoing reasons, the consequences of this type of accident will not be significantly increased from those previously evaluated in the FSAR for loss of spent fuel pool cooling.

Seismic Event—Reracking does not affect the probability of this event. The consequences of seismic events have been evaluated and are described in Section 6.0 of Reracking Report. The racks were evaluated against the appropriate codes and standards described in Section 3.0 of the Reracking Report. The racks are designed to Seismic Category I requirement. The analysis methodology and techniques and acceptance criteria are the same as those used in reracking applications by other licensees which have been approved by the NRC staff. The results of the Diablo Canyon analysis show that the proposed racks and fuel pool structure meet the structural acceptance criteria applicable to the Diablo Canyon Nuclear Power Plant. Because of the decay of fission products discussed above, the consequences of seismic events with increased fuel storage in the pool will not significantly increase from those previously evaluated in the FSAR.

Tornado-Generated Missiles—Reracking does not affect the probability of this event. The consequences of tornado-generated missile impacts have been analyzed and are described in the FSAR, which concludes that the spent fuel storage pools and associated racks have adequate protection against tornado forces and tornado-generated missiles. The rack design does not affect the evaluation provided in the FSAR. Because of radioactive decay, discussed above, the consequences of tornado-generated missiles will not be significantly increased from those previously evaluated.

Spent Fuel Shipping Cask Drop—Reracking does not adversely affect the probability of this event. Based on an analysis of the worst case spent fuel shipping cask tipping accident, the licensee has proposed amended Technical Specifications which would preclude spent fuel shipping cask movement near the spent fuel pool. This provides an exclusive zone to protect the spent fuel which would reduce the probability of the event. To determine the consequences of a shipping cask drop, the licensee has evaluated which spent fuel storage racks could be impacted in the event of a cask drop. This was done to determine an adequate space where storage of spent fuel would not be allowed during shipping cask movement near the spent fuel pool. Because of radioactive decay, discussed earlier, the consequences of dropping a spent fuel shipping cask will not significantly increase from those previously evaluated in the FSAR.

Criticality Accident—A discussion of the potential for criticality accidents is discussed in Section 4.0 of the Reracking Report. Postulated events that could potentially involve accidental criticality were examined by the licensee. It was concluded that the limiting value for criticality (k_{eff} of 0.95) would not be exceeded. With the inclusion of administrative controls as required in the amended Technical Specifications to (1) maintain the boron concentration in the fuel pools as a minimum of 2000 ppm, and (2) to limit storage of spent fuel assemblies in Region 2 of the spent fuel storage racks based on initial enrichment and cumulative exposure, none of the postulated events would result in a criticality accident. Therefore, the probability and consequences of a criticality accident are not significantly

increased from those previously evaluated in the FSAR.

Installation Accident—Timley approval of the license amendment will permit reracking in a dry, empty pool which would preclude the consideration of events which would have radiological consequences. Worker radiation exposure would be less than that which would be received if reracking were delayed beyond the first refueling outage when spent fuel asemblies would be present in the pool during reracking.

With repsect to wet rack installation with spent fuel in a pool, the Technical Specifications prohibit handling of loads in excess of 2500 pounds above fuel stored in the fuel pools, and strict administrative controls are in place which preclude the movement of racks or other heavy loads above stored spent fuel. The consequences of damage from a rack drop to the pool floor or liner would be similar to the previously analyzed cask drop accident.

Both the old and the new racks fall into the category of heavy loads as defined in NUREG–0612, "Control of Heavy Loads at Nuclear Power Plants." Installation will be performed consistent with the licensee's previous responses to the NUREG guidelines. In SSER–27 and SSER–31, dated July 1984 and April 1985, respectively, the NRC staff concluded that the Diablo Canyon program for control of heavy loads was in compliance with the requirements of NUREG–0612.

In summary, therefore, it is concluded that the proposed amendments to rerack the spent fuel pools for Units 1 and 2 will not involve a significant increase in the probability and consequence of an accident previously evaluated.

B. Second Standard—Create the Possibility of New or Different Kind of Any Accident Previously Evaluated

The licensee has evaluated potential accidents associated with the proposed reracking in accordance with the design bases specified in the Diablo Canyon FSAR, the guidance contained in NRC positions paper "NRC Position for Review and Acceptance of Spent Fuel Storage and Handling Application", appropriate NRC Regulatory Guides and Standard Review Plans, and appropriate industry Codes and Standards as listed in the Reracking Report.

No unproven technology will be utilized either in the construction process or in the analytical techniques necessary to justify the planned fuel storage expansion. The basic reracking technology in this instance has been developed and demonstrated in numerous applications for a fuel pool capacity increase which have already received NRC staff approval.

The change to a two-region spent fuel pool requires the performance of additional evaluations to ensure that the criticality criterion is maintained. These include the evaluation of the limiting criticality condition, i.e., dropping or misplacement of an unirradiated fuel assembly of 4.5 weight percent enrichment into a Region 2 storage cell or outside and adjacent to a Region 2 rack module. The evaluation for this case shows that when the boron concentration meets the proposed Technical Specifications requirement, the criticality criterion is satisfied. Although this change does not create the requirement to address additional aspects of a previously analyzed accident, it does not create the possibility of a previously unanalyzed accident.

The licensee concludes that the proposed reracking does not create the possibility of a new or different kind of accident from any accident previously evaluated for the Diablo Canyon spent fuel storage facilities.

C. Third Standard—Involve a Significant Reduction in a Margin of Safety

The issue of "margin of safety", when applied to a reracking modification, includes the following considerations:

a. Nuclear criticality considerations

b. Thermal-hydraulic considerations

c. Mechanical, material, and structural considerations

The margin of safety that has been established for nuclear criticality considerations is that the effective neutron multiplication factor (k_{eff}) in the spent fuel pool is to be less than or equal to 0.95, including all reasonable uncertainties and under all postulated conditions. The criticality analysis for the proposed modification is described in the licensee's Reracking Report. The NRC Staff determined in 1976 that as long as the maximum value of the effective neutron multiplication factor, k_{eff}, was less than or equal to 0.95, then any change in pool reactivity would not significantly reduce the margin of safety, regardless of the storage capacity of the pool. The methods used in the criticality analysis for the reracking for Diablo Canyon Nuclear Power Plant, Units 1 and 2 conform to the applicable portions of Codes, Standards, and specifications listed in Section 4.0 of the Reracking Report, including ANSI N210–1976, "Design Objectives for LWR Spent Fuel Storage Facilities at Nuclear Power Stations"; ANSI N16.9–1975, "Validation of Calculation Methods for Nuclear Criticality Safety"; the NRC guidance, "NRC Position for Review and Acceptance of Spent Fuel Storage and Handling Applications" (April 1978), as modified (January 1976); and Regulatory Guide 1.13, "Spent Fuel Facility Design Basis," proposed Revision 2. The computer programs, data libraries, and benchmarking data used in the evaluation have been used in previous spent fuel reracking applications by other licensees and have been reviewed and approved by the NRC. The licensee has performed criticality analysis for the Diablo Canyon Nuclear Power Plant, Unites 1 and 2 reracking assuming operation of the spent fuel storage facilities consistent with the proposed Technical Specifications. The results of these analysis indicate that k_{eff} is less than 0.95 at 95/95 probability/confidence level under all postulated conditions, including a margin for uncertainties in reactivity calculations and mechanical tolerances. Thus, in meeting the acceptance criteria for criticality, the proposed reracking does not involve a significant reduction in the margin of safety for nuclear criticality.

From a thermal-hydraulic consideration, the areas of concern when evaluating whether there is a significant reduction in margin of saftey are: (1) Maximum fuel cladding temperature, and (2) the increase in spent fuel pool water temperature. The licensee's thermal-hydraulic evaluation is described in Section 5.0 of the Reracking Report. The new storage configuration will result in an increase in the maximum heat load in the spent fuel pool. The maximum spent fuel pool temperature will not exceed 150 °F for a partial core discharge and 175 °F for a full core discharge. Nonetheless, the fuel cladding temperatures under all conditions are sufficient low to preclude structural failure. Thus, it is concluded that there is no significant reduction in the margin of safety with respect to thermal-hydraulic considerations or spent fuel cooling considerations.

The mechanical, material, and structural considerations of the proposed rack replacement are also analyzed in the licensee's Reracking Report. The racks are designed in accordance with applicable NRC Regulatory Guides, Standard Review Plans, position papers, and appropriate industry Codes and Standards, as well as to Seismic Category I requirements. The materials utilized are compatible with the spent fuel pool and the spent fuel assemblies. The conclusion of the analysis is that the margin of safety is not significantly reduced by the proposed reracking.

The main function of the spent fuel pool and the racks is to maintain the

spent fuel assemblies in a stable configuration through all normal and abnormal loadings, such as an earthquake, and under accident conditions. Nuclear criticality, thermal-hydraulic, material, and structural considerations of the proposed new racks are described in the licensee's Reracking Report. The neutron poison and rack materials are compatible with materials used for the spent fuel pool liner and the spent fuel assemblies. The rack structural considerations address adequate margins of safety of critical items during seismic motion and the racks are seismically qualified. Thus, the margins of safety are not significantly reduced by the proposed expansion of pool storage capacity.

The licensee's request to expand the Diablo Canyon Nuclear Power Plant, Units 1 and 2 spent fuel storage pool capacities satisfies the following conditions: (1) The storage expansion method consists of replacing existing racks with a design which allows closer spacing between stored spent fuel assemblies; (2) the storage expansion method does not involve rod consolidation or double tiering; (3) the k_{eff} of the pool is maintained less than or equal 0.95; and (4) no unproven technology is utilized in either the construction process or the analytical techniques necessary to justify the expansion.

On the basis of the foregoing discussion of the elements of 10 CFR 50.92 and because the proposed reracking technology has been well developed and demonstrated, the Commission proposes to determine that operation of the facility in accordance with the proposed amendment does not involve a significant hazards consideration.

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.

By February 12, 1986 the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's Rules of Practice for Domestic Licensing Proceedings in 10 CFR part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner is required to 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, pursuant to 10 CFR 2.714(b). 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.

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 143 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 143 of the NWPA, the Commission, at the request of any party to the proceeding, is authorized to use hybrid hearing procedures with respect to "any matter which the Commission determines to be in controversy among the parties." The hybrid procedures in section 143 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules, and the designation, following argument, of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPA are found in 10 CFR Part 2, Subpart K, "Hybrid Hearing Procedures for Expansion of Spent Nuclear Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41662 (October 15, 1985). 10 CFR 2.1101 *et seq.* Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. (As outlined above, the Commission's rules in 10 CFR Part 2, Subpart G, and § 2.714 in particular, continue to govern the filing of requests for a hearing or petitions to intervene, as well as the admission of contentions.) The presiding officer shall grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application shall be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding requests oral argument, or if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, Subpart G apply.

Subject to the above requirements and any limitations in the order granting leave to intervene, those permitted to

intervene become parties to the proceeding and have the opportunity to participate fully in the conduct of any hearing which is held, including the opportunity to present evidence and cross-examine witnesses at such hearing.

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 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 notice 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. 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 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 Steven A. Varga: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Philip A. Crane, Esq., Richard F. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., Norton, Burke, Berry and French, P.O. Box 10569, Phoenix, Arizona 95064.

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 presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted 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 (LAR 85-13, dated October 30, 1985) that is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the California Polytechnical State University Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Bethesda, Maryland, this 6th day of January, 1986.

For the Nuclear Regulatory Commission.

Jan A. Norris,

Acting Director, PWP Project Directorate No. 3, Division of PWR Licensing-A.

[FR Doc. 86-712 Filed 1-10-86; 8:45 am]

BILING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Hearing

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, February 6, 1986
Thursday, February 13, 1986
Thursday, February 20, 1986
Thursday, February 27, 1986.

These meetings will start at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street NW., Washington, DC 20415 (202) 632-9710.

January 3, 1986.

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 86-677 Filed 1-10-86; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, DC 20549.

Extension:

Rule 23c-1 [17 CFR 270.23c-1], File No. 270-253

Form N-8B-2 [17 CFR 270.274.12], File No. 270-186

Rule 206(4)-2 [17 CFR 275.206(4)-2], File No. 270-217

Rule 206(4)-3 [17 CFR 275.206(4)-3], File No. 270-218

Form N-1 [17 CFR 274.11], File No. 270-21

Form N-5 [17 CFR 274.5], File No. 270-172.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq*), the Securities and Exchange Commission has submitted the following matters for extension of OMB approval: under the Investment Company Act of 1940, Rule 23c-1, Repurchase of Securities by Closed-end Companies; Form N-8B-2, Registration Statement of Unit Investment Trusts Which Are Currently Issuing Securities; Form N-1, Registration Statement Under the Securities and Investment Company Acts for Open-end Management Investment Companies; and Form N-5, Registration Statement of Small Business Investment Companies Under the Securities Act and Investment Company Act; and, under the Investment Advisers Act of 1940, Rule 206(4)-2, Custody or Possession of Funds or Securities, and Rule 206(4)-3, Cash Payments for Client Solicitations.

Comments should be submitted to OMB Desk Officer: Sheri Fox, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235 NEOB, Washington, D.C., 20503.

Dated: December 23, 1985.

John Wheeler,

Secretary.

[FR Doc. 86-717 Filed 1-10-86; 8:45 am]

BILLING CODE 8010-01-M

Agency Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, DC 20549.

Extension of Approval

Rule 13e-1

No. 270-255

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 13e-1 (17 CFR 240.13e-1) under the Securities Exchange Act of 1934 ("Exchange Act") which provides that no issuer which is subject to Section 13(e) the Exchange Act shall purchase any of its equity securities when a tender offer is being made unless a statement with respect to the proposed purchase has been filed with the Commission and the substance of the information contained therein has been sent to its equity security holders.

The number of affected entities are approximately 20 per year.

Submit comments to OMB Desk Officer: Ms. Sheri Fox (202) 395-3785, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, DC 20503.

Dated: January 6, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-522 Filed 1-10-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14885, (File No. 812-6132)]

Instituto Bancari San Paolo di Torino; Application

January 3, 1986.

Notice is hereby given that Istituto Bancario San Paolo di Torino ("Bank") and San Paolo U.S. Financial Company ("Subsidiary," and together with Bank, "Applicants"), c/o Michael P. Bannan, Esq., Sullivan & Cromwell, 125 Broad Street, New York, N.Y. 10004, filed an application on June 14, 1985, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicants from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and to the Act for the text of the relevant provisions thereof.

The Applicants state the Bank was established in 1563 as a foundation and subsequently chartered as a Public Law Bank under the laws of Italy. It has retained the structure of a foundation. Thus, the capital funds of the bank consist of retained earnings and reserves and are not divided into stocks or shares. The Bank is the third largest bank in Italy in terms of both deposits and capital funds and the sixty-ninth largest commercial bank in the world. As of December 31, 1984, the Bank had consolidated assets of U.S. $34,230,640,000 and deposits amounted to U.S. $27,009,801,001, representing approximately 81% of total liabilities. According to the application, the Bank's principal business consists of making loans and receiving deposits and it has 360 branches in Italy and branches or affiliates in nine other countries.

The application states that the Subsidiary was organized under the laws of the State of Delaware on March 7, 1985 and all of its outstanding capital stock is owned by the Bank. No other common or capital stock will be issued. Applicants state that the Subsidiary's sole business will be the issuance of debt obligations guaranteed by the Bank and the provision of the proceeds thereof to the Bank or its other subsidiaries. Substantially all of the Subsidiary's assets will consist of amounts receivable from the Bank or its subsidiaries.

Applicants represent that regulation of Italian banks is conducted by the Interministerial Committee for Credit and Savings ("CICR") and the Central Bank (Bank of Italy) for the protection of depositors and the orderly distribution of credit. CICR initiates laws which become the basis for medium or long term lending, defines the terms of govenment bond issues, establishes the discount rate and appoints the Chairmen of the Public Law Banks. In its capacity as supervisory and regulatory authority, the Central Bank's main powers include review of bank financial statements and other statistical data; bank examinations; implementation of reserve requirements; approval of bank expansion through additional offices; and control of foreign borrowings.

According to the application, the Bank proposes to issue and sell, or to cause the Subsidiary to issue and sell, in the United States unsecured prime quality Commercial paper notes ("Notes") in bearer form and denominated in United States dollars in order to provide an alternative source of United States dollars. No Note will be in a denomination smaller than $100,000 and Applicants do not currently intend to sell Notes in the United States in excess of an aggregate of $150,000,000 at any one time outstanding. The Notes will be issued and sold to a commercial paper

dealer in the United States which will reoffer the Notes as principal to investers in the United States. The application further states that payment of the principal, interest and premium, if any, on Notes issued and sold by the Subsidiary will be unconditionally guaranteed by the Bank and thus the holders of such Notes may be considered as holders of obligations of the Bank. The net proceeds of the sale of the Subsidiary's Notes will be loaned to the Bank or subsidiaries of the Bank. The Bank's obligations in respect of the Notes, whether as direct issuer or as guarantor, will rank *pari passu* among themselves and equally with all other unsecured indebtedness of the Bank.

The application states that Applicants will undertake to ensure that the Notes will not be advertised or otherwise offered for sale to the general public, but instead will be sold by a dealer to institutional investors and other entitites and individuals who normally purchase commercial paper notes. Applicants also undertake to ensure that the dealer will provide each offeree of the Notes prior to purchase with a memorandum which briefly describes the business of the Bank and which includes the most recent publicly available financial statements which shall have been audited in such manner as is customarily done by its statutory auditors. Such memorandum will describe material differences, if any, between the accounting principles applied in the preparation of such financial statements and "generally accepted accounting principles" as employed by banks in the United States. Such memorandum will be at least as comprehensive as those customarily used by United States bank holding companies in offering commercial paper in the United States and will be updated promptly to reflect material changes in the financial condition of the Bank. Applicants represent that the terms and manner of offering the Notes will be such as to qualify them for exemption from registration under the Securities Act of 1933, as amended ("Securities Act"), provided by section 3(a)(3) or section 4(2) of the Securities Act. Applicants state that they will not issue or sell any Notes until they have received an opinion of their United States legal counsel that the Notes would be entitled to such an exemption. Applicants do not request review or approval by the Commission of such counsel's opinion and the Commission expresses no opinion as to the availability of any exemption. Applicants further represent that the presently proposed issue of Notes and all future issues of debt securities in the United States shall have received prior to issuance one of the three highest investment grades from at least one nationally recognized statistical rating organization and that their United States counsel shall have certified that such rating has been received, provided, however, that no such rating need be obtained with respect to any such issue, if in the opinion of such United States counsel, after having taken into account for the purpose of such opinion the doctrine of "integration" referred to in Rule 502 under the Securities Act and various releases and no action letters made public by the Commission, an exemption from registration is available under section 4(2) of the Securities Act.

Applicants state that they may appoint a bank or other financial institution in the United States as their authorized agent to issue the Notes from time to time. Applicants will appoint either such financial institution or some other United States person which normally acts in such capacity to accept any process which may be served in any action based on a Note and instituted by the holder of such Note in any State or Federal court. Applicants will expressly accept the jurisdiction of any State or Federal Court in the City and State of New York in respect of any such action. Such appointment of an authorized agent to accept service of process and such consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of the Notes have been paid by Applicants.

The application states the Bank may, from time to time, offer other debt securities for sale in the United States. The Subsidiary may also, from time to time, offer other debt securities for sale in the United States which will be unconditionally guaranteed by the bank. Applicants undertake that any future offering of their securities in the United States will be done on the basis of disclosure documents at least as comprehensive as those customarily used by United States bank holding companies in offering similar securities under similar circumstances, and undertake to ensure that each offeree of such securities will be provided with such disclosure documents. Any such future offering will be made with due regad to the doctrine of "integration" referred to in Rule 502 under the Securities Act and various releases and no-action letters made public by the Commission. Applicants undertake that, for any future offering of their securities made pursuant to a registration statement under the Securities Act, they will furnish a disclosure document to such persons and in such manner as may be required by the Securities Act and the rules and regulations thereunder.

Applicants also undertake, in connection with any future offering in the United States of their debt securities, to appoint a United States person as agent to accept any process which may be served in any action based on any such securities and instituted in any State or Federal Court by the holder of such security. Applicants further undertake that they will expressly accept the jurisdiction of any State or Federal court in the City and State of New York in respect of any such action. Such appointment of an agent to accept service of process and such consent to jurisdiction will be irrevocable so long as such securities remain outstanding and until all amounts due and to become due in respect of such securities have been paid.

Applicants claim that because compliance with the Act would conflict with the Bank's commercial banking practices, the Bank would be effectively precluded from selling securities in the United States if it were required to register as an investment company. Applicants assert that the Bank is closely monitored and controlled by Italian authorities and subject to a regulatory structure comparable to that imposed on United States banks and as such is significantly different from the type of institutions that Congress intended the Act to regulate. The Applicants contend that the same rationale for exempting the Bank applies equally to the Subsidiary because of the strictly limited nature of its business and because the Bank has undertaken to provide an unconditional guarantee of the Subsidiary's Notes.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than January 27, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 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. 86-718 Filed 1-10-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23983; 70-7198]

J. Henry Schroder Bank & Trust Co. and General Electric Credit Corp.; Application To Be Declared Not To Be an Electric Utility Co.

January 3, 1986.

J. Henry Schroder Bank & Trust Company ("Schroder"), One State Street Plaza, New York, New York 10015, and General Electric Credit Corporation ("GECC"), 1600 Summer Street, Stamford, Connecticut 06905, have filed an application for an order declaring that neither Schroder nor GECC would become an "electric utility company" under section 2(a)(3) of the Public Utility Holding Company Act of 1935 ("Act") as a result of the transactions described in the application, which are summarized below.

Schroder is a commercial bank organized under the laws of New York State. Approximately 95% of Schroder's capital stock is owned by J. Henry Schroder Bank and Trust Company ("PLC"), a publicly traded corporation; the remainder is privately held. GECC is a New York corporation that is primarily engaged, directly or through affiliates, in distribution, sales financing commercial industrial financing, and real estate financing, including leasing. GECC is a wholly owned subsidiary of General Electric Financial Services, Inc., which is itself a wholly owned subsidiary of the publicly traded General Electric Company. None of the direct or indirect parent corporations of Schroder or GECC is presently a "holding company" or a subsidiary company" of a "holding company", as defined in the Act. If Schroder or GECC were to become an electric utility company for purposes of the Act as a result of the proposed transaction described below, their respective parents would, absent an appropriate exemption, become subject to regulation under the Act as holding companies.

San Diego Gas & Electric Company ("SDGE"), is a California electric utility company subject to the juridiction of the California Public Utilities Commission. Portland General Electric Company ("PGE"), is an Oregon electric utility company subject to the jurisdiction of the Public Utility Commissioner of Oreogn.

PGE owns an 80% undivided interest in Boardman Unit NO. 1, a 500 net megawatt coal fired power plant located in Oreogn. PGE also owns certain tranmission assets and rights to the use of certain transmission facilities (the "Transmission Assets") connected or otherwise related to the Pacific-Northwest Intertie. PGE has entered into a Long Term Power Sale Agreement and related Long Term Transmission Service Agreement (the "Power Contracts") with SDGE. The Power Contracts provide for the sale and transmission of power to SDGE from January 1, 1986 to December 31, 2013 and specifically from Boardman Unit No. 1 commencing January 1, 1989.

If the proposed transaction is consummated, PGE will sell a 15% undivided interest in Boardman Unit No. 1 and 10.714% undivided interest in the Transmission Assets (collectively, the "Assets") to Schroder as owner trustee under a trust for the benefit of GECC. The sale price will be approximately $233,000,000. Schroder, as owner trustee, will borrow approximately 80% of the purchase price from institutional investors. The remaining approximately 20% of the purchase price will be advanced to Schroder, as owner trustee, by GECC as an investment in the beneficial ownership of the Assets. Schroder, as owner trustee, will lease the Assets to a corportion (the "Leasee") under a lease (the "Lease") having an initial term of approximately 28 years. The Leasee will have the right to renew the Lease for additional terms. The Leasee will also have the option to purchase the Assets under certain circumstances.

The Lease will be a net lease under which the Lease will be responsible for maintaining, repairing and insuring the Assets and for paying substantially all taxes, assessments and other costs arising from the possession and use thereof. PGE will operate the Assets for the Lessee, and will assign the benefits and burdens of the Power Contracts to the Lessee for performance by the Lessee. The Lessee will then assign the Power Contracts to Schroder, as owner trustee, who will in turn assign them to The Chase Manhattan Bank, as trustee for the institutional investors. In addition PGE will provide alternate power under certain circumstances so that the Lessee can perform under the Power Contracts. In consideration of the Lessee making payment for such services and agreements and for assigning to PGE certain of its rights under the Lease, PGE will be obligated to pay the Lessee amounts which the Lessee is required to pay to the Lessor other than amounts which SDGE is obligated to pay under the Power Contracts. During the first three years of the Lease (through December 31, 1988) PGE will lease the Lessee's interest in Boardman Unit No. 1 from the Lessee but PGE will not lease the Transmission Assets which will be used by the Lessee in its operations as a public utility to sell spot market power to SDGE. When Boardman Unit No. 1 power becomes available to SDGE on January 1, 1989, the lease to PGE will terminate and both Boardman Unit No. 1 and the Transmission Assets will be used by the Lessee in its operations as a public utility.

Neither Schroder nor GECC will receive any amount based upon the revenue or income of the Lessee. Schroder will not receive any fee or other payment in connection with the transaction described above, but Schroder will be entitled to receive reimbursement for an indemnification against any costs and expenses incurred by it in connection therewith.

Payments received by GECC will not fluctuate with the revenue or income of the Lessee. The application states that neither GECC, in its individual capacity, nor Schroder, in its individual capacity or as Trustee, would operate the Assets or receive any revenue from the sale of electric energy generated by the Assets.

The Federal Energy Regulatory Commission ("FERC") has approved the transfer of assets by PGE, the Power Contracts, and the Lease, and has specifically subjected the Lessee, as a public utility, to FERC jurisdiction for accounting and other matters.

Each of the applicants represents that it is a company primarily engaged in one or more businesses other than the business of an electric utility company and that, by reason of the fact that it will not operate the Assets or generate or sell any electric energy as a result of the proposed transactions, it is not necessary in the public interest or for the protection of investors or consumers that it be considered an electric utility company for the purposes of the Act. GECC and Schroder each requests an order under section 2(a)(3) of the Act declaring that it will not be an electric utility company as a result of the proposed transactions.

The application 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 January 24, 1986, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on GECC and Schroder at the addresses specified above. Proof

of service (by affidavit or, in the 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 notice or order issued in this matter. After said date the application, as amended or as it may be amended, may be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-719 Filed 1-10-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22765; File No. SR-CBOE-85-48]

Self-Regulatory Organizations; Proposed Rule Change; Chicago Board Options Exchange, Inc.; Extending Time Limit for Filing and Application for Review

The Chicago Board Options Exchange, Incorporated ("CBOE"), submitted on December 2, 1985, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder, to amend the Exchange's Rule 19.2 to extend the time limit for filing an application for review of an action of the Exchange before the Exchange's Appeals Committee. The text of the proposed rule change is described in Items I, II and III below, which Items have been prepared by the self-regulatory organization.

I. Text of the Proposed Rule Change

Rule 19.2. (a) The Application. A person who is aggrieved by an action of the Exchange within the scope of this Chapter and who desires to have an opportunity to be heard with respect to such action shall file a written application with the Secretary of the Exchange within [fifteen] *thirty* days after such action has been taken. The application shall state the action complained of and the specific reasons why the applicant takes exception to such action and the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, same should be so stated and identified.

The application for an extension and the reasons therefor must be filed with the Secretary of the Exchange in writing.

Extensions of Time To File Applications

(b) *An application which is not filed within the time specified in paragraph (a) of this Rule shall not be considered by the Appeals Committee, unless the applicant files his application within such extension of time as allowed by the Chairman of the Appeals Committee. In order to obtain an extension of time within which to file an appeal, the applicant must, within the time specified in paragraph (a) of this Rule, file with the Secretary of the Exchange an application for an extension of time within which to submit the application. Such an application for an extension will be ruled upon by the Chairman of the Appeals Committee, and his ruling will be given in writing. Rulings on applications for extensions of time are not subject to appeal under Chapter XIX 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 Items IV below and is set forth in section (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to assure that the limit for filing an application for review before the CBOE Appeals Committee is adhered to. Thus, the rule change provides additional time within which to file an appeal, and requires strict observance of the time limit, either by filing the appeal or an application for additional time on a timely basis. The rule change is consistent with the Act and in particular section 6 thereof, in that it provides a fair basis for Exchange dispute resolution.

(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, Partcipants 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 (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organizations consent, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filings also will 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 February, 3, 1986.

Dated: January 3, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-720 Filed 1-10-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22769; File No. SR-CBOE-85-53]

Self-Regulatory Organizations; Proposed Rule Change by the Chicago Board Options Exchange, Inc.; Terms of Options Contracts

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 December 23, 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. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Additions are italicized; deletions are bracketed.

Terms of Option Contracts

Rule 24.9. (a) No change.

(b) Expiration Months. Index option contracts may expire at three-month intervals or in consecutive months. When option contracts on a particular index expire in consecutive months, series expiring in no more than four months may be listed. *Notwithstanding the foregoing, the expiration months for Standard & Poor's 500 Stock Index option contracts' expiration months will include a second month option and the next two months from the March cycle added eight months from the current expiration; in addition, the Exchange may introduce a third expiration month from the March cycle added eleven months from the current expiration.*

(c) No change.

. . . Interpretations and Policies:

.01 No change.

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

The purpose of this proposed rule change is to provide customers with two near-term expiration months and two far-term expiration months for trading, with the Exchange having the flexibility to add a third far-term expiration month. As an example of the effect of this rule change, after the February expiration, the months available for trading would be March, April, June and September, and perhaps December.

The statutory basis for this proposed rule change is section 6(b)(5) of the Securities Exchange Act of 1934 (the Act), in that it is designed to facilitate transactions in S & P 500 Index Option contracts.

(B) Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change will not impose a 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 (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written 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 at the Commission'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 February 3, 1986.

Dated: January 6, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-721 Filed 1-10-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22768; File No. SR-NYSE-85-47]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange Inc.; Changes to the Exchange's Constitution

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 December 31, 1985, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The constitution is the by-laws of the New York Stock Exchange, Inc. The proposed rule changes are designed to produce a more streamlined and businesslike constitution for the Exchange and to eliminate provisions which are no longer necessary or which can more appropriately be addressed in the rules of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule changes. 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 Changes

(a) Purpose of Proposed Amendments

The purpose of the proposed rule changes is to provide the Exchange with a modern, streamlined constitution. The proposed constitution will enable the Exchange to meet its current operating and organizational needs by simplifying certain provisions and repositioning other provisions in the rules of the Exchange. The revised constitution also eliminates many obsolete or outdated provisions and implements a standardized system of punctuation, capitalization and nomenclature.

Specifically the new constitution will contain fifteen articles instead of the present twenty-one and the articles will be arranged in a logical order, with the sections on membership and government positioned early while the financial and regulatory articles appear later.

The new constitution defines the classes of directors on the Exchange's Board and the types of members. It also closes the class of electronic access members entitled to vote, making new electronic access members similar to option trading right holders. In addition, the new constitution changes the date of the annual meeting of members, streamlines the proxy provisions and codifies the Exchange's practice of appointing an independent inspector of elections. In the area of corporate governance the new constitution increases the size of the Board from twenty-three to twenty-seven directors. It also provides for representation by issuers, investors, member organizations doing business with the public, regional firms, specialists, non-specialist floor members and New York base firms which are not national in nature. In addition, it changes the quorum to a majority of the entire Board, and provides for representation on the Board from particular constituencies. It also provides that the Vice Chairman be an industry director.

(b) Statutory Basis for the Proposed Rule Changes

The proposed rule changes are consistent with section 6(b) of the Act in that they assure a fair representation of Exchange's members in the selection of its directors and administration of its affairs and provide that one or more directors shall be representatives of issuers and investors and not be associated with a member of the Exchange, broker, or dealer. They also provide for the equitable allocation of reasonable dues, fees and other charges, promote just and equitable principles of trade and provide a fair procedure for the disciplining of members and persons associated with members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule changes do not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants, or Others

The Exchange circulated and received comments on a preliminary draft of the proposed constitution. Most of the comments concerned representation on the Board for particular constituencies. The Exchange incorporated these comments and suggestions in the proposed new constitution and the Exchange has not received any written comments on the proposed rule changes in the form approved by the board and the membership.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule changes, or

B. Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will 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 February 3, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 6, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-722 Filed 1-10-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22767; File No. SR-Phlx-85-31]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

On November 12, 1985, the Philadelphia Stock Exchange, Inc. ("Phlx") filed with the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 under the Act [2] a proposed rule change to require that a registered options trader ("ROT") execute in person a minimum of 1,000 contracts per quarter. In addition, the Phlx proposes a schedule of fines for violations of this requirement, as well as a separate schedule of fines for violations of the Phlx's existing requirement that at least 50% of a ROT's trading activity be in assigned options.[3]

The proposed rule change was noticed in Securities Exchange Act Release No. 22656 (November 21, 1985), 50 FR 48855 (November 27, 1985). No comments were received with respect to the proposed rule change.

The Phlx employs a specialist system, in which the specialist is assigned primary responsibility for his specialty options and is required to be at his post

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1985).

[3] The Phlx currently requires that ROTs trade as principal 1,000 contracts per quarter. The Phlx also currently has one fine schedule for violations of either the 1,000 contract per quarter or 50% requirements; the instant proposal would create separate fine schedules for these two requirements, and increase to $500.00 from $200.00 the maximum possible fine for second occurrences of violations of the 1,000 contract per quarter requirement.

continuously during trading hours. In this system, ROTs function essentially as supplemental market makers. ROTs are allowed to trade on the floor for their own account. They are assigned certain options classes and, while not required to be in the crowd for these classes continuously, ROTs do have the obligation when in the crowd for one of their assigned classes in other than a brokerage capacity, or when called upon by the Exchange, to assume the affirmative obligation to deal for their own account, to the extent reasonable under the circumstances, to correct temporary disparities between supply and demand or a temporary distortion of the price relationship between option contracts of the same class.[4] ROTs also have the general obligation not to engage in transactions or to make bids or offers inconsistent with the maintenance of fair and orderly markets.[5] ROTs are entitled to "exempt credit" or "good faith" margin for proprietary options positions established on the floor of the Phlx.[6] ROTs, then, are allowed to trade for their own account on the Phlx floor subject to the fulfillment of certain affirmative and negative obligations.

The Commission believes that the imposition of an "in-person" requirement on Phlx's ROTs will serve to improve Phlx's overall market maker capabilities. As just described, ROTs, as supplemental market makers, have affirmative and negative obligations. Requiring ROTs to execute a certain number of contracts per quarter in person should ensure that ROTs will be physically present to fulfill these obligations, and, thus, to respond to public orders and to improve the price and size of the markets made on the Phlx. In addition, the Phlx proposal would have the effect of reducing the extent to which Phlx ROTs could effectively functions as privileged investors by entering the Phlx floor only long enough to drop off orders with a floor broker, without even functioning as a supplemental market maker.[7] For these reasons, the Commission finds that the Phlx proposal would serve to improve the mechanism of a free and open market, to maintain a fair and orderly market and generally to promote the protection of investors and the public interest.

The Commission also finds that the proposed rule change does not impose burdens on competition not necessary or appropriate under the Act. As discussed in the CBOE Release, competition among market makers only can be enhanced insofar as traders are actually functioning in what may properly be described as a market maker capacity.[8] In the case of ROTs, this includes dealing only in a manner reasonably calculated to contribute to fair and orderly markets and to correct temporary disparities in supply and demand in their assigned classes when not functioning in a brokerage capacity or when called upon by the Exchange to do so. In return for these obligations to the marketplace, ROTs are permitted to trade on the floor of the exchange, thus being provided significant time and place advantages as well as margin credit advantages over other market participants. In sum, under the scheme of regulation contemplated under the Federal securities laws, ROTs, unlike public customers, are not to buy and sell from time to time as their prospects for profit may dictate. Rather, they assume specific affirmative and negative obligations to the marketplace in return for specific privileges.[9]

A member who is present on the trading floor only long enough to hand his orders to a broker contributes no more to competition or market liquidity than does a public customer. He is not available to respond to or better the changing bids, offers or sizes of other market makers, or otherwise to respond to public orders in an active and dynamic marketplace. Indeed, his remote orders (*i.e.*, ones not executed in person) may well be on the same side of the market as the preponderance of public customer orders, bringing them into competition with public customers and actually impairing the depth of the Phlx market for those customers.

In determining whether to approve the Phlx proposal, the Commission has considered whether a requirement that encourages ROTs to be physically present in trading crowds, where they can function genuinely as ROTs, and not simply as privileged investors, could be outweighed by the possible effects of (1) reducing remote orders from traders making markets in some other crowd on the Phlx floor, thereby reducing liquidity without improving market making; or (2) driving ROTs out of the Phlx market altogether, thus assuring that they will never be on the floor as ROTs, and possibly damaging liquidity simply through the loss of their order flow.

The first concern is limited by the fact that the in-person requirement is relatively low.[10] Moreover, should the proposed in-person requirement cause some ROTs to cease acting as such, this would not necessarily result in a loss of their order flow to the Phlx. Members unwilling to meet the in-person requirement could simply enter orders from off-the-floor like any other Phlx member.

The Phlx rule, as proposed, would require ROTs to effect at least 1,000 contracts per quarter of their transactions in person. In this regard, even though an ROT still may use floor brokers to effect transactions above the 1,000 contract minimum, the Commission notes that the minimum requirement in no way relieves ROTs from their affirmative obligations to contribute to the maintenance of a fair and orderly market.[11] Accordingly, the Commission believes that, at least initially, the 1,000 contract minimum requirement is an acceptable starting point to encourage in-person dealing; will require members to spend a minimal amount of time dealing in person on the floor, while still allowing ROTs who are active in more than one crowd to adjust their positions in one options class while trading on a different part of the floor. As discussed above, the Commission also does not believe the proposal will have a negative effect on market liquidity.

To the extent that the proposal may have adverse competitive effects, the Commission believes that such effects will be outweighed by the benefits of this proposal, including the enhancement of market liquidity and increased fair competition among on-

[4] Phlx Rule 1014(c). This rule also specifies certain price continuity and quotations spread parameters for ROTs and specialists.

[5] Phlx Rule 1014(a).

[6] Phlx Rule 1014.01 and § 220.12(b)(3) of Regulation T, 12 CFR 220.12(b)(3) (1985).

[7] *See* Securities Exchange Act Release No. 21008 (June 1, 1984), 49 FR 23721 ("CBOE Release") (approving a CBOE proposal to require, among other things, CBOE's competitive market makers to execute in person 25% of their transactions per month).

[8] *See* the CBOE release, note 7 *supra*, 49 FR at 23733.

[9] *Id.*, 49 FR at 23723.

[10] While the other options exchanges employing a specialist system do not have any in-person requirement, the Commission believes that a 1,000 contract per quarter minimum requirement is not particularly burdensome. It is our understanding that Phlx's proposed 1,000 contract minimum requirement will not negatively affect a substantial number of ROTs because, for the most part, the average in-person contract volume of the majority of ROTs far exceeds the proposed 1,000 contract minimum requirement. In addition, the CBOE, which uses a competitive market maker system, under which there is no specialist and each market maker assumes affirmative and negative obligations, requires the execution in persons of 25% of all transactions per month. *See* the CBOE Release, note 7, *supra*. The Phlx requirement appears, at the least, to be not more burdensome than CBOE's.

[11] *See* note 6, *supra*.

floor traders and between on-floor and off-floor participants. In addition, the Phlx has agreed to provide the Commission with a status report, one year after the exchange's implementation of the order, on the net effects of the 1,000 contract minimum in-person requirement on ROTs.[12] Accordingly, the Commission finds that the proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

In sum, the Commission views the "in-person" requirement contained in the proposed rule change as conducive to the Phlx meeting its responsibilities under the Act. The public interest, in the Commission's view, supports the adoption of the proposed rule change. The Commission further finds that the proposed rule change imposes no burden on competition not necessary or appropriate in furtherance of the provisions of the Act. The Commission also finds that the proposed schedule of fines is reasonable. For these reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of sections 6 and 11 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2), that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 6, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-723 Filed 1-10-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 952]

Agency Forms Submitted for OMB Review

AGENCY: Department of State.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, the Department has submitted 6 proposed collections of information to the Office of Management and Budget for review.

[12] Telephone conversation between Eneida Rosa, Branch Chief, Division of Market Regulation, and Gerald D. O'Connell, Assistant Vice President and Director, Market Surveillance, Phlx, on January 2, 1986.

SUMMARY: The following summarizes the information collection proposals submitted to OMB:

(1) Title of information collection—Passport Application.
OMB No. 1405-0004.
Form Number—DSP-11.
Type of request—Extension.
Frequency—On occasion.
Respondents—Applicants for U.S. Passport.
Estimated number of responses—4,000,000.
Estimated number of hours needed to respond—466,666.

(2) Title of information collection—Application for Passport by Mail.
OMB No. 1405-0020.
Form Number—DSP-82.
Type of request—Extension.
Frequency—On occasion.
Respondents—Applicants for U.S. Passport.
Estimated number of responses—1,400,000.
Estimated number of hours needed to respond—116,666.

(3) Title of information collection—Passport Amendment/Validation Application.
OMB No. 1405-0007.
Form Number—DSP-19.
Type of request—Extension.
Frequency—On occasion.
Respondents—Current passport holders.
Estimated number of responses—75,060.
Estimated number of hours needed to respond—6,255.

(4) Title of information collection—Application for Passport/Registration (Overseas).
OMB No. 1405-0001.
Form Number—OF-178.
Type of request—Revision/Extension.
Frequency—On occasion.
Respondents—Overseas applicants for U.S. Passport.
Estimated number of responses—250,000.
Estimated number of hours needed to respond—29,411.

(5) Title of information collection—Application for Amendment/Extension of Passport (overseas).
OMB No. 1405-0012.
Form Number—OF-195.
Type of request—Revision/Extension.
Frequency—On occasion.
Respondents—Current holders of U.S. Passport residing abroad.
Estimated number of responses—55,000.
Estimated number of hours needed to respond—4,583.

(6) Title of information collection—Report of Birth Abroad of a Citizen of the United States of America.
OMB No. 1405-0011.
Form Number—FS-240.
Type of request—Extension.
Frequency—On occasion.
Respondents—U.S. citizen parents of children born abroad.
Estimated number of responses—40,000.
Estimated number of hours needed to respond—13,333.
Section 3504(h) of Pub. L. 96-511 does not apply.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Gail J. Cook (202) 632-3538. Comments and questions should be directed to (OMB) Francine Picoult (202) 395-7231.

Dated: December 30, 1985.

Donald J. Bouchard,

Assistant Secretary for Administration.

[FR Doc. 86-632 Filed 1-10-86; 8:45 am]

BILLING CODE 4710-24-M

[Public Notice CM-8/925]

Study Group 8 of the U.S. Organization International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 8 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet January 28, 1986 in Conference Rooms 9A and B, Federal Aviation Administration Building, 800 Independence Avenue, SW., Washington, DC. The meeting will begin at 9:30 a.m.

Study Group 8 studies matters relating to systems of radiocommunications and radiodetermination for the mobile services. The purpose of the meeting is to consider preparations for the Special International Study Group 8 Meeting in July, 1986.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman. Requests for further information should be directed to the office of Mr. Richard E. Shrum, State Department, Washington, DC 20520; telephone (202) 647-2592.

Dated: January 6, 1986.

Warrent G. Richards,

Acting Director, Office of International Radio Communications.

[FR Doc. 86-696 Filed 1-10-86; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-86-1]

Petition for Exemption; Summary of Petitions Received Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: February 3, 1986.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The Petition, any comments received and copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, DC 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on January 7, 1986.

Donald P. Byrne,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
24838	USAF	14 CFR 91.24(b)	To allow petitioner to conduct operations without operating the transponder in restricted areas and MOA's known as the Desert Complex in California and Nevada.
24098	Alaska Helicopters, Inc	14 CFR Portions of Part 121, and SFAR 38-2	To amend Exemption 4109 to expand petitioner's operational area outside the State of Alaska to include the 49 other states of the United States, the District of Columbia, U.S. coastal waters and extended overwater operations, including international waters.
24821	Flight International, Inc	14 CFR 61.157(d)(1)	To permit petitioner to provide its B-727 airplane simulator, for use by contracting applicants for an airline transport pilot certificate or an additional type rating, to accomplish the items specified in paragraph (a) that may be performed in the airplane simulator specified in Appendix A to Part 61 of the FAR, for the particular item, even though Flight International is not a Part 121 certificate holder and its B-727 simulator cannot be specifically approved for the certificate holder as required by §121.407(a)(1)(i) of the FAR.
24759	Pumpkin Air, Inc	14 CFR 43.3(g)	To allow petitioner's appropriately training and certificated pilots to remove, check, and reinstall magnetic chip detector plugs on Allison 250C series engines used on Bell model 206 series, Aerospatiale 355 series, and Sikorsky S76 helicopters operated by petitioner
23063	Tenneco Inc	14 CFR 21.181	To permit petitioner to operate its fleet of corporate airplanes using a minimum equipment list (MEL) and a configuration deviation list (CDL).
23725	Purolator Carrier Corp	14 CFR 121.3(e)	To allow petitioner to continue to provide air transportation services as an indirect air carrier.
13199	American Airlines Training Corporation	14 CFR 61.63(d) (2) and (3)	To allow petitioner to use an approved visual simulator for applicants for a Cessna 500 (CE-500) type rating who have completed AATC's Federal Aviation Administration (FAA)-approved training course, pursuant to §121.424(d), even though AATC does not have an operating certificate issued under Part 121.
24858	Pumpkin Air, Inc	14 CFR 135.267 (b) and (d)	To allow petitioner to assign pilots for flight times in excess of eight (8) hours for a flightcrew consisting of one (1) pilot and ten (10) hours of rest during the twenty-four (24) hour period that precede the planned completion time of the assignment.
24808	Pan American World Airways	14 CFR 121.433, 121.441, and Appendix F of Part 121.	To permit petitioner to combine recurrent training and proficiency checks for pilots in command into one annual training and proficiency check session. In addition, the line check required by §121.440 would be administered 6 months subsequent to the annual training and proficiency check session in lieu of the recurrent training presently required.
24847	Western Air lines, Inc	14 CFR 121.687(b)	To allow petitioner to use a dispatcher's electronic signature (dispatcher's name printed on computer) in lieu of a handwritten signature on the aircraft release.
22356	ACM Avaiation Inc	14 CFR 91.32(b)(1) and (ii) and 135.89	To allow operation of the Gates Learjet 36A aircraft up to FL410 without either pilot being required to wear their oxygen masks; as long as there are two pilots at the controls and each pilot has a quick-donning type of oxygen mask.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought; disposition
21802	Sowell Aviation Co	14 CFR 141.65	To allow petitioner to recommend for flight instructor and airline transport pilot certificates and ratings, graduates of its FAA approved certification course who have not taken the FAA's required written test. Granted 11/5/85.
24561	Weis Markets Inc	14 CFR 21.181	To allow petitioner to operate a BE-90 using the provisions of a minimum equipment list. Granted 10/3/85.
24692	Chaparral Airlines	14 CFR 135.157(b)	To permit petitioner to operate a Gruman Gulfstream aircraft up to 25,000 feet mean se level without complying with the passenger oxygen dispensing requirements. Denied 10/10/85.
24709	Texasgulf, Inc	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of mimimum equipment list. Granted 12/12/85.
24380	ISO Aero Service	14 CFR 141.35	To allow Mr. Henley to be designated as ISO's chief instructor without meeting certain experience requirements. Denied 11/29/85.

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought; disposition
24725	Pepsico	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted 12/12/85.
24731	General Dynamics	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted 12/12/85.
2475	Ingersoll Publications Company	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted 12/12/85.
23691	Clinchfield Coal Co.	14 CFR 91.23(b)(2)	To permit petitioner to operate IFR equipped helicopters without designating an alternate airport when the IFR destination weather is reported or forecast as ceiling of 400 feet and visibility of 1 mile greater than the weather planning minimum for the approach at the destination airport. Denied 12/11/85.
23488	Amway Corporation	14 CFR 61.58(c)	To allow petitioner to complete a 24-month Pilot-in-Command check for the BAC 1-11 in an FAA-approved simulator. Granted 12/4/85.
22554	Petroleum Helicopters	14 CFR 135.261(b)	To permit petitioner to operate certain helicopter without complying with the flight and duty time requirements. Vacated 12/10/85.
23730	Japan Air Lines	14 CFR 61.77(d)(1)(i) and 63.23(d)(1)(i)	To allow petitioner's crewmembers, who hold special purpose airmen licenses to operate, to and from, or within the United States any U.S.-registered boeing 747-200-F aircraft, which is leased to petitioner as a ferry flight or to operate the aircraft in flight crew training at Moses Lake, Washington. Vacated 10/19/85.
24567	U.S. Jet Aviation	14 CFR 135.261(b)	To permit petitioner to operate its aircraft in a hospital emergency medical evacuation service without complying with the duty time limitations. Vacated 9/8/85.
24607	Atorie, Air, Inc.	14 CFR 121.709(b)(3)	To permit petitioner's employees to perform the daily external visual inspection of the horizontal tail surfaces in accordance with the Airworthiness Directive 58-17-02. Vacated 11/29/85.
24752	Combustion Engineering, Inc.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted 12/18/85.
24742	Atlantic Aviation Corporation	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted 12/18/85.
24711	W.H. Brady Company	14 CFR 21.181	To allow petitiner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted 12/18/85.
24753	Dayton Hudson Corp.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted 12/18/85.
24387	Greenlandair	14 CFR 145.73(a)	To allow petitioner, as a foreign repair station, to perform airframe and engine overhauls on equipment that will be operated wholly within the United States. Denied 12/19/85.
24355	Dept. of California Highway Patrol	14 CFR 45.29	To allow petitioner to operate various types of helicopters and airplanes displaying registration and nationality markings less than 12 inches high. Denied 12/20/85.
24690	Aerostar Airlines, Inc. d/b/a Flight International Airlines, Inc..	14 CFR 121.3(a)	To permit petitioner to conduct a series of public charter flights on an average of three per day for at least 60 days or until pettioner obtains Part 121 domestic air carrier operations specifications. Denied 8/30/85.
24373	Transportes Aeros Mercantiles Panamericanos, S.A..	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. Amended grant 12/5/85
24186-1	Arrow Air, Inc.	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. Amended grant 12/13/85.
24365	Lineas Aereas Paraguayas	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. Amended grant 12/13/85.
24231-1	Rich International Airways, Inc.	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. Amended grant 12/16/85.
24326	Hawaiian Airlines, Inc.	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. Amended grant 12/17/85.
23383	Florida Express	14 CFR 91.307	To allow operation in the United States, under a service to small communities exemption, of specificied two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: BAC 1-11: N1542, N1544, N1545, N1546, N1548, N1549, N1135J, and N1136J. Granted 12/18/85.
17922	Air Midwest, Inc.	14 CFR 135.261(b)	To permit petitioner to assign a flight crewmember for duty during flight time when that Assignment does not provide for at least 10 consecutive hours of rest during the 24-hour period preceding the planned completion of the assignment. Amended grant 12/17/85.
24351	Surinam Airways Limited	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. Amended grant 12/23/85.
24481	Fast Air Carrier LTDA	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. Amended grant 12/23/85.
23982-1	Independent Air, Inc.	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. Amended partial grant 12/30/85.
23685	The Department of the Navy, MCAS Beaufort.	14 CFR 101.23(b) and 101.23(c)	To permit petitioner the use of Missile Plume Simulator GTR-18 Class B Fireworks "Smokey Sam," within established controlling firing areas (CFA) as MCAS Beaufort, South Carolina, and at Beaufort County Airport, South Carolina. Granted 12/12/85.
23543	Arnautical, Inc.	14 CFR 61.63(d) (2) and (3)	To permit trainees of petitioner who are applicants for a type rating to be added to a private or commercial pilot certificate, to substitute the practical test requirements of § 61.157(a) for those of § 61.63(d) (2) and (3), and to complete a portion of that practical test in a simulator as authorized by § 61.157(d). Granted 12/23/85.
24771	Bluestone Coal Corp.	14 CFR 21.181	To allow petitiner to operate a BE-200 aircraft using a Federal Aviation Administration (FAA)-approved minimum equipment list (MEL). Granted 12/20/85.
24379	Pacific Southwest Airlines	14 CFR 91.54(c) (1), (2), and (3)	To permit petitioner to operate its British Aerospace Public Limited Company (British Aerospace) 146-200 aircraft, N346PS, N347PS, N348PS, N349PS, N350PS, N351PS, N352PS, N353PS, N354PS, and N355PS without complying with the filing and notification procedures. Denied 12/20/85.
15585	Cathay Pacific Airways	14 CFR 21.181	To permit petitioner to operate 3 leased U.S.-registered Lockheed L-1011 aircraft, registration numbers N321EA, N316EA, N314EA, utilizing a Federal Aviation Administration (FAA)-approved minimum equipment list (MEL). Granted 12/30/85.
24797	Transco Energy Company	14 CFR 21.181	To allow petitioner to operate the following aircraft using a Federal Aviation Administration (FAA)-approved minimum equipment list (MEL): Aerospatiale AS-355 -N354E, N356E, N358E, N359E, N360E, N361E, N362E, N363E, N364E, N365E, N366E, N367E, N368E, N370E, N372E, N375E, N376E, N378E, and N380E, Learjet -55-N39E, N60E, Lockheed Jetstar II -N99E. Granted 12/30/85.
24781	Mason Corporation	14 CFR 21.181	To allow petitioner to operate the following aircraft using a Federal Aviation Administration (FAA)-approved minimum equipment list (MEL): Beechcraft King Air 200 - N999MC. Granted 12/30/85.
24786	Compania Dominicana De Aviacion, C POR A..	14 CFR 21.181	To allow petitioner to operate a leased, U.S.-registered Boeing-474 (B-747) aircraft, registration number N9665, utilizing a Federal Aviation Administration (FAA)-approved minimum equipment list (MEL). Granted 12/26/85.

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought; disposition
24617	Petro Jet Aviation, Inc.	14 CFR 43.3(g)	To allow petitioner's appropriately trained and certificated pilots to remove and replace cabin passenger seats and install and remove the Avcon Industries ambulatory stretcher and base assembly approved for installation under Supplemental Type Certificate (STC) Nos. SA1169CE, SA1170CE, SA11771CE, and SA1172CE. Granted 12/30/85.
24772	The Dow Chemical Co.	14 CFR 21.181	To allow petitioner to operate the following aircraft using a Federal Aviation Administration (FAA)-approved minimum equipment list (MEL): Dassault DA-10-N662E, Dassault DA-20-N33D and N33L, Dassault DA-50-N52DC, Beech BE-200-N662L. Granted 12/30/85.
23875	Beech Aircraft Corp.	14 CFR 45.29(b)(2)	To allow petitioner to display nationality and registration numbers (N-number) on the outboard side of each wing-mounted engine nacelle of its new Model 2000 aircraft in place of the N-numbers required on each side of the fuselage. To allow the display of 12-inch-high nationality and registration marks, N2000S, on the outer side of each nacelle of the Model 115-6, an 85 percent scaled version of the Model 2000. To amend Exemption 4061 and 4061A to substitute Model 115-67, N2000P, for Model 115-6, and to extend the exemption for another 2 years. Granted 12/31/85.
24767	Goodyear Tire and Rubber Company	14 CFR 21.181	To allow petitioner to operate the following aircraft using Federal Aviation Administration (FAA)-approved minimum equipment list (MEL): Canadair CL-600-N20G, Learjet 55-N22G, N23G, and N24G. Granted 12/31/85.
24775	K-Mart Corporation	14 CFR 21.181	To allow petitioner to operate the following aircraft using a Federal Aviation Administration (FAA)-approved minimum equipment list (MEL): Hawker Siddeley 125-700A-N80KM. Granted 12/31/85.
24754	Ozark Air Lines, Inc.	14 CFR 121.391(a)(3)	To allow petitioner to operate on a limited schedule its DC-9-30 and DC-9-40 airplanes by blocking off 10 and 18 seats, respectively, and by providing two in lieu of three required flight attendants until a third required flight attendant could board at a subsequent en route stop. Denied 12/30/85.
24419	Aeroservicios Ecuatorianos, C.A.	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. Amended Granted 12/31/85.
24130-1	Worldways Canada	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. Amended Granted 12/31/85.
21960	Florida Aircraft	14 CFR 91.31	To amend Exemption 3458A by deleting and adding certain aircraft. The present exemption permits petitioner to operate its McDonnell Douglas DC-6A, S/N 44102, and 44619, and DC-6B, S/N 44894, aircraft, at five percent increased zero fuel and landing weight for the purpose of operating all-cargo aircraft under the terms of Part 125 of the FAR. Granted 12/26/85.
24441	Northern Pacific	14 CFR 91.31(a)	To allow petitioner to operate an additional DC-6A aircraft, S/N 44675, at a five percent increase in zero fuel and landing weight, in accordance with FAR § 121.198. Denied 12/17/85.
24378	All Star Airlines, Inc.	14 CFR 43.3 and 43.7	To allow petitioner to acquire parts from Air Canada, which have not been maintained or approved for return to service by persons prescribed, for installation on aircraft when located other than in Canada. Withdrawn 9/24/85.

[FR Doc. 86-621 Filed 1-10-86; 8:45am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Jefferson and Shelby Counties, AL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Jefferson and Shelby Counties, Alabama.

FOR FURTHER INFORMATION CONTACT: Mr. R.W. Evers, District Engineer, Federal Highway Administration, 441 High Street, Montgomery, Alabama 36104/4684, Telephone: (205) 832-7379. Mr. Ray D. Bass, State of Alabama Highway Department, 1409 Coliseum Boulevard, Montgomery, Alabama 36130, Telephone: (205) 261-6311.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the State of Alabama Highway Department, will prepare an Environmental Impact Statement (EIS) for Alabama Projects M-7044(3) & F-214(31), Jefferson & Shelby Counties, Alabama. This is a proposal to improve a segment of existing U.S. Highway 280 from its intersection with the Elton B. Stephens Expressway in the City of Birmingham, Alabama, eastward to its intersection with Shelby County Road 41 in Shelby County, Alabama. Estimated project length is approximately 13 miles.

Present U.S. Highway 280 through this area has become excessively congested due to increased traffic volumes and commercial and residential development throughout the project corridor. This proposed project will significantly improve the existing traffic capacity and relieve traffic congestion.

Alternatives under consideration and to be discussed in the environmental impact statement include: (1) No Build: Maintenance of the existing facility without adjustments of new construction. (2) T.S.M.: Review and adjustments of traffic control features (signals, turning lanes, etc.) of the existing facility without involving major new construction. (3) Arterial: Expansion of the existing facility involving the construction of additional lanes. (4) Freeway: Conversion of the existing facility into a larger, denied access facility with significantly increased carrying capacity, involving major new construction. (5) Parallel Facility: Construction of a new, nearby facility running generally parallel to the existing U.S. 280 highway.

Two major public involvement meetings have been held. To insure that the full range of issues related to this proposed action is addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA at the above-provided address.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally-assisted programs and projects apply to this program)

Issued on January 3, 1986.

Ronald W. Evers,

Division Administrator, Montgomery, Alabama.

[FR Doc. 85-631 Filed 1-10-86; 8:45 am]

BILLING CODE 4910-22-M

[FHWA Docket No. 86-4]

Transborder Trucking Study: Motor Carrier Taxes and Fees; Opening of Docket

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: Section 932 of the Deficit Reduction Act of 1984 directs the Department of Transportation to "conduct a study to determine the significance of the tax imposed by Section 4481 of the Internal Revenue Code of 1954 (the heavy vehicle use tax) on transborder trucking operations." The purpose of this notice is to describe the scope of the study and request any information and comments that should be considered in performing the study.

DATE: Information and comments must be received on or before December 31, 1986.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket Number 86-4, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:00 p.m. ET., Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur J. Balek, Chief, Industry and Economic Analysis Branch, (202) 426-0282; or Mr. Michael J. Laska, Office of the Chief Counsel (202) 426-0761, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Study Mandate

Section 932 of the Deficit Reduction Act of 1984 (Pub. L. 98-369, 98 Stat. 494) directs the Department of Transportation to conduct a study to determine the significance of the heavy vehicle use tax imposed by Section 4481 of the Internal Revenue Code of 1954 on transborder trucking operations. A final report on this study, together with any recommendations the Secretary of Transportation may deem advisable, is to be submitted to Congress not later than October 1, 1987.

Background

The heavy vehicle use tax (HVUT) is one of several taxes imposed on heavy commercial motor vehicle operations to cover highway damage and other costs occasioned by the use of those vehicles. The Internal Revenue Service (IRS) ruled in 1981 that a commercial motor vehicle based in another country which registers under a prorate agreement such as the International Registration Plan (IRP) or the Uniform Prorate Reciprocity Agreement (UPRA) is also considered to be registered in the United States and thus is liable for the HVUT. Alberta and British Columbia are the only two Canadian Provinces that now participate in such prorate agreements. Other Canadian Provinces have reciprocity agreements with various States that generally involve no sharing or allocation of registration fees; vehicles registered in those Provinces are not considered to be registered in the United States, and are not liable for the heavy vehicle use tax.

Prior to 1982, the maximum heavy vehicle use tax on any vehicle was $240. Section 513 of the Surface Transportation Assistance Act of 1982 (Pub. L. 97-424, 96 Stat. 2177) raised the HVUT to a maximum of $1,900 by 1988 for vehicles with taxable gross weights of 80,000 pounds. The magnitude of this increase created intense opposition from the trucking industry. In Section 901 of the Deficit Reduction Act of 1984 (DRA), Congress lowered the maximum HVUT to $550 while increasing the diesel fuel tax rate for heavy vehicles to 15 cents per gallon.

Changes in the HVUT rates have highlighted concerns over the equity of levying the tax on certain Canadian vehicles but not on others, based solely on whether they register under a prorate plan. While the lower HVUT enacted in the DRA may have reduced the impact of this differential tax treatment, the basic inequity remains an issue. In May of 1985, the IRS issued a rule exempting those Canadian vehicles subject to the HVUT from paying that tax pending completion of the transborder trucking study.

In November 1982, the United States and Canadian Governments agreed to create a joint Motor Carrier Consultative Group to review issues concerning transborder trucking operations. While the scope of this Consultative Group extends to all aspects of motor carrier operations between the two countries, the issue of liability for the HVUT has received considerable attention. Other organizations that have been involved in prior discussions of issues related to the Transborder Trucking Study have been the American Association of Motor Vehicle Administrators, the American Trucking Associations, and the National Motor Carrier Advisory Committee.

Study Scope

The primary focus of this study will be on analyzing trucking operations across the United States/Canadian border, estimating the effects of the HVUT on those operations, and assessing alternatives to the current policy with respect to the HVUT on carriers engaged in transborder trucking. Since trucking activity across the United States/Mexican border is quite restricted, most of the study effort will be on United States/Canadian operations, but the implications of alternatives on Mexican/American operations also will be considered.

As noted above, the HVUT is only one of the taxes imposed on commercial motor vehicle operations. To date, controversy surrounding the effects of motor carrier taxes and fees on transborder trucking has centered on the HVUT. If, in the course of the study, other taxes are identified that have an impact on transborder trucking, those taxes will be analyzed. If appropriate, the effects on transborder trucking of substituting a weight-distance tax for the HVUT and other truck user fees will also be discussed, based upon findings and conclusions of the weight-distance tax study being conducted pursuant to Section 933 of the DRA.

There are several ways that the heavy vehicle use tax might be imposed on carriers engaged in transborder trucking. Among the alternatives that will be analyzed in this study are:

1. Impose the full HVUT on all heavy vehicles that travel more than 5,000 miles per year in the United States (7,500 miles if agricultural vehicles).
2. Exempt all Canadian vehicles from paying the heavy vehicle use tax.
3. Impose the tax at a lower rate for Canadian vehicles than United States vehicles.
4. Prorate the tax for all vehicles, based on the percentage of their use in the United States.
5. Prorate the tax only for Canadian vehicles, based on the percentage of their use in the United States.

Criteria being considered for evaluating alternatives include:

1. Impacts on various motor carrier operations,
2. Impacts on Highway Trust Fund revenues,
3. Impacts on international trade,
4. Equity among United States, Canadian, and Mexican carriers,
5. Required legislative or administrative changes,
6. Ease of enforcement, and
7. Administrative and recordkeeping burden.

To conduct this study, information will be needed on various aspects of transborder trucking operations. Specifically, information is being sought on the following questions:

1. Approximately how many Canadian vehicles with gross weights over 55,000 pounds are engaged in transborder trucking; what percentage of these vehicles travel over 5,000 miles per year in the United States (7,500 miles if agricultural), and what percent of total travel is typically in the United States?

2. Is travel in the United States by Canadian carriers spread across many States or is it concentrated in a few States? Which States? Are there particular cities between which significant shares of transborder trucking shipments move, and if so, what are they and what share of total transborder trucking mileage by vehicles with taxable gross weights over 55,000 pounds is between these principal origins and destinations?

3. Approximately how many United States-based vehicles with taxable gross weights over 55,000 pounds travel over 5,000 miles per year in Canada (7,500 miles if agricultural), and what percentage of total travel by those vehicles is in Canada?

4. Do transborder trucking operations differ significantly from other operations in terms of the types of commodities hauled, the number of empty backhauls, the type and size of carriers, or other factors?

5. Do Canadian carriers purchase fuel and tires in the United States in proportion to their travel in the United States? To what extent do Canadian carriers purchase tractors or trailers in the United States? Do United States carriers purchase fuel and equipment subject to Canadian highway user fees in proportion to their Canadian travel?

6. What provincial fuel taxes, motor carrier fees, and other highway user fees are levied on Canadian motor carrier operations? Which of these taxes are paid by United States carriers traveling in Canada?

7. What data are available to estimate the proportion of total travel by Canadian vehicles with taxable gross weights over 55,000 pounds that is in the United States, and the proportion of total travel by similar vehicles owned by United States Carriers that is in Canada?

8. What administrative problems might arise in levying the full (or partial) heavy vehicle use tax on all Canadian vehicles traveling over 5,000 miles (7,500 miles if agricultural) per year in the United States and how might they be overcome? What would be the impacts on transborder trucking of levying the full or partial HVUT on all Canadian vehicles?

Comments and information on these questions and other transborder trucking issues being addressed in this study should be sent to the docket established by this notice.

Issued on January 6, 1986.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 86-707 Filed 1-10-86; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 578; Ref: ATF O 1100.138]

Delegation to the Regional Audit Manager and Compliance Operations Auditors of Authorities of the Director in 27 CFR Part 70, Procedure and Administration

Delegation Order

1. *Purpose.* This order delegates certain authorities of the Director to the Regional Audit Manager and Compliance Operations Auditors.

2. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order Number 221, dated June 6, 1972 and by 26 CFR 301.7701-9, the authority to administer oaths and certifying under 27 CFR 70.35 is delegated to the following:

a) Compliance Operations Regional Audit Managers.

b) Compliance Operations Auditors.

3. *Redelegation.* The authority may not be redelegated.

4. *For Information Contact:* Ralph W. Johnson, Audit Programs Branch, 1200 Pennsylvania Avenue NW, Washington, DC 20226, (202) 566-7310.

5. *Effective Date.* This delegation order becomes effective on January 13, 1986.

Approved: January 6, 1986.

Stephen E. Higgins,

Director.

[FR Doc. 86-702 Filed 1-10-86; 8:45 am]

BILLING CODE 4810-13-M

Fiscal Service

Renegotiation Board Interest Rate and Prompt Payment Interest Rate

The Renegotiation Board previously published the rate of interest determined by the Secretary of the Treasury pursuant to section 105(b)(2) of the Renegotiation Act of 1951, as amended. Since the Renegotiation Board is no longer in existence, the Department of the Treasury is publishing the current rate of interest. Also, pursuant to section 2(b)(1) of Pub. L. 97-177, dated May 21, 1982, the Secretary of the Treasury is responsible for computing and publishing the interest rate to be used in cases under the Prompt Payment Act.

Therefore, notice is hereby given that, pursuant to the above mentioned sections, the Secretary of the Treasury has determined that the rate of interest applicable for the purpose of said sections, for the period beginning January 1, 1986 and ending on June 30, 1986, 9¾ per centum per annum.

Dated: December 31, 1985.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 86-665 Filed 1-10-86; 8:45 am]

BILLING CODE 4810-35-M

VETERANS ADMINISTRATION

Fayetteville, NC; 120-Bed Nursing Home Care Unit; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of a Nursing Home Care Unit (NHCU) and has determined that the potential environmental impacts from the development of this project will be minimal.

The VA is considering construction of a new 120-Bed NHCU comprised of approximately 47,000 gross square feet at the VA Medical Center in Fayetteville, North Carolina. The preferred concept, which would be implemented if the project receives administrative approval and pending the availability of budgetary resources, would provide construction of a two-story building connecting with the main hospital by way of an elevated enclosed corridor. Associated site development would include exterior patient use areas and approximately 70 parking spaces.

Construction of this project will have impacts on the human and natural environment affecting open space and air quality. Air quality impacts will be short-term and minimal, resulting primarily from construction activity. All environmental attributes analyzed would not be affected to any extent if the "No Action" alternative was selected. However, anticipated medical needs would not be addressed if that alternative were implemented.

The VA will adhere to all applicable Federal, State, and local environmental regulations during construction and operation of this project.

The significance of the identified impacts has been evaluated relative to considerations of both context and intensity as defined by the Council on Environmental Quality. (Title 40 CFR 1508.27).

An Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9. A "Finding of No Significant Impact" has been reached based upon the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, DC. Persons wishing to examine a copy of the document may do so at the following office: Director, Office of Environmental Affairs (088B), Room 423, Veterans Administration, 811 Vermont Avenue NW., Washington, DC 20420, (202) 389-3316. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: January 7, 1986.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 86-689 Filed 1-10-86; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 8
Monday, January 13, 1986

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

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CONSUMER PRODUCTS SAFETY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 51, No. 3 p. 470.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. January 9, 1986.

CHANGES IN THE MEETING: Canceled.

LISTED BELOW IS THE CANCELED MEETING:

Thursday, January 9, 1986, 9:30 a.m.
Third Floor Hearing Room 1111 18th Street, NW., Washington, DC

Open to the Public

Methylene Chloride

The staff will brief the Commission on the staff recommendation of a voluntary program to reduce consumer exposure to methylene chloride in paint strippers and spray paints.

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.

Sadye E. Dunn,

Secretary, OS/CPSC.

January 9, 1986.

[FR Doc. 86–742 Filed 1–9–86 10:21 am]

BILLING CODE 6355–01–M

2

FEDERAL ENERGY REGULATORY COMMISSION

January 8, 1986.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: January 15, 1986, 10:00 a.m.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357–8400.

This a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the division of Public Information.

Consent Power Agenda, 827th Meeting—January 15, 1986, Regular Meeting (10:00 a.m.)

CAP–1.
Project No. 8707–003, Yakima-Tieton Irrigation District
CAP–2.
Project No. 8950–003, James W. Caples
CAP–3.
Docket No. E–6454–007, City of Centralia, Washington
CAP–4.
Project No. 7492–004, Michiana Hydro-Electric Power Corporation
CAP–5.
Project No. 6329–002, Intermountain Power Corporation
CAP–6.
Project No. 9470–001, City of Redding, California
CAP–7.
Omitted
CAP–8.
Project Nos. 7285–003 and 7295–003, F&T Energy Corporation
CAP–9.
Omitted
CAP–10.
Project No. 6092–006, Western Hydro Electric, Inc.
CAP–11.
Project No. 5896–004, City of Rome, New York
CAP–12.
Project No. 7387–001, Niagara Mohawk Power Corporation
CAP–13.
Project No. 3195–011, Joseph M. Keating
CAP–14.
Project Nos. 2516–003 and 004, Potomac Edison Company
CAP–15.
Project No. 6702–005, Superior Oil Company
CAP–16.
Project Nos. 5965–002 and 003, Firmin O. Gotzinger
CAP–17.
Project No. 3779–001, Great Northern Nekoosa Corporation
CAP–18.
Docket No. ER86–170–000, New England Power Company
CAP–19.
Docket No. ER86–138–000, Niagara Mohawk Power Corporation
CAP–20.
Docket Nos. ER86–145–001, and ER86–146–001, Bangor Hydro-Electric Company
CAP–21.
Docket Nos. EL85–6–001 and 002, Public Utilities Commission of California, et al. v. United States Department of Energy—Bonneville Power Administration
CAP–22.
Omitted
CAP–23.
Docket Nos. ER85–475–001 and ER85–476–001, New England Power Company
CAP–24.
Docket No. ER84–568–000, Gulf States Utilities Company
CAP–25.
Docket No. QF86–15–000, Calderon Energy Company
CAP–26.
Docket No. QF85–4–000, Fayette Manufacturing Corporation

Consent Miscellaneous Agenda

CAM–1.
Docket No. FA84–15–000, Minnesota Power & Light Company
CAM–2.
Docket Nos. RM83–8–001 through 010, Ratemaking Treatment of Investment Tax Credits for Natural Gas Pipeline Companies
CAM–3.
Docket No. RM85–1–143, Regulation of natural gas pipelines after partial wellhead decontrol (ANR Pipeline Company)
CAM–4.
Docket No. RM85–1–000 (Parts A–D), regulation of natural gas pipelines after partial wellhead decontrol (National Fuel Gas Supply Corporation)
CAM–5.
Docket No. RM85–1–000 (Parts A–D), regulation of natural gas pipelines after partial wellhead decontrol (Michigan Paperboard)
CAM–6.
Docket No. RM85–1–000 (Parts A–D), regulation of natural gas pipelines after partial wellhead decontrol (Western Gas Supply Company and Tennessee Gas Pipeline Company, a division of Tenneco Inc.)
CAM–7.
Docket No. RM85–1–000 (Parts A–D), regulation of natural gas pipelines after partial wellhead decontrol (Pelto Oil Company, et al.)
CAM–8.
Docket No. RM85–1–000 (Parts A–D), regulation of natural gas pipelines after partial wellhead decontrol (American

Paper Institute, Inc. and Consumers Power Company)
CAM–9.
Docket No. RM85–1–010 (Parts A–D), regulation of natural gas pipelines after partial wellhead decontrol (Amstar Corporation)
CAM–10.
Docket No. RM85–1–047 (Parts A–D), regulation of natural gas pipelines after partial wellhead decontrol (Hadson Gas Systems, Inc.)
CAM–11.
Docket No. RM85–1–134 (Parts A–D), regulation of natural gas pipelines after partial wellhead decontrol (Carnation Company)
CAM–12.
Docket No. RM85–1–000 and 142 (Parts A–D), regulation of natural gas pipelines after partial wellhead decontrol (El Paso Natural Gas Company, Pacific Gas and Electric Company and Valley Gas Company)
CAM–13.
Docket No. RM85–7–000, Revised Procedures for stripper gas well category determinations under the NGPA
CAM–14.
Docket No. GP85–41–003, J.R. Simplot and Sacramento Bank for Cooperatives
CAM–15.
Docket No. GP86–11–001, Pogo Producing Company
CAM–16.
Docket No. GP83–24–000, Minerals Management Service, Getty Oil Company, Section 102 Determination, North Bilbrey "7" Federal well No. 1, FERC J.D. No. 82–53262
CAM–17.
Docket No. GP85–52–000, Southland Royalty Company, NGPA Section 108 Determinations, Reid #20 Well, USGS Docket No. NM–0180–79, FERC No. JD79–11314, Thompson #10 Well, USGS Docket No. NM–0070–79, FERC No. JD79–09373
CAM–18.
Docket No. RA82–15–002, Thriftway Company
CAM–19.
Docket No. RA84–2–000, Caribou Four Corners, Inc.
CAM–20.
Docket No. RO85–12–000, Dorchester Gas Corporation
CAM–21.
Docket No. RM85–1–000 (Parts A–D), regulation of natural gas pipelines after partial wellhead decontrol (Exxon Gas System, Inc.)
CAM–22.
Docket No. RM85–1–000 (Parts A–D), regulation of natural gas pipelines after partial wellhead decontrol (Southeast Alabama Gas District)
CAM–23.
Docket No. RM85–1–000 (Parts A–D), regulation of natural gas pipelines after partial wellhead decontrol (Sarvic Gas Company)
CAM–24.
Docket No. RM85–19–000, Generic determination of rate of return on common equity for public utilities

Consent Gas Agenda

CAG–1.
Docket Nos. RP86–10–003 and 004, Williston Basin Interstate Pipeline Company
CAG–2.
Docket No. RP85–202–001, Trunkline Gas Company
CAG–3.
Docket Nos. RP85–203–001 and 002, Panhandle Eastern Pipe Line Company
CAG–4.
Docket No. TA86–1–53–002, K N Energy, Inc.
CAG–5.
Docket No. TA83–1–59–007, Northern Natural Gas Company, Division of Internorth, Inc.
CAG–6.
Docket No. RP85–191–001, Tennessee Gas Pipeline Company, a division of Tenneco Inc.
CAG–7.
Docket Nos. RP85–177–000, 004 and 005, Texas Eastern Transmission Corporation
CAG–8.
Docket No. RP83–86–001, Public Service Company of Colorado, et al. v. Colorado Interstate Gas Company
CAG–9.
Docket Nos. TA85–3–28–000 and 001 (PGA85–3), Panhandle Eastern Pipe Line Company
CAG–10.
Docket Nos. RP81–54–000, RP82–12–000, RP82–125–000 and RP85–178–000, Tennessee Gas Pipeline Company, a division of Tenneco Inc.
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Docket Nos. RI74–188–072 and RI75–21–067, Independent Oil & Gas Association of West Virginia
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Docket Nos. RI74–188–073 and RI75–21–068, Independent Oil & Gas Association of West Virginia
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CAG–20.
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Docket No. CP74–314–009, El Paso Natural Gas Company
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Docket No. CI84–49–001, Tenneco Oil Company
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I. Licensed Project Matters

P–1.
Project No. 5698–000, Triton Power Company
Project No. 4332–001, Long Lake Energy Corporation
P–2.
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P–3.
Project No. 8764–000, San Gabriel Hydroelectric Partnership

II. Electric Rate Matters

ER–1.
Docket No. ER86–133–000, Public Service Company of New Hampshire

Miscellaneous Agenda

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Reserved
M–2.
Reserved

I. Pipeline Rate Matters

RP–1.
(A) Docket Nos. TA85–2–15–000, 002 and 003 (PGA85–2), Mid Louisiana Gas Company
(B) Docket Nos. TA85–2–11–002, TA85–1–11–000, TA86–2–11–000 and 001, United Gas Pipe Line Company
RP–2.

Docket Nos. RP85–141–005 and 006, Texas Gas Transmission Corporation

RP–3.

Docket Nos. RP84–108–000 and 005, Texas Eastern Transmission Corporation

II. Producer Matters

CI–1.

Docket Nos. CI83–337–003 and CI83–350–003, Exxon Corporation

CI–2.

Docket Nos. CI86–54–000 and CI86–57–000, Pennzoil Producing Company and Pennzoil Gas Marketing Company

III. Pipeline Certificate Matters

CP–1.

Reserved

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–764 Filed 1–9–86; 11:36 am]

BILLING CODE 6717–01–M

3

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1362]

TIME AND DATE: 10:30 a.m. (e.s.t.). Wednesday, January 15, 1986.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on December 17, 1985.

Discussion Item

1. Columbia Dam Cost Benefit Study.

Action Items

A—Budget and Financing

A1. Adoption of supplemental resolution authorizing 1986 Series A power bonds.

A2. Resolution authorizing the Chairman and other executive officers to take further action relating to issuance and sale of 1986 Series A Power bonds.

A3. Amendment to fiscal year 1986 capital budget financed from Power proceeds and borrowings.

A4. Fiscal year 1986 operating budget financed from power revenues.

A5. Fiscal year 1986 capital budget financed from appropriations.

A6. Fiscal year 1986 operating budget financed from appropriations.

A7. Fiscal year 1986 operating budget financed from nonpower proceeds.

B—Purchase Awards

B1. Proposal YB–740693—WANG office systems maintenance.

B2. Requisition 99 (Reissue)—Spot Coal for Shawnee Steam Plant.

C—Power Items

C1. Amendatory agreement with Mississippi Power & Light Company (MP&L) providing for two new 500-kV interconnection points between the TVA system and the systems of MP&L and Arkansas Power & Light Company in the vicinity of Memphis, Tennessee.

D—Personnel Items

*D1. Recommendations for hourly and annual trades and labor employees resulting from negotiations between TVA and the Tennessee Valley Trades and Labor Council—Fifieth Annual Wage Conference.

D2. Supplement to personal services contract with Bechtel North American Power Corporation, Gaithersburg, Maryland, for performance of general engineering, design, and architectural services related to TVA's nuclear, fossil, and hydro power plants, requested by Office of Engineering.

*D3. Personal services contract with Quality Technology Company, Lebo, Kansas, for services in connection with the initiation and conduct of a TVA Employee Concern Program at TVA facilities.

E—Real Property Transaction

E1. Grant of permanent easement to City of Kingsport, Tennessee for the construction, operation, and maintenance of a sewerline affecting approximately 0.35 acre of Fort Patrick Henry Dam Reservation land located in Sullivan County, Tennessee—Tract No. XFHR–34S.

E2. Grant of term easement to Marshall County, Kentucky, for the construction, operation, and maintenance of a water access area affecting 6.2 acres of Kentucky Reservoir land located in Marshall County, Kentucky—Tract No. XTGIR–130WA.

E3. Abandonment of a navigation easement affecting approximately 18 acres of Wheeler Reservoir land located in Lauderdale County, Alabama—Tract Nos. XWR–191 and XWR–192.

F—Unclassified

*F1. Contracts with Alabama-Tennessee Natural Gas Company for natural gas supply to National Fertilizer Development Center in Muscle Shoals, Alabama.

F2. Authorization for the Comptroller to use statistical sampling procedures in the prepayment examination and certification of disbursement vouchers for amounts not in excess of those prescribed by the Comptroller General of the United States.

F3. Supplement to agreement TV–60244A with the Office of Surface Mining, U.S. Department of the Interior providing for aerial photographic and related activities to be performed by TVA.

F4. Agreement No. TV–68605A with the Corps of Engineers (Corps), Memphis District, Department of the Army, covering arrangements for TVA assistance to the Corps in analyzing certain samples that relate to special studies and the monitoring of environmental conditions throughout the Corps' Memphis District.

*Items approved by individual Board members. This would give formal ratification to Board's action.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: January 8, 1986.

W.F. Willis,

General Manager.

[FR Doc. 86–743 Filed 1–8–86; 10:22 am]

BILLING CODE 8120–01–M

Federal Register

Monday
January 13, 1986

Part II

Department of Agriculture

Forest Service

Land and Resource Management Plans; Amendment and Revision; Notice

DEPARTMENT OF AGRICULTURE

Forest Service

Land and Resource Management Plans; Amendment and Revision of Forest Plans

AGENCY: Forest Service, USDA.

ACTION: Notice of interim direction; request for comments.

SUMMARY: The Forest Service is issuing an interim directive to its field personnel to clarify the distinction between significant and nonsignificant changes to a forest land and resource management plan. The directive also clarifies the distinction between amendment of a plan and plan revision and assigns responsibility for approving revision schedules and significant amendments to forest land and resource management plans. There is an immediate need to issue this direction in order to avoid inconsistent interpretation and application by Regional and Forest-level personnel. The Agency invites public comment on this interim directive, which will be considered in issuing the final direction.

DATE: The interim directive is effective upon receipt by Forest Service personnel through the Agency's directive system. Public comment on the interim directive must be received by March 14, 1986.

ADDRESSES: Send written comments to R. Max Peterson, Chief (1920), Forest Service, USDA, P.O. Box 2417, Washington, DC 20013. The public may inspect comments received on this Interim Directive in the office of the Director, Land Management Planning Staff, Room 3840, South Building, 14th and Independence SW, Washington, DC, between the hours of 8:30 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Everett Towle, Director, Land Management Planning, Phone (202) 447–6697.

SUPPLEMENTARY INFORMATION: Section 16 U.S.C. 1604(f) (4) and (5) of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 requires that forest land and resource management plans be amended and revised in response to changing conditions in the planning area. The regulations implementing the Act permit amendments that may result in either significant or nonsignificant changes to the forest land and resource management plan (36 CFR 210.10(f)). In the process of implementing the Act and regulations, it has become evident that Forest Service personnel require additional administrative guidance on the amendment process. The Forest Service is providing this guidance through issuance of an interim directive to Chapter 1920 of the Forest Service Manual.

Various factors may trigger the need to change a forest land and resource management plan. In this event, a Forest Supervisor must determine the significance of the change. The interim directive clarifies the types of changes that might be considered significant, such as those having an "across-the-board" effect on the entire plan; or those that may not be significant, such as changes in implementation schedules necessitated by appropriation actions. The directive underscores the documentation and public notice required in either type of amendment. Factors used to determine the degree of significance of the change and procedures for documentation and public notification are specified in the draft Forest Service Handbook section appended to this notice.

The interim directive also clarifies differences between amendment and revision of forest land and resource management plans. The directive explains that a Forest Supervisor or Regional Forester might amend a plan in order to make changes resulting from such actions as resolution of administrative appeals, budget actions, externally proposed actions, the results of monitoring, or planning errors. The National Forest Management Act requires forest plans be revised at least every 15 years or when conditions have changed significantly.

Finally, the interim directive assigns responsibility to Regional Foresters to approve significant amendments. The Chief of the Forest Service reserves the authority to approve schedules for revising forest plans because the Forest Service will need to assure that Regions take a consistent approach as well as managing the costs of revising the plans Service-wide. The interim directive gives broad direction to line and primary staff officers but does not contain procedural guidance on how to achieve the direction. These procedures will be issued in a Forest Service Land Management Planning Handbook. To assist reviewers in understanding the amendment and revision process, a copy of the draft Handbook section describing both the determination of consistency with the plan and the amendment procedure is included in this notice as Appendix A.

The interim directive expires after one year. Comments received will be considered in preparing final direction which will be issued as an amendment to Chapter 1920 of the Forest Service Manual.

Dated: December 27, 1985.

F. Dale Robertson,

Associate Chief.

Amendment and Revision of Forest Plans

Interim Directive to Chapter 1920, Forest Service Manual

Note.—The following is verbatim text of the interim directive as it will be issued. Those unfamiliar with the Forest Service directive system need to be aware that directives are organized under numeric codes and that interim directives set forth only new or revised direction and do not repeat or incorporate all other existing direction at the codes shown.

This interim directive reserves authority to the Chief to approve the schedule for revision of forest plans and requires the responsible Regional Forester to review and approve significant amendments to forest plans. It also clarifies the distinction between significant and nonsignificant amendments to a forest plan and clarifies the distinction between amendment and revision of forest plans.

1922—Forest Planning

1922.04—Responsibility. The Chief is responsible for approving the schedule for revising forest plans.

1922.04a—Regional Forester.

* * * 4. Review, and approve as appropriate, any significant amendment to a forest plan.

5. Propose to the Chief, a schedule for revising forest plans.

1922.33—Amendment. The need to amend a forest plan is derived from several sources, including the following:

1. Recommendations of the interdisciplinary team based on findings that emerge from monitoring and evaluating implementation of the forest plan (36 CFR 219.12(k); FSM 1922.6).

2. Decisions by the Forest Supervisor that existing or proposed permits, contracts, cooperative agreements, and other instruments authorizing occupancy and use should be considered for approval but are not consistent with the forest plan (36 CFR 219.10(e)).

3. Changes in proposed implementation schedules necessary to reflect differences between funding levels contemplated in the plan and funds actually appropriated.

4. Changes necessitated by resolution of administrative appeals.

5. Changes to correct planning errors found during plan implementation.

6. Changes necessitated by changed physical, social, or economic conditions.

Based upon advice and recommendation of the interdisciplinary team, the Forest Supervisor shall: determine whether proposed changes in a forest plan are significant or nonsignificant; make the determination in accordance with the requirements of 16 U.S.C. 1604(f), 36 CFR 219.10 (e) and (f), 36 CFR 219.12(k), and sections 1922.33a and 1922.33b that follow; document the determination of significance or nonsignificance in a decision document; and provide appropriate public notification prior to implementing the changes. Written findings of Forest Officers regarding the consistency of projects or activities with the forest plan and the determination of the significance of an amendment are an integral part of the decisionmaking process; and as such are appealable under 36 CFR 211.18, not as preliminary planning process decisions, but as an important element of the final decision.

1922.33a—Nonsignificant Amendments. Nonsignificant amendments to a forest plan can result from changes such as:

1. Actions that do not significantly alter the multiple-use goals and objectives for long-term land and resource management.

2. Adjustments of management area boundaries or management prescriptions resulting from further site-specific analysis when the adjustments do not cause significant changes in the long-term multiple-use goals and objectives for land and resource management.

3. Occasions when a decision is made to proceed with consideration of a project or activity that is not consistent with the plan and the change is minor.

4. Minor changes in standards and guidelines.

5. Short-term fluctuations in an implementation schedule or changes in planned annual output(s).

1922.33b—Significant Amendments. The following examples are indicative of changes that may cause a significant amendment to a forest land and resource management plan:

1. Changes that have an important effect on the entire plan or affect land and resources throughout a large portion of the planning area such as large, forest-wide increases or decreases in resource demands.

2. Changes that would significantly alter the long-term relationship between levels of multiple use goods and services originally projected (36 CFR 219.10(e)). This category would include changes in implementation schedules created by sustained differences between proposed budgets and actual appropriations.

When a significant change needs to be made to the forest land and resource management plan, the Forest Supervisor must prepare an amendment.

Documentation of a significant amendment and the analysis of it should focus on the issue(s) that have triggered the need for the change. In developing and obtaining approval of a significant amendment to the forest plan, follow the same procedures as are required for developing and approving the forest plan (36 CFR 219.10((f)).

1922.34—Revision. The National Forest Management Act requires revision of forest plans at least every 15 years; however, a plan may be revised sooner if physical conditions or demands on the land and resources have changed sufficiently to affect overall goals or uses for the entire forest. To revise a forest plan, follow procedures set forth in 36 CFR 219.12 after obtaining approval of the Chief to schedule a revision.

Appendix A—Draft Section 4.25c of FSH 1909.12

The Land and Resource Management Planning Handbook

4.25c—Amendment. The forest plan is maintained through amendment, with a requirement for documentation and proper public notification of all changes, additions, deviations, or corrections made to the plan. Generally, make amendments as the need occurs rather than accumulating all changes to be dealt with annually. The following diagram indicates the usual process for evaluating the need to change the forest plan.

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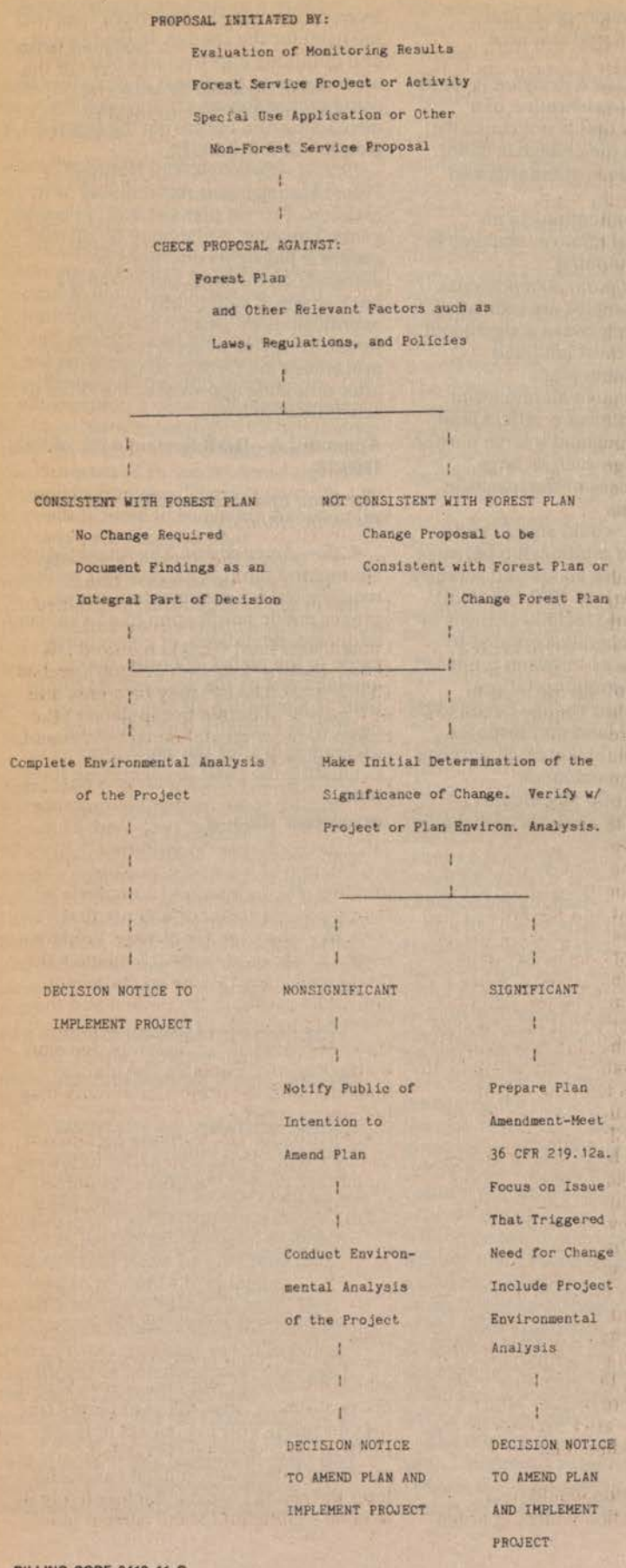

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1. *Consistency with the Forest Plan and Other Factors.* Projects and activities, whether Forest Service or non-Forest Service proposals, are usually evaluated against various factors before a decision is made to proceed with the project or activity. In addition to the forest plan, applicable laws, regulations, other federal, state, and local agencies' policy, and direction must be considered. If a proposal does not comply with and can not be modified to comply with these factors, it usually will be eliminated from further consideration. For purposes of this section, the assumption is that the relevant factors, other than the forest plan, have been considered and the remaining evaluation concerns only the forest plan.

2. *Change to Forest Plan Not Required—Proposal is Consistent with the Plan.* Do not prepare an amendment to a forest plan when the proposed project or activity is consistent with the prescriptions and the standards and guidelines of the forest plan. The plan need not be explicit about a proposal or activity. It will not be unusual for a use to be proposed about which the plan is silent. It is sufficient that the use can be accommodated within the prescriptions, standards, and guidelines of the plan. If the proposal is consistent and is to be permitted, document the finding of consistency as a part of the environmental analysis for the project and/or activity. The environmental analysis may result in a categorical exclusion from documentation or may require documentation in an environmental assessment or in an environmental impact statement. The process concludes with the signing of the decision notice or record of decision by the Responsible Official and implementation of the project or activity, or granting of a special use permit. The determination of consistency with the forest plan should also be included in the project decision notice or record of decision.

If the proposal can be modified to be made consistent with the forest plan and the modification is undertaken, the proposal should be treated as being consistent with the forest plan.

3. *Change to Forest Plan Required—Proposal is not Consistent with the Plan.* Prepare an amendment to a forest plan when a project or activity is inconsistent with management area designation, management prescriptions, standards and guidelines, implementation schedules, or other direction specified in the forest plan and the project or activity is to be considered further. Make a determination of the degree of significance of the change under 16 U.S.C. 1604(f)(4), 36 CFR 219.10(f), and FSM 1922.33. In order for a change to be significant, the proposed amendment must have an important effect on the entire forest plan and/or significantly affect land and resources throughout a large portion of the planning area. Whenever an amendment is under consideration, an initial determination of significance must be made and subsequently verified and the final determination of significance must be made and subsequently verified and the final determination included in the decision document for the amendment. The initial determination is a preliminary planning process decision for purposes of 36 CFR 211.18. Some of the factors to be considered in determining the degree of significance are described in Section 4 below. There may be others, depending on the situation.

a. *Nonsignificant Amendments to the Forest Plan.* If the change is determined not to be significant, all parties who received a copy of the final environmental impact statement, the forest plan, and the record of decision should be notified of the decision to amend the forest plan. Prepare a written decision notice or record of decision to amend the forest plan, including a determination of the nonsignificance of the change, and publish a notice of the decision to amend the plan in local newspapers. If the environmental consequences of the activity will have a significant impact on the quality of the human environment and the final environmental impact statement for the forest plan does not document adequate analysis of the effects, an environmental impact statement must be prepared for the activity whether or not the proposal is consistent with the plan. For example, a proposal, inconsistent with the plan, to control forest pests with the use of chemicals could cause the need for an EIS because the NEPA test of significance is met but the activities may not require a significant change in the forest plan. Or, assume that the site specific review shows that the management area boundaries need to be adjusted and that certain acres inappropriately are included in a timber harvest prescription. In this case, an amendment changing management area boundaries and the prescription is required; however, the amendment does not change the entire plan or affect a large portion of the area covered by the plan and the amendment is nonsignificant.

Another illustration would be a special use application which, in order to be approved, requires a change in the management prescription assigned to an area or a change in a requirement of the prescription. Assume that the site specific impact of the proposal is "significant" for NEPA purposes under 40 CFR 1508.27, but the change to the plan is not significant. Any number of ground disturbing activities, such as oil and gas development, road construction, timber harvesting, or mining could present situations where the site specific impact might be significant enough from an environmental standpoint to warrant an EIS, but not significantly change the forest plan. In other words, allowing the activity does not significantly change the long-term goals and objectives or the management direction for a large portion of the planning area.

In such cases, the Forest Supervisor signs the record of decision or decision notice and at the the same time, if the activity is approved, amends the plan and implements the project or activity.

b. *Significant Amendment.* If the change in the forest plan is determined to be significant, an environmental impact statement (EIS) is required (16 U.S.C. 1604(f)(4), 36 CFR 219.10(f), and 36 CFR 219.12). The EIS may be a new one or it may be possible to supplement the current environmental impact statement. Follow direction in 36 CFR 219 to process significant amendments but concentrate on the relevant paragraphs affected by the change proposed. The EIS accompanying the proposed amendment to a forest plan also provides an environmental analysis of the proposed project or activity that generated the need for change. Prepare a record of decision that accompanies the final environmental impact statement and addresses both the project and the change to be made to the forest plan. Upon approval of the record of decision by the Regional Forester, the plan is amended and the project or activity may be implemented.

4. *Factors for Determining Significant Change to the Forest Plan.* The following factors supplement direction contained in FSM 1922.33. For most projects, they are the important considerations for determining if proposed change to a forest plan is significant or nonsignificant. Other factors may also be important, depending on the circumstances.

a. *Timing.* What is the time period in which the change will take place? Will it occur during or after the plan period (the first decade)? Will the impact only be realized after the next scheduled revision of the plan? In most cases, the later the change occurs, the less likely it is to be significant for the current plan.

b. *Location.* What part of the planning area is involved? How many total acres are involved? Are there other areas of land with similar characteristics that may be involved? What is the relationship of the affected area to the overall planning area? In most cases, the smaller the area affected; the less likely the change is to be significant.

c. *Goals, Objectives, and Outputs.* Does the change alter long-term relationships between the levels of goods and services projected by the plan? Does an increase in one type of output trigger an increase or decrease in another? Is there a demand for goods or services not discussed in the plan? In most cases, changes in outputs will not be significant unless the opportunity to achieve the output in later years is foregone.

d. *Management Prescription.* Is the change in a management prescription made for a specific situation or is it applicable to all future decisions? Does the change alter the long-term strategy for management of the land and resources? Generally, the more lasting, irretrievable, or irreversible the change, the more likely it will be significant.

[FR Doc. 86-711 Filed 1-10-86; 8:45 am]
BILLING CODE 3410-11-M

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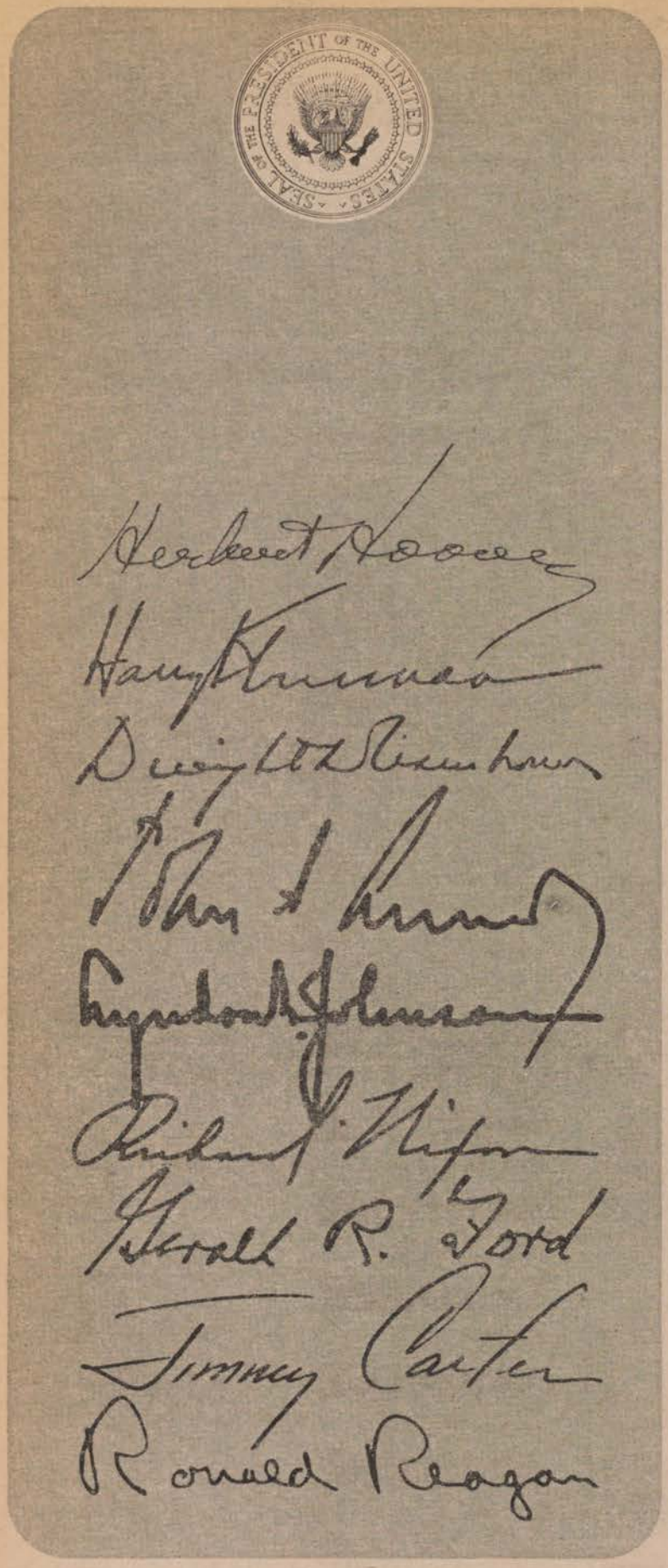
[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.



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